

SCANDIES ROSE Witness Appearances

You can search this combined SCANDIES ROSE MBI Hearing Transcript document using keywords.

| Date | Witness |
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| 22 Feb 2021 | CAPT Callaghan Opening of Hearing Overview of Incident Captain Dan Mattsen Owner of SCANDIES ROSE |
| 22 Feb 2021 | Ms. Gelia Cooper Manager SCANDIES ROSE |
| 22 Feb 2021 | Mr. John Walsh Owner of SCANDIES ROSE, CFV Insurance |
| 23 Feb 2021 | Ms. Noelle Runyan NWS Weather |
| 23 Feb 2021 | Mr. Ed Ehler Project Manager Lovrics SeaCraft |
| 23 Feb 2021 | Captain Erling Jacobsen Marine Surveyor |
| 23 Feb 2021 | Mr. Jordan Young Welder Highmark Marine Fabrication |
| 23 Feb 2021 | Mr. Kerry Walsh Global Salvage Representative |
| 24 Feb 2021 | Mr. Paul Zankich, Mr. Bud Bronson & Mr. Jonathan Parrott Naval Architects / Professional Engineers |
| 24 Feb 2021 | Ms. Cecily Lowenstein, P.E. CG Acquisitions |
| 24 Feb 2021 | Mr. Jon Lawler Survivor of the SCANDIES ROSE |
| 25 Feb 2021 | Mr. Andrew Lawrence, P.E. Coast Guard Marine Safety Center |
| 25 Feb 2021 | Captain Cory Fanning Former C/E on SCANDIES ROSE, Captain of F/V ALEUTIAN MARINER |
| 25 Feb 2021 | Mr. Dillon Gamby Former crew on SCANDIES ROSE |
| 25 Feb 2021 | Captain Peter Wilson F/V NEW VENTURE, former C/E on SCANDIES ROSE |
| 25 Feb 2021 | Captain Oystein Lone F/V PACIFIC SOUNDER |
| 26 Feb 2021 | Captain Daniel DeLaurentis F/V RUFF N REDDY |
| 26 Feb 2021 | Captain Josh Songstad F/V HANDLER, former crew on SCANDIES ROSE |
| 26 Feb 2021 | Captain Bryce Buholm F/V WESTERN MARINER |
| 26 Feb 2021 | Mr. Mark Stichert & Ms. Krista Milani AK Dept of Fish & Game / NOAA |
| 26 Feb 2021 | Mr. Anthony Wilwert USCG D17 Commercial Fishing Vessel Safety Program Coordinator |

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| 23 Sep 2020 | Survivor Dean Gribble Interview, included as part of the MBI Hearing. |
| 01 Mar 2021 | Mr. Joseph Myers CG-CVC-3 Coast Guard Commercial Fishing Vessel Program |
| 01 Mar 2021 | Mr. Shawn Simmons Marine Safety Services Lifesaving Equipment/ Raft Servicing |
| 01 Mar 2021 | Mr. Scott Giard SAR Program Expert |
| 02 Mar 2021 | Mr. John Hollingsworth (Ret USCG) (was SMC for case) |
| 02 Mar 2021 | LT Chris Clark AIRSTA Kodiak Rescue Pilot |
| 02 Mar 2021 | CAPT Jonathan Musman Commanding Officer CGC MELLON |
| 02 Mar 2021 | CAPT Clint Schlegel & CDR Sam Nassar CG-SAR (Search and Rescue) & CG-761 (Requirements Division) |
| 03 Mar 2021 | Mr. Mario Vittone Survival Equipment Industry Expert |
| 03 Mar 2021 | CAPT Kirsten Martin CG-NMC Coast Guard National Maritime Center (3 Parts) |
| 03 Mar 2021 | Mr. Jaideep Sirkar CG-ENG-2 Coast Guard Naval Architecture Div Chief |
| 03 Mar 2021 | Captain John Crawford Crawford Nautical School |
| 04 Mar 2021 | Ms. Samantha Case & Dr. Jennifer Lincoln National Institute for Occupational Safety and Health |
| 04 Mar 2021 | Mr. Jerry Dzugan & Ms. Karen Conrad Panel of NPFVOA & AMSEA |
| 04 Mar 2021 | Captain Dan Mattsen SCANDIES ROSE Owner Part 2 |
| 04 Mar 2021 | Mr. Bruce Culver, P.E. Naval Architect |
| 05 Mar 2021 | CDR Baxter Smoak CG-INV-2 FV Accident Statistics |
| 05 Mar 2021 | Hearing Closing Admin Remarks NTSB Remarks PII Remarks MBI Chair Remarks |

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Monday,
February 22, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(7:59 a.m.)

1
2
3 CAPT CALLAGHAN: It is 0800 on February 22, 2021, and this
4 hearing is now in session. Good morning, ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard, Chief of
6 Prevention for the 11th Coast Guard District. I'm the Chairman of
7 the Coast Guard Marine Board of Investigation and the presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 masks while seated to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table and whenever approached by another person. I ask that
18 anyone who is unable to remain social distancing, please keep
19 their masks on unless actively speaking into the microphones.

20 Due to the extensive technology used to support this hearing
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives on December 31, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crew members who
7 were lost at sea. I note that many of you are watching this
8 hearing on livestream due to the COVID restrictions in place, and
9 we appreciate you being with -- being here to join us.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions and recommendations to
12 the Commandant of the United States Coast Guard.

13 Other than myself, the members of this Board include
14 Commander Karen Denny and Lieutenant Commander Michael Comerford.
15 The legal counsel for this Board is Lieutenant Sharyl Pels. The
16 recorder is Lieutenant Ian McPhillips. Coast Guard technical
17 advisors to this Board are Mr. Scott Giard and Mr. Keith Fawcett.
18 This Board's media liaison is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB's *Scandies Rose* investigation, is here with
22 us, along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witnesses and

1 respect their right to privacy.

2 Members of the press are welcome to attend virtually, and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the testimony they have given after I have released them from
6 these proceedings. I ask that any such interviews be conducted
7 with full consideration of the COVID mitigation procedures that
8 the Marine Board has established.

9 The investigation will determine as closely as possible
10 factors that contributed to the incident so that proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence that any act of misconduct,
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed or credentialed person contributed to
15 this casualty; and whether there is evidence that any Coast Guard
16 personnel, any representative or employee of any other government
17 agency, or any other person caused or contributed to the casualty.

18 The Marine Board planned this two-week hearing to examine all
19 events relating to the loss of the *Scandies Rose* and five crew
20 members. The hearing will explore crew member duties and
21 qualifications, shore-side support operations, vessel stability,
22 weather factors, effects of icing, safety equipment, the
23 operations of the vessel from the past up to and including the
24 accident voyage, survey imagery of the vessel in its final resting
25 place. The hearing will also include a review of industry and

1 regulatory safety programs as well as the U.S. Coast Guard Search
2 and Rescue activities related to the response phase of the
3 accident after notification that the *Scandies Rose* was in
4 distress.

5 The Coast Guard has designated parties in interest to this
6 investigation. In Coast Guard marine casualty investigations, a
7 party in interest is an individual, organization, or other entity
8 that under the existing evidence or because of his or her position
9 may have been responsible for or contributed to the casualty. A
10 party in interest may also be an individual, organization, or
11 other entity having a direct interest in the investigation and
12 demonstrating the potential for contributing significantly to the
13 completeness of the investigation or otherwise enhancing the
14 safety of life and property at sea through participation as a
15 party in interest.

16 All parties in interest have a statutory right to employ
17 counsel to represent them, to cross-examine witnesses, and having
18 witnesses called on their behalf. Witnesses who are not
19 designated as parties in interest may be assisted by counsel for
20 the purpose of advising them concerning their rights. However,
21 such counsel are not permitted to examine or cross-examine other
22 witnesses or otherwise participate in the investigation.

23 I will now read the list of those organizations and
24 individual whom I've previously designated as parties in interest.
25 After I read the name of each organization or individual, I ask

1 that lead counsel announce their appearance on behalf of their
2 client.

3 Scandies Rose Fishing Company, LLC.

4 MR. BARCOTT: Good morning, Captain, members of the Board.
5 Mike Barcott for *Scandies Rose* and her owners.

6 CAPT CALLAGHAN: Thank you, Mr. Barcott.

7 Crewperson Mr. Dean Gribble.

8 MR. STACEY: Good morning, Captain. Good morning, everyone.
9 Nigel Stacey on behalf of crewmember Dean Gribble.

10 CAPT CALLAGHAN: Crewperson Mr. John Lawler.

11 MR. STACEY: Nigel Stacey of Stacey and Jacobsen again for
12 crewmember John Lawler.

13 CAPT CALLAGHAN: Thank you, Mr. Stacey.

14 MR. STACEY: Thank you.

15 CAPT CALLAGHAN: The Marine Board will place all witnesses
16 under oath. When testifying under oath, a witness is subject to
17 the federal laws and penalties for perjury for making false
18 statements under Title 18 U.S.C. Section 1001. Penalties could
19 include a fine up to \$250,000 or imprisonment up to five years or
20 both.

21 The sources of information to which this investigation will
22 inquire are many and varied. Since the date of the casualty, the
23 NTSB and Coast Guard have conducted substantial evidence
24 collection activities and some of that previously collected
25 evidence will be considered during these hearings. Should any

1 person have or believe he or she has information not brought forth
2 but which might be of direct significance to this investigation,
3 that person is urged to bring that information to my attention by
4 emailing uscg.scandiesrosembi@gmail.com. This email address will
5 be continuously monitored throughout this hearing.

6 Mr. Bart Barnum will now say a few words on behalf of the
7 NTSB.

8 MR. BARNUM: Thank you, Captain Callaghan. I am Bart Barnum,
9 Investigator in Charge of the National Transportation Safety
10 Board's investigation of this accident. The Safety Board is an
11 independent federal agency which under the Independent Safety
12 Board Act of 1974 is required to determine the cause or probably
13 cause of this accident, to issue a report of the facts, conditions
14 and circumstances related to it and may take recommendations for
15 measures to prevent similar accidents.

16 The NTSB has joined this hearing to avoid duplicating the
17 development of facts. Nevertheless, I do wish to point out, this
18 does not preclude the NTSB from developing additional information
19 separately from this proceeding, if that becomes necessary.

20 At the conclusion of this hearing, the NTSB will analyze the
21 facts of this accident and determine the probable cause,
22 independent from the Coast Guard. At a future date, a separate
23 report of the NTSB's findings will be issued which will include
24 our official determination of the probable cause of this accident.
25 If appropriate, the Safety Board will issue recommendations to

1 correct safety problems discovered during this investigation.
2 These recommendations may be made in advance of the report.

3 In addition, on behalf of the NTSB, I would like to offer my
4 deepest condolences to the families and those affected by this
5 tragedy.

6 CAPT CALLAGHAN: Thank you, Mr. Barnum.

7 The Marine Board will now take the oath. The recorder,
8 Lieutenant McPhillips, has been previously sworn in.

9 LT McPHILLIPS: Please stand, facing me, and raise your
10 hands.

11 (Board members sworn.)

12 LT McPHILLIPS: Thank you. You may be seated.

13 CAPT CALLAGHAN: This concludes the opening statement. At
14 this time, I would like to ask that everyone present stand for a
15 moment of silence in respect to those persons who have been lost
16 at sea as a result of this casualty.

17 (Pause.)

18 CAPT CALLAGHAN: Thank you. At this time, we will now take a
19 five-minute -- or eight-minute recess and resume at -- sorry, we
20 will now take a ten-minute recess. We'll resume -- sorry, we'll
21 take a recess, and we will resume at 0830.

22 (Off the record at 8:12 a.m.)

23 (On the record at 8:29 a.m.)

24 CAPT CALLAGHAN: It is now 0830 on February 22nd. This
25 hearing is now back in session.

1 I would now like to ask Lieutenant McPhillips to pull Coast
2 Guard Exhibit 001, which is an overview of the incident.

3 (Audio playback begins.)

4 RECORDING: This is the United States Coast Guard's
5 Commandant's Marine Board of Investigation into the sinking of the
6 commercial fishing vessel *Scandies Rose* and the loss of five of
7 its seven crew. This presentation is Coast Guard Exhibit 001 and
8 is intended to provide basic, factual information about the
9 *Scandies Rose* accident and the voyage. This hearing is conducted
10 with full participation of the National Transportation Safety
11 Board.

12 The purpose of the investigation is to determine whether
13 there is evidence that any failure of material, either physical or
14 design, was involved or contributed to the casualty so that proper
15 recommendations for the prevention of the recurrence of similar
16 casualties may be made; whether there is any evidence that any
17 evidence of misconduct, inattention to duty, negligence, or
18 willful violation of law on the part of any licensed or certified
19 person contributed to the casualty so that appropriate proceedings
20 against the license or certificate of such person may be
21 recommended and taken under 46 U.S.C. 6301; or whether there is
22 evidence that any Coast Guard personnel or any representative or
23 employee of any government agency or any other person caused or
24 contributed to the casualty.

25 The hearing session and the ongoing investigation will focus

1 on pre-accident historical events, regulatory requirements, vessel
2 operations to include training and stability, vessel condition,
3 crewmembers duties and qualifications, past operations of the
4 vessel, and the Coast Guard Search and Rescue operations. This
5 photo of the *Scandies Rose* was taken in June of 2019, and there
6 are no crab pots on the deck forward of the vessel's
7 superstructure.

8 This slide shows the crew of the *Scandies Rose*. The
9 photographs of the fisherman and mariners who perished are on the
10 top of this slide, and the two survivors are on the bottom. The
11 *Scandies Rose* had a total of seven crew. None of the crew were
12 credentialed or licensed mariners.

13 This slide shows the *Scandies Rose* accident location and the
14 position of the sunken vessel off the southeastern tip of Sutwik
15 Island, to the southwest of Kodiak Island, Alaska.

16 Departing from Kodiak Island, the *Scandies Rose* intended to
17 travel to the fishing grounds through the Shelikof Strait along
18 the southern edge of the Alaskan Peninsula. This slide shows the
19 vessel's transit to its last known position off the southeastern
20 tip of Sutwik Island, which is indicated by the red circle.

21 The automatic identification report of the last position of
22 the *Scandies Rose* was at 9:51 p.m. Alaskan Standard Time on
23 December 31, 2019. The last forecasted weather conditions prior
24 to the accident called for a gale warning with heavy freezing
25 spray and large seas. The details are contained in this weather

1 forecast.

2 The *Scandies Rose* was required to have survival and safety
3 equipment aboard to comply with Federal Regulations. On the top
4 left is an example of an immersion suit, sometimes called an
5 exposure, gummy, or survival suit. In the center, there's an
6 image of a self-inflating and righting life raft, and at the right
7 is a photo of a self-deploying emergency position indicating radio
8 beacon, known as an EPIRB. The image in the bottom left shows an
9 example of day and night signaling flares and smoke flares. The
10 bottom right image shows the type of life ring the vessel was
11 required to carry.

12 To acquaint the public with lifesaving equipment, these
13 photographs illustrate open ocean use. These photos are not
14 related to the sinking of the *Scandies Rose*. On the upper left, a
15 Coast Guard rescue swimmer approaches a life raft with the
16 inflatable canopy partially collapsed. Below that image, the two
17 survivors are in immersion or survival suits, awaiting the arrival
18 of a swimmer near the door of the life raft canopy. The one in
19 the bottom right shows a mariner in training wearing an immersion
20 suit which provides protection from the effects of cold weather.
21 The suits are designed to protect from hypothermia and increase
22 the chances of survival in cold water immersion.

23 On the evening of December 31, 2019, there were numerous
24 other commercial fishing vessels at sea off the Alaskan Coast.
25 Some of them are represented here in this slide. This slide shows

1 the positions of the fishing vessels from the previous slide
2 relative to the last known position of the *Scandies Rose*.

3 From the time of notification to the Coast Guard, three large
4 MH60 helicopters and two C130 multi-engine fixed-wing aircraft
5 participated in the Search and Rescue activities, along with the
6 378-foot high-endurance cutter *Mellon*. What is not shown on this
7 slide are the human and communication resources and command
8 centers, air stations, and logistics and repair facilities that
9 support these Search and Rescue operations. The hearing will
10 explain the span of Search and Rescue operations from the Coast
11 Guard notification until the active search was suspended on
12 January 1, 2020. Two of the crewmembers of the *Scandies Rose* were
13 recovered, and five souls were not recovered and were presumed
14 deceased.

15 On February 11, 2020, Global Diving and Salvage conducted an
16 underwater search for the *Scandies Rose* using multi-beam side scan
17 sonar. The vessel was located lying on the seabed on her
18 starboard or right side in an average water depth of 166 feet.
19 The area representing the *Scandies Rose* is tinged brown in color
20 in this image. Below or to the south of the vessel itself in the
21 light green color is the debris field believed to be miscellaneous
22 equipment, including the crab pots and gear.

23 (End of audio playback.)

24 CAPT CALLAGHAN: Lieutenant McPhillips, I will now ask that
25 you pull up Coast Guard Exhibit 085 please. And when you're

1 ready, you can hit play.

2 (Exhibit 085, recording of *Scandies Rose* mayday call, plays.)

3 CAPT CALLAGHAN: Thank you, Lieutenant McPhillips.

4 The time is now 0840. This hearing will go into recess and
5 resume at 0915.

6 (Off the record at 8:39 a.m.)

7 (On the record at 9:15 a.m.)

8 CAPT CALLAGHAN: The time is now 0915, February 22nd, 2021.
9 The hearing is now back in session. We will now hear testimony
10 from Mr. Dan Mattsen.

11 Mr. Mattsen, please come forward to the witness table and
12 Lieutenant McPhillips will administer your oath and ask you some
13 preliminary questions.

14 LT McPHILLIPS: Please stand and raise your right hand.
15 (Whereupon,

16 DANIEL R. MATTSSEN

17 was called as a witness and, after being first duly sworn, was
18 examined and testified as follows:)

19 LT McPHILLIPS: Please be seated. Please state your full
20 name and spell your last.

21 THE WITNESS: My full name is Daniel Richard Mattsen,
22 M-a-t-t-s-e-n.

23 LT McPHILLIPS: Please identify if counsel or a
24 representative is present and have them state and spell their last
25 name, as well as their firm or company relationship.

1 THE WITNESS: Michael Barcott here.

2 MR. BARCOTT: Mike Barcott for *Scandies Rose*. Last name is
3 B-a-r-c-o-t-t. The law firm is Holmes Weddle & Barcott.

4 LT McPHILLIPS: Please tell us what is your current
5 employment and position.

6 THE WITNESS: I am the principal of Mattsen Management and
7 I'm also the captain of the fishing vessel *Amatuli*, which is
8 primarily a tender vessel at this point.

9 LT McPHILLIPS: What are your general responsibilities in
10 those jobs?

11 THE WITNESS: Well, running the *Amatuli*, it's a tender, so
12 I'm a captain and I have to navigate, meet the obligations of the
13 chartering company, and take care of the crew. Take fish. As
14 Mattsen Management, I'm mainly in charge of the big-picture items,
15 the strategic "what are we going to do next," how are we going --
16 what seasons are we going to participate in, how -- negotiating
17 tender rights, things like that.

18 LT McPHILLIPS: Can you briefly tell us your relevant work
19 history?

20 THE WITNESS: Well, I'm pretty old, so briefly it's kind of
21 difficult, but I've been in the fishing industry since 19 -- well,
22 actually, I started in 1974 when I started processing. I went
23 back and went to college, resumed my fishing career in 1980 and
24 have primarily been a fisherman ever since, and was a deckhand for
25 several years, a mate for a couple, and then started running

1 vessels. And I've run the *Billikin* for Trident Seafoods, run the
2 *Shaman*, which I owned for 15 years, and at that point, I --
3 somewhere around 2005 I sort of retired from fishing and took care
4 of my daughter, she came to live with me, and switched over to
5 mainly managing, and I've been trying to make a go of that. I
6 keep coming back to running a tender and things like that. It's
7 hard to give up the -- hard to give up the handle on the job stick
8 there, so I still -- still keep my hand in as a captain, even
9 though I'm primarily a manager.

10 LT McPHILLIPS: What is your education related to your
11 positions?

12 THE WITNESS: I have a degree in economics, a bachelor's
13 degree in economics with a minor in philosophy. I have a master's
14 in business administration. I have a master's license, 1600 tons
15 upon oceans, motor and steam, and I've done, I don't know, 8 or 10
16 different basic safety training, advanced firefighting, basic
17 firefighting, radar courses, bridge resource management courses,
18 things like that over the years.

19 LT McPHILLIPS: Thank you. Captain Callaghan will now have
20 follow-up questions for you.

21 CAPT CALLAGHAN: Thank you, Mr. Mattsen. I do understand
22 that you have a brief statement you'd like to make before we start
23 the questions, sir.

24 THE WITNESS: Yes. I just wanted to thank the Coast Guard,
25 both the rescuers on the Coast Guard Cutter *Mellon* and Air Station

1 Kodiak for their attempts to find more crew members, for their
2 efforts in saving the two survivors we had, and I'd like to thank
3 you all for this investigation. I really want to get to the
4 bottom of this and I hope that this hearing sheds some light on
5 everything. That's all I have to say.

6 CAPT CALLAGHAN: Thank you, sir. I'm now going to turn it
7 over to Commander Karen Denny, who's going to be in charge of the
8 initial round of questions for you.

9 Commander Denny.

10 CDR DENNY: Thank you, Captain.

11 EXAMINATION OF DANIEL R. MATTSSEN

12 BY CDR DENNY:

13 Q. Good morning, Captain Mattsen. Many of my questions are set
14 in the time frame leading up to and including the accident date of
15 December 31st, 2019, and some of my questions are also going to be
16 for the time after the accident date. My questions will focus on
17 the relevant information regarding Mattsen Management Company, LLC
18 and the *Scandies Rose* Fishing Company, LLC. So thank you for
19 being here today, we really appreciate it.

20 During this testimony segment we'll ask you questions and
21 we'll have scheduled breaks, but if you need a break, please let
22 us know.

23 There's exhibit binders right over there, but like we
24 mentioned before, there will be a virtual screen where we'll show
25 the exhibits. So we'll put that up. If you need us to zoom in,

1 please let us know. And also there's a laser pointer on your --
2 on the desk that should you need to point at anything on the
3 bigger screen, you can do that.

4 So, Captain Mattsen, before we begin, the Marine Board would
5 like to offer their condolences to you on the loss of your crew
6 and friends aboard the *Scandies Rose*. And again, if you need to
7 take a break at any point, please let us know.

8 I'm going to break this testimony into two main parts, the
9 first being you as the owner of the commercial fishing vessel
10 *Scandies Rose*, and then the second part is going to specifically
11 talk about the time frame of the accident voyage and what you were
12 doing on board the *Amatuli*, the fishing vessel that you were on at
13 the time.

14 Lieutenant McPhillips asked you some questions after he swore
15 you in and I'd like to follow up with some of those to get a
16 better in-depth understanding of your background and how the
17 *Scandies Rose* organization was.

18 Mr. Mattsen, could you please talk about your ownership of
19 the *Scandies Rose* and how you became involved in owning that
20 vessel? Specifically, how are you associated in the ownership of
21 that vessel?

22 A. Well, I retired from fishing and went to business school with
23 a grand idea to go into investment banking with a particular
24 knowledge about commercial fishing. Got my M.B.A. in 2008, which
25 the financial markets were imploding and it didn't seem like that

1 was the best course of action. I heard from another person you'll
2 be interviewing, John Walsh, that the owner of the *Scandies Rose*
3 was looking to sell and I thought about it for a while and did a
4 project at the business school, my last quarter there, analyzing
5 the prospects of owning it and put together a partnership with --
6 where Gary, myself, and John owned 50 percent of the boat and
7 three partners from Alaskan Leader Fisheries owned the other half
8 of the boat, and we bought it from Leif Larsen. And after several
9 years the Alaskan Leader guys were building a state-of-the-art
10 factory long-liner that, as those projects are wont to do, was
11 spiraling out of control on the budget side and they asked if we
12 could take them out, and I talked it over with the -- with John
13 and Gary and we decided to buy the rest of the boat. So that's
14 the genesis of the *Scandies Rose* Fishing Company.

15 Q. Okay, so thank you. So what was -- what was your role, like
16 being the *Scandies Rose* Fishing Company, LLC, if you guys had
17 roles, what was your role?

18 A. I was -- we use Mattsen Management as a -- just a vehicle to
19 manage the company. So I was primarily the manager through that
20 and then just held my ownership share which, through kind of a
21 quirk, ended up at 50.2 percent. So I owned it, Gary ran it, and
22 what we would do every year, generally during salmon tendering, we
23 would talk over what the coming year looked like, what we were
24 going to focus on, if there was any changes in the strategy we're
25 going to use or any changes in personnel, that's when we'd try and

1 implement them.

2 And so I was kind of the big-picture guy and then I also was
3 the person who made sure the bills were paid and if we needed
4 financing, I had more familiarity with going to banks and
5 explaining what we were doing and how -- you know, where the pay-
6 out was going to come from and how we could pay them back and so
7 -- so I did that. And occasionally, I mean, on two separate
8 occasions I ran the *Scandies Rose* when there were Alaska
9 Department of Fish and Game charters, because in their -- in their
10 charter documents they require a licensed captain and Gary's not
11 -- Gary was not licensed, I was, so I went up and ran the boat for
12 those 35-day charters on several occasions.

13 Q. Okay, that makes sense. Thank you for clarifying that for
14 me. Could you explain to me, where does DRM Quota Company fit
15 into that organizational structure?

16 A. It's just that -- yeah, just own some quota. DRM Quota is my
17 quota -- one of my quota companies and it -- the reason why it's
18 separate from, say, Shaman Capital or Mattsen Fisheries is it's
19 primarily my IRA and I figured out how to get NMFS RAM to accept
20 an entity that had 20 percent ownership by a natural born person,
21 which would be me, and then 80 percent ownership by an IRA for the
22 benefit of me.

23 And so at one point I had an opportunity to buy quite a bit
24 of quota. Gary bought some of that, too, and John bought some of
25 that and a couple other people who we fished -- whose quota we

1 fished, also set up entities like that. It was just a way to
2 structure quota share. It doesn't really make any difference
3 because all the quota is -- at the beginning of every season, you
4 just add up the pounds that you have and so you have 600,000
5 pounds of opilio to catch and 27,000 pounds of king crab or
6 whatever, you know, so it doesn't really matter what the
7 underlying ownership of those individual shares are. DRM Quotas
8 had nothing to do, other than providing quota for the vessel.

9 Q. Understood. Thank you. And so that's -- I understand that
10 that is separate than that. Before, you mentioned that you ended
11 up having 52 percent of the ownership of the *Scandies Rose*. Would
12 you be able to tell us what the percentage of ownership was for
13 Mr. Walsh and for Mr. Cobban?

14 A. Actually, it was 50.2 percent.

15 Q. Oh, I'm sorry. Thank you, 50.2.

16 A. And John Walsh owned 19.8 percent and Gary owned 30 percent.

17 Q. Okay, thank you. I appreciate that clarification.

18 Lieutenant McPhillips, please pull up Coast Guard Exhibit
19 002, the *Scandies Rose* Certificate of Documentation.

20 Mr. Mattsen, could you explain what this document called the
21 Certificate of Documentation is, please?

22 A. You could probably explain it better than I can. It's a
23 required document, every vessel has to have a Certificate of
24 Documentation or if it's a small vessel, oftentimes state
25 registration is fine, but for vessels my size you'd have to have a

1 Certificate of Documentation on board, which would explain the --
2 what you could do with the vessel, basically. And so like I've
3 got a fisheries endorsement. I'm not really sure what the Coast
4 Guard's endorsement gives me otherwise, but I've got the fishery
5 endorsement and so that tells me that I am okay to fish with the
6 *Scandies Rose*.

7 Q. Okay, awesome. And could you tell us how often that needs to
8 be renewed?

9 A. Every year.

10 Q. Okay. All right. You mentioned before -- Lieutenant
11 McPhillips, you can take that down. Thank you.

12 Mr. Mattsen, you mentioned that you -- that you own the
13 *Shaman*. Do you in part or in whole own any other vessels in
14 addition to the *Scandies Rose* and the *Shaman*?

15 A. The *Shaman* is no longer mine.

16 Q. Oh.

17 A. I sold that, that vessel. I don't really want to talk about
18 it. But I own 50 percent of the *Alaska Challenger*, which is a
19 tender/cod boat, and I own 50 percent of the -- or actually,
20 Mattsen Fisheries owns these, so I want to make that clear. And
21 Mattsen Fisheries owns 50 percent of the *New Venture*. And the
22 reason why I want to make that clear is because John Walsh is also
23 a partner in Mattsen Fisheries, so I don't own those in entirety.

24 Q. Okay, thank you. It can get confusing, right, because you
25 have all these different entities, so do you -- is the ownership

1 and management structure similar to how it was for the *Scandies*
2 *Rose* where you explained that, you know, you ran the big picture,
3 you managed and then you had a captain that was running the vessel
4 and was in charge of operations and then, you know, there's
5 Mr. Walsh, how did he fit in that structure?

6 A. Mr. Walsh was basically -- he handles insurance, he's got a
7 -- he's a principal in a large marine insurance business and when
8 I was having struggles during the -- right around the year 2000,
9 John just offered to help out and buy into the *Shaman*. So the
10 easiest way to do that was for him to buy into Mattsen Fisheries,
11 so he ended up with a piece of Mattsen Fisheries and he's been my
12 partner ever since.

13 He has no -- nothing to do with the management or operation
14 of the vessel. We do still insure through his agency, so that is
15 really his point of contact, it's that he -- he arranges for
16 insurance coverage with a lot of other boats and we are part of
17 that same group that gets insurance from him.

18 Q. Okay, thank you. So then for the *Alaska Challenger* and the
19 *New Venture*, which you have ownership in, is the structure and
20 management the same, organizational structure and management?

21 A. Yes, pretty much. I don't -- I'm trying not to be an active
22 captain and focus on just the management side of things. I'm a
23 short-timer in the industry, I mean, I'm 65, so it's -- I'm not
24 long for putting up with this, you know, and doing all the -- all
25 the grunt work here. It's going to -- you know, I'll be plotting

1 an exit over the next 5 years and maybe sit back in the sun.

2 Q. Okay. So then let's focus a little bit about the management
3 side of things. Can you talk to me about what documents there are
4 that might explain the roles of the owners and then other
5 significant people that work on the vessels in part or in whole?
6 So you kind of delineated, you know, what Mr. Walsh's role was,
7 what your role was, what Gary's role was. Are there any written
8 documents that delineated those things?

9 A. Not really. It's only a three-person partnership at most, so
10 you know, we -- we would just meet periodically and especially
11 since I started running the *Amatuli* during the summertime, I spent
12 all summer -- well, at least -- at least the Bristol Bay portion
13 of a tender contract, talking with Gary on a daily basis.

14 So we would have plenty of opportunity just to talk about
15 where we were going and what we were thinking, ideas, crazy ideas,
16 you know, just the usual partnership banter and, if anything, if
17 we were thinking anything radical, which generally we weren't, I
18 mean, the *Scandies Rose* was of limited focus, you know, it was
19 primarily a tremendous salmon tender and opilio-catching machine.
20 So it wasn't like we were going to give up any of those fisheries.

21 But as far as quota share leads, if you knew that somebody
22 was looking for somebody else to harvest their quota, Gary and I
23 would just discuss that, and the most appropriate person would
24 make the approach to go talk to that person. You know, sometimes
25 if it was a Kodiak person who was looking for somebody to run

1 their quota, Gary would go talk to them because he had a personal
2 relationship, he went to school, went to high school there. If it
3 was somebody outside the industry or whatever, I might make a call
4 and just, you know, fish it. And sometimes, you know, John, just
5 because he had a wide range of insurance contacts, might, you
6 know, make the initial contact to see. But other than that,
7 there's really no formal documents, it's just a small partnership.

8 Q. Okay. So then understood, no written documentation defining
9 the roles. How about any written documents that outline your
10 expectations for the role of captains for, specifically, the
11 *Scandies Rose* or -- or like for other captains that run any of
12 your other vessels?

13 A. Well, we have an employment contract which is slightly
14 different for captains. Basically, it puts them on the hook for
15 maybe some lost pots and I'm really not -- I'm really not clear on
16 exactly what we all put in there, but we did feel the need to have
17 a separate contract for a captain than for just a crew member
18 because the captain does have executive responsibilities. We
19 could probably produce that for you, if need be.

20 Q. I believe we have Mr. Cobban, Captain Cobban's contract,
21 captain contract, and we might be getting into that just a little
22 bit later.

23 A. Oh. And you know, just to switch back a little bit, in our
24 LLC operating agreements, Mattsen Management is listed as the
25 manager, so that would be a document that would have that. But as

1 far as delineating what exactly the management responsibilities
2 were, we kept that purposely vague because at the time we set up
3 these LLCs, we really didn't know exactly how the company was
4 going to function.

5 Q. Okay, that's fair. And that was -- that was around 2009, so
6 throughout the years you guys didn't develop like any kind of
7 written kind of standard operating procedure for delineation, and
8 that's okay if you didn't, but I'm just making sure.

9 A. No.

10 Q. Okay. So then can we talk a little bit about what you did in
11 terms of day-to-day management for the *Scandies Rose*?

12 A. Mostly I deferred to Gelia Cooper, who you'll be talking to
13 after me, as far as day-to-day, the mundane, is everybody drug
14 tested, is every -- are the contracts all done or the
15 authorizations to release medical records, where are the direct
16 deposits, Gelia took care of all of that.

17 My interactions were mainly with Gary and were mainly about
18 when are we going to get started, what are we going to do, what's
19 your plan, what are you thinking, are you going to fish low, are
20 you going to fish high, you're going to -- you know, are we going
21 to fish codfish before opilio, which is the only real question
22 mark because king crab opens, you're going to fish king crab.
23 There's not a question of oh, well, we're going to skip king crab
24 this year, you wouldn't, you wouldn't do that.

25 But January 1st -- actually not even January 1st, but around

1 December 27th, 28th, the *Scandies Rose* always got ready to go to
2 depart and would either go fish codfish or go fish opilio right
3 after that. And we primarily erred -- not erred, but we primarily
4 focused on opilio, we'd like to get a quick start on opilio and
5 neglected cod for several years.

6 Q. Okay. And since we're here, could you tell us why you chose
7 to do that for several years and why you -- why the *Scandies Rose*
8 was going to shift to cod for that season?

9 A. Sure, sure, we fish the crab because our main quota share
10 owner, the person that we -- who provided probably 60 percent of
11 our crab, didn't want us fishing cod. He wanted to get his opilio
12 caught, so we would just -- and we needed that, we needed the crab
13 to fish much more than we needed the relatively meager paycheck
14 for cod.

15 And the reason why we shifted this over the past year was
16 because of the threat of rationalization, there's some -- a
17 portion of the industry wanted to turn the cod fishery, Bering Sea
18 cod fishery, into a quota, individual quota fishery, and since we
19 didn't have any recent, very recent deliveries, we just thought it
20 was prudent to go make a trip.

21 Q. Okay. So going back to what you talked about, that you
22 mainly talk to Gary about like what are we going to fish, as the
23 vessel owner, did you have a say in where he fished and when he
24 left port?

25 A. Well, somewhat, but very limited. I mean, I would -- well,

1 several times for king crab, because I own some captain shares, I
2 would go on the boat but I would never take over. Even though I
3 was the majority owner, I would always just work as mate since
4 it's awfully hard to have two captains on a boat, and so Gary
5 would decide where we were going to fish and I would run the boat
6 at night and, you know, pull whatever pots were up for hauling,
7 but I wouldn't take the captain's job, and for me to try and tell
8 Gary Cobban where to fish would've been stupid because Gary was a
9 tremendous fisherman. And now we would talk back and forth, there
10 would be some "what are you thinking," you know, just are you
11 going to go south or are you going to go way up north because the
12 year before, the fishery had kind of shifted north, but we were
13 thinking that that was kind of a false flag and we could stay
14 farther south where Gary has had tremendous success in the past.

15 And so I wouldn't tell him that -- that he couldn't go north
16 or anything, but I might tell him, as the manager, that with our
17 profit-share agreement we get -- because we have a lot of
18 catcher/processor shares that we could get a better rate for the
19 processing side of things if we deliver to Akutan, which would be
20 -- if all things were equal, I'd rather you stay south rather than
21 go up, you know, to the 60-degree line and then really have to
22 deliver to St. Paul. But I would never veto it. If he said hey,
23 I can't find the -- I don't think I can find enough crab south,
24 I'm going to go north, I would've said okay. You know, it's
25 really his call.

1 Q. But did you have veto power? You referred to that as veto.
2 Did you have veto power or did anybody, did any one --

3 A. No, not --

4 Q. -- of the owners have veto power?

5 A. Not a formal veto, but -- I mean, now if Gary said well, I'm
6 not going to fish opilio, I would've had veto power. It's like
7 no, you know, we're going to fish opilio, of course, you know, but
8 -- but I mean, I was probably the one who said we really should
9 make a cod delivery, but once -- once we got -- we went back and
10 forth and, you know -- you know, Gary agreed that we should do it
11 because we couldn't pass up the opportunity, if there was going to
12 be rationalization, we would not want to be aced out of a fishery,
13 a fishery that *Scandies Rose* had a tremendous history in, a long-
14 term history.

15 If Gary would've then said to me well, I'm not fishing cod, I
16 would've said well, actually, I kind of do have veto power at that
17 point and I'll bring in another captain to fish cod and then you
18 can get the boat back for opilio, but that would never happen. I
19 mean, we would always come to some kind of agreement that would be
20 mutually satisfactory for both of us.

21 Q. Okay. So that was very helpful, thank you. You guys
22 obviously talk a lot, so what was your method of communication,
23 what were your methods, multiple methods of communication, like
24 e-mails, cell phones, like texting?

25 A. No, I'm mainly a cell phone guy. I'm old, I don't -- I mean,

1 I would text him, of course, on occasion, but mainly I wanted to
2 hear his voice because I mean, I can learn more by talking with
3 somebody than I can with texting. I can catch nuance, I can catch
4 inflection of voice and facial expression or sometimes just a
5 little hint of sarcasm or whatever that you don't get with
6 texting. So I prefer at least hearing their voice and preferably
7 face to face.

8 Q. Okay, all right. Awesome, thank you. So I'd like to
9 actually circle back to talking about documents and policies and
10 how you made sure that everybody that was employed by the company
11 kind of knew what their expectations were.

12 So did the *Scandies Rose* Fishing Company, LLC or Mattsen
13 Management Company, LLC have specific documents that communicated
14 what the owners' expectations on crewing, upkeep and maintenance,
15 like training requirements, safety requirements, drug and alcohol
16 policy, name the most significant ones, if you could just talk us
17 through generally if you had written policy on that.

18 A. Well, we have a drug and alcohol statement that everybody has
19 to sign. We rigorously enforce the drug testing, and Gelia would
20 take care of that, she would make sure -- she gave all the
21 captains, not -- kind of folders that would have all the documents
22 that were needed for each crew member before the boat could sail
23 and it was the captain's responsibility to make sure that the
24 contracts were signed, the alcohol statements, the -- you know,
25 like I said before, like the direct deposit information, banking

1 information, and next of kin and all of that, that that was all
2 taken care of. But Gelia would just ensure that those were all
3 received by her before they -- the boat sailed.

4 Q. Did you have -- does the company have a -- so obviously you
5 had a drug and alcohol policy and what was that, sir?

6 A. Basically, no drugs and no alcohol while you're fishing. I
7 recognize that we're kind of in an odd pool of participants for
8 crab and pot-fishing deckhands, so I would always add that if
9 you've got anything in your background here, just write it on the
10 back, tell me what happened, tell me how long ago it was, and I'll
11 -- I'll think about it.

12 Q. Okay. Did you happen to have anything in writing about over-
13 the-counter medication or prescription over-the-counter --
14 prescription or over-the-counter?

15 A. I don't know, I don't know. I don't think we did anything in
16 particular.

17 Q. Okay. Anything in terms of expectations for voyage planning
18 or weather considerations?

19 A. No. No, that's the captain's call and Gary was on a first-
20 name basis with the Ice Lady, who was mainly concerned, you know,
21 about when we're opilio fishing and so he would contact her
22 regularly if he had any concerns.

23 Q. Okay. And last one, how about did you have any written
24 policy about work/rest, work/rest hours --

25 A. No.

1 Q. -- to try and reduce fatigue?

2 A. No, but we did start giving a -- I'm not sure if this stuck
3 to the *Scandies Rose*, but just a description of deck work because
4 on the *Scandies Rose* we generally hire people who are well
5 experienced and, if anything, you'd have -- might have one person
6 who was green on the boat. So these guys, to fish on the *Scandies*
7 you're, you know, in the big time. We caught a lot of opilio, it
8 was a good, you know, solid boat and generally, people came to us
9 with more experience. On the smaller boats, sometimes you would
10 take a greenhorn and you'd want to have them know exactly what
11 they were getting into. The work is wet, it's hard, it's
12 monotonous, it's long hours, it's catch sleep as you can, you
13 know, there were all sorts of caveats we'd give to young people
14 who thought they wanted to be a crab fisherman because it's really
15 not a life for many people.

16 Q. Okay. So I mean, clearly, there's a lot of communication
17 happening, there is some documentation and some written policies
18 for the company and it seems that the way that you're talking,
19 that things were pretty autopilot in terms of like you guys had
20 been with it for a long period of time, your employees have a lot
21 of experience, so you had established certain established
22 functions like the drug and alcohol testing, the forms, you had
23 processes.

24 A. We also filled out -- you know, circling back to the
25 prescription drugs, we did have a health questionnaire that

1 everybody had to fill out, a detailed one, at least once a year
2 and then season by season just if they'd been off the boat, just a
3 shorter version of whether they could, you know, list if anything
4 had happened, if a guy had gone skiing and tweaked his knee or
5 something, you know, and just -- but -- and I'm not sure, to be
6 honest, I'm not sure if that list with prescription drugs on it,
7 Gelia could probably tell you more about that when the time comes,
8 but it could've.

9 Q. Okay. So I'd like to just jump into something that's
10 connected in terms of the safety training requirements for the
11 vessel.

12 Lieutenant McPhillips, could you please pull up Coast Guard
13 Exhibit 016, drill records?

14 Mr. Mattsen, are you familiar with this form?

15 A. Yes.

16 Q. Excellent. Would you mind just reading the header for us,
17 the title, as well as who was for the date that -- actually, if
18 you could go to page 3, Ian. I'm sorry, page 8. Thank you. That
19 one's a little hard to see, but if you can read it, sir.

20 A. Well, the header is "Fishing Vessel Monthly Drills and
21 Instructions." Then there's a vessel, so we could fill in your
22 vessel, the date and the time that you performed these monthly
23 drills, and we would do these -- this is actually a requirement of
24 the insurance pool that we're in from North Star Insurance. We
25 just have to do these monthly drills, which are required anyway, I

1 mean, we're supposed to do monthly drills, but our insurance
2 agency helps us keep us track and helps us -- you know, gives us a
3 form that is easy to run down.

4 Q. Okay. So then could you read the vessel name, the date that
5 was written in, the time that was written in, as well, please?

6 A. *Scandies Rose*, 12/31/19, 1834.

7 Q. Okay. So then it was performed at 1834 and this is a
8 screenshot of the page, because you mentioned that, like -- that
9 it's done on the vessel and that the vessel captains are
10 responsible to do it. So who gets sent these records?

11 A. Gelia Cooper.

12 Q. Okay. Are you made aware of them, as well?

13 A. I would be made aware if Gelia said to me hey, Gary's not
14 sending the paperwork or Peter or one of the other captains is not
15 sending the paperwork down, what do you -- what should we do about
16 this, and then I might have some input. But in the normal course
17 of things, I would not, if these were just being sent down as per
18 normal.

19 Q. Okay. And then for the record, if you can see what line
20 items -- if you could read out what line items 1, 2, and 4 are and
21 then whether those were done or not.

22 A. One is -- well, I certainly can't say if they were done or
23 not, because I was out to sea on another boat at this time. But
24 "Donning Immersion Suits." Did you say 1, 4?

25 Q. One, two, and four, sir.

1 A. One, two -- number 2 is "Radio Distress Calls" and number 4
2 is "Abandoning Ship."

3 Q. And based on this document here, the handwritten circle
4 indicates an affirmative, would you agree?

5 A. I would agree.

6 Q. Okay. And then based on the printed names on this particular
7 form, would you agree that that's the captain and crew of the
8 *Scandies Rose*?

9 A. Yes, I would.

10 Q. Okay, thank you.

11 All right, Mr. McPhillips, you can pull that one down.

12 And you mentioned that North Star, at the header at the top
13 on that form, you said North Star was the insurance company and
14 those are just template forms. Do you use those on other vessels,
15 as well?

16 A. Yes.

17 Q. Okay, understood.

18 A. I haven't used them on the *Amatuli* and we're not insured by
19 the same company, but it's just a -- it's a handy format to use.

20 Q. Do you change the header on the -- when you use it on the
21 *Amatuli* or --

22 A. No. No, I don't. That part of it is really irrelevant.

23 Q. Okay.

24 A. We're satisfying the federal requirement for monthly testing,
25 monthly drills, so the fact that North Star gave us that header

1 doesn't mean anything. It could've come from Walmart as far as
2 I'm concerned.

3 Q. It was just a way to record the drills happening, understood.
4 Okay. And you did say that North Star insures your other vessels,
5 as well.

6 A. Yes.

7 Q. Got it. I'd like to shift a little bit and talk about hiring
8 captains and crews. You've mentioned overarching, that the
9 captains of vessels really handle the operational side of that.
10 Can you tell me a little bit about what your input as vessel owner
11 is in terms of hiring of captains first, and then hiring of crew?

12 A. Well, my input on hiring captains is almost absolute. I
13 mean, I do hold the management, ultimate management decision
14 there, so no captain would be hired who I didn't approve of.

15 As far as crew goes, that's a much more nuanced question
16 because other than saying well, I don't like that guy or I've got
17 a bad experience with that person or whatever, it really is -- a
18 lot depends on the dynamics between the captain and the -- that
19 person them-self.

20 I mean, Gary may be able to work with people that I would
21 find difficult to work with just because of personalities and age
22 difference or interests, you know, just Gary might have a rapport
23 with somebody and just like Peter might have on the *New Venture*,
24 might have a rapport with somebody that I don't, you know, like.
25 So other than very seldomly use, I guess, ultimate veto power, I

1 mean, I guess I could say don't hire this person, I -- it's really
2 up to the captain.

3 Q. Okay. And then, so you communicated -- you communicated with
4 your captains and they let you know when they were hiring because
5 it seems fairly dynamic, the hiring process, if somebody drops out
6 and somebody else has to be hired on.

7 A. Yes.

8 Q. What's your expectation in terms of them communicating the
9 hiring of crew?

10 A. Really, not much. I mean, just if -- okay, if you -- if
11 you've got all the paperwork on them, have they -- have they -- I
12 mean, do you know this person, do you -- you know, just the usual
13 where did you hear about this guy or where's he fished before and
14 that kind of thing, you know, so do we -- did you check any
15 references, you know. Just other than that, not really -- I'm not
16 really hands-on on the individual person.

17 But you know, if he mentions somebody who I just would say
18 absolutely not, you cannot hire that person, here's why, he sued
19 me 6 years ago or whatever or anything, you know, silly like that,
20 I mean, I would be sure to voice my concern. But for the most
21 part, a captain figures out who he wants, he runs the paperwork
22 through Gelia, and if everything checks out, he's got himself a
23 site, got a boat.

24 Q. Okay. So then, I mean, a lot of that, those kinds of
25 conversations are easier to happen if you are shore-side. Do you

1 have the same level of expectation for that kind of communications
2 if you're under way versus if you're shore-side?

3 A. Well, I couldn't -- we had really no communication between us
4 until Gary left port, so I didn't know who he'd hired on the crew
5 or anything like that. You know, just -- and our main form of
6 communication was tag phone and the tag phone when you're moored
7 right in Kodiak is very problematic. So I did not -- I left town
8 earlier, a couple days earlier before him and until he left port,
9 I had no communication with him. Once he got through Whale Pass,
10 he gave me a call and we talked.

11 Q. Okay. So out of curiosity, do you ever track -- as owner, do
12 you ever track the other vessels' movements? Not just if you're
13 under way, but like if you're shore-side?

14 A. Sometimes out of curiosity, if I'm on the beach, we can do
15 that with the VMS, but not under way. I had my own issues on the
16 *Amatuli*. I mean, we were going through shit weather the entire
17 way down from Kodiak, so I had my hands full just being the
18 captain of my own vessel. I wasn't about to try and be the
19 captain of two vessels at once.

20 Q. Okay. So then you mentioned the tag phone is the way that
21 you communicated. Do either the *Amatuli* or the *Scandies Rose* --
22 are they outfitted with any equipment that would kind of enhance
23 the ability to talk, either Iridium, like an Iridium or a similar
24 type of phone, satellite phone?

25 A. Yeah, we've got Fleet One on the *Amatuli* and I'm not sure

1 exactly if we already had moved to Fleet One. We did have a
2 satellite phone, though, on the *Scandies Rose*.

3 Q. Okay. The satellite phone on the *Scandies Rose*, are you
4 aware, to the best of your recollection, if there was anything,
5 any technology that would allow for Internet connectivity?

6 A. Yeah, there was. There was. There was a KVH system, I
7 believe.

8 Q. Okay.

9 A. And I'm not sure who the underlying provider is, whether
10 that's Iridium or whatever, but --

11 Q. Okay. Okay, so I've asked a lot of questions about that
12 topic. I'd like to shift a little bit and have you kind of
13 explain a phrase that you mentioned a little bit -- a while
14 earlier. I want to talk a little bit about the concept of a
15 co-op, the co-op that the *Scandies Rose* belonged to, and I was
16 hoping that you could walk us through what the purpose of the
17 co-op is and then what the *Scandies* -- how the co-op functions in
18 relation to the *Scandies Rose*. Where did the *Scandies Rose* fit
19 into that?

20 A. Well, that's pretty nuanced here. Most of us belong to an
21 overarching cooperative of the -- it's called the ICE cooperative
22 and now -- and then we belong to boating districts within that.
23 And so our boating -- because originally, when the quota system
24 came into being there were a lot of small co-ops and at first,
25 NMFS RAM was pretty obstinate about how you transfer quota back

1 and forth. Like suppose you've got, say, a thousand pounds of
2 king crab you have to catch and you bring in 1200 pounds. Oops,
3 made a mistake. And at first, it was difficult to do a transfer
4 then after the fact, but it really doesn't matter as far as the
5 resource goes, as long as if there's a million pounds total of
6 crab, then a million pounds are caught. So we formed the ICE
7 cooperative, Inter-Cooperative Exchange, in order to facilitate
8 transfers back and forth between vessels because a lot of times
9 with the share-match requirements for standard shares, catcher
10 vessels shares, you -- you might have like, say again, let's just
11 say we've got a hundred thousand pounds to catch, you might have
12 40,000 pounds of that share matched with Trident and 20,000 with
13 Peter Pan and other canneries and then have your B shares, too,
14 which can be delivered anywhere and you just might be talking to
15 another guy who's got the exact opposite problem, he's got shares
16 with -- more shares with UniSea and fewer shares with Trident and
17 so you just do a quick exchange.

18 It doesn't matter for the underlying quota shareholder, they
19 get paid the same, but it makes it a lot simpler if Boat A can
20 just go to UniSea and Boat B can just go to Trident rather than
21 have to try and coordinate multiple deliveries to multiple
22 canneries. So the cooperative makes almost zero difference as far
23 as the operation of the vessel other than facilitating transfers
24 and making it a little bit simpler.

25 Q. Okay, that was very helpful. Thank you. But is there any --

1 do all of the players in the cooperative, do they -- can they or
2 will they ever provide instructions to a vessel with regards to
3 its movement, like oh, no, I can't accept your product?

4 A. No, no. I mean, you can make a call and say hey, Joe, I hear
5 you want to get rid of some Peter Pan crab and he might say no,
6 I've got it figured, or we're going to deliver there, we have to
7 go there anyway, you know, that kind of thing. But no, the co-op
8 doesn't function like that. Now, within a particular boating
9 district, you might have your own rules. In our boating district,
10 which is called crabbing, there are only two or three boats that
11 fish and maybe a dozen or 15 total quota shareholders that are
12 involved and there's never any direction from the -- from the
13 manager of our boating district.

14 Q. So the co-op or managers of the boating districts would never
15 influence a vessel needing to be at the fishing ground at a
16 certain date and time?

17 A. No.

18 Q. Like, that's not -- okay. And then how does -- does the
19 co-op at all play in specifically related to the -- to ground fish
20 like cod? Does the co-op matter for that fishery --

21 A. No.

22 Q. -- in any way?

23 A. That's a fill-a-derby-style fishery.

24 Q. Okay.

25 A. So you don't -- your co-op has no influence. Now, there

1 could be for some co-ops which have a lot of northern shares, you
2 may be up against -- because Trident, which is the only processer
3 up there, wants to get their -- be efficient, and so they want to
4 get their northern shares caught so they can have less time for
5 their crew, but it's really -- it's not relevant for the *Scandies*.
6 *Scandies* does not deliver in -- did not deliver in St. Paul, ever.
7 We had primarily catcher/processer shares which can be delivered
8 anywhere and we would always try to deliver to Akutan, if
9 possible, because of our financial arrangement with them. It was
10 just more -- it was better for us financially if we delivered to
11 Akutan, so that was always our goal.

12 Q. Okay. Thank you, Mr. Mattsen. I'm going to go ahead and
13 shift this a little bit to focus more on the *Scandies Rose*. Who
14 was responsible to make sure that the *Scandies Rose* was seaworthy
15 and materially sound?

16 A. Well, I think -- I think both myself and the captain were. I
17 mean, I wouldn't -- like I said, I was out at sea, I took off
18 before. Now, Gary and I arrived in Kodiak at the same time, we
19 were on the same plane. He was coming from Juneau and I was
20 coming, you know, from Seattle. But he went to his boat and I
21 went to mine and I just focused on getting my boat ready, so Gary
22 focused on getting his boat ready. Gary and I met, met up every
23 day until I left, it was just a couple days where we'd grab a cup
24 of coffee and just see how things were going with each other, but
25 that was the extent of it. Gary was ultimately responsible for

1 making sure the boat was seaworthy and he wouldn't leave unless
2 the boat was seaworthy.

3 Q. So if you guys -- since there were multiple owners and you
4 guys talked about stuff, how did -- how was it decided on who to
5 use for dry docks, repairs, things of that nature, how was that
6 decided?

7 A. That would be me. That would be me. But it would also be --
8 of course, Gary would have input, because if he said -- I mean,
9 maybe he could outline a problem that would be better handled in
10 Seattle because of vendor availability.

11 Suppose we had to do major engine work and we needed Pacific
12 Power, well, we wouldn't want to pull the boat out in Ketchikan if
13 we had to pay for Pacific Power to be flying up there and putting
14 guys up in hotel rooms and having parts shipped in and everything
15 else, so that might influence, say, a Seattle haul-out rather than
16 an Anacortes haul-out or a Kodiak or Ketchikan haul-out.

17 So again, it's back and forth. The operator would tell me
18 what we need to do and if it's just a shave and a haircut, that's
19 one thing. If it's major engine work, that's another.

20 Q. Okay. So then in the last 18 months, to the best of your
21 recollection, how many -- how many dry-dock or dockside periods
22 did the *Scandies Rose* have?

23 A. I think just one, I think just the one that -- we usually
24 haul out -- we usually haul out every 2 years and -- but bring the
25 boat south every year, so the boat always comes down for a

1 maintenance period, but I think we only haul out every 2 years.
2 And Gelia could probably -- she's probably looking it up now and
3 can probably tell you if I'm wrong that in the last 18 months we
4 hauled it out, but --

5 Q. So to the best of your recollection, when was the last time
6 that it was hauled out and when -- what was that time period and
7 where?

8 A. It was in the spring of -- what year was that?

9 MR. BARCOTT: Nineteen.

10 THE WITNESS: Spring of '19, yeah, before -- before salmon
11 season it was hauled out up at Lovrics yard in Anacortes.

12 BY CDR DENNY:

13 Q. And that was a scheduled --

14 A. Yeah.

15 Q. -- every 2-year one, and so --

16 A. Yes, that was bottom paint, zincs, you know, prop nuts, check
17 shaft alignment, you know, just the usual shave and a haircut at
18 that point for them.

19 Q. And did you have a work list that was more than shave and a
20 haircut?

21 A. Of course.

22 Q. Was there anything that -- okay, could you talk to us about
23 that a little bit?

24 A. Of course, we had -- well, we didn't do this at Lovrics, but
25 we repaired -- did the repair that was ultimately redone on the --

1 well, they're called shit chutes but crab, excess crab disposal,
2 discard chutes, but -- so we had that done down in Seattle, but we
3 were waiting because you can't just waltz into a shipyard and say
4 I'm ready to be hauled out, I mean, they had their schedule, too.
5 So we had some time in Seattle where we hired a crew to do some of
6 the work and the ongoing maintenance was ongoing this entire time
7 and Art, Art there in -- another fellow, and we were just kind of
8 working on a slow bell, three or four of us doing some of the work
9 around the vessel in Seattle and then we brought them up to
10 Anacortes, also.

11 Q. So what was the problem exactly with the starboard chute?

12 A. It's just metal wastage. Metal wastage.

13 Q. How was that brought up to you or Gary, was that that Gary
14 noticed it or other people noticed it and they let you --

15 A. Yeah, Gary noticed it. You get -- there's a void underneath
16 that area, it runs the entire length from the forepeak to the
17 engine room and we just noticed that there was water and so it was
18 like wait, wait, what's going on here, so we patched it up and
19 then said we really need to repair this and --

20 Q. And did you guys ever identify how much metal was wastage and
21 what needed to get cut out in the spring time frame?

22 A. Well, yeah, of course. And we cut out -- we cut out metal
23 and put in new metal and it was welded and that turned out to be a
24 crappy weld job, there was porosity to the welds, so we redid that
25 in December, November or December.

1 Q. Okay. So did you guys have -- so we talked about unscheduled
2 stuff and you handled that and is it fair to say that as --
3 budget-wise, as stuff came up, you were the one that paid for
4 those --

5 A. Um-hum.

6 Q. -- for those things? Okay. And then how about preventative
7 maintenance, did you guys have a preventative maintenance schedule
8 for -- you know, for different equipment, that you would recap it
9 or what have you?

10 A. Well, yes, but it wasn't -- it wasn't a formal kind of we
11 were going to rebuild this engine just because we said we were
12 going to rebuild it this year. It would be more looking at engine
13 hours, engine performance, and deciding that okay, this year we're
14 going to, you know, in-frame this generator and we'll look at next
15 year to in-frame the other one.

16 But we would perform operations like a borescope, you know,
17 where the mechanic would actually look down the cylinder and say
18 you're good, you know, this is fine, you don't need to do this
19 this year, so we just cancel that. If we can get another year out
20 of the engine, we would not in-frame it just because.

21 On the crab pumps, pretty much the crab pumps we had after a
22 hard year of crab fishing and tendering, we would almost always
23 pull them and redo them every year and pull them out. So that was
24 just part of our -- again, did we write it down and say we're
25 going to rebuild the crab pumps every year? No, but invariably we

1 did. So it was just kind of, you know, part of our -- part of our
2 routine.

3 Q. So did you guys have like a budget set aside for some of
4 those things that you knew was an every year kind of thing that
5 you have?

6 A. No, but the budget -- not a set-aside, but the budget was
7 always dealt with -- at the end of opilio, we would -- because the
8 boat would invariably come south and it would be okay, we have
9 \$600,000 in the bank, we're doing fine; what do we think we're
10 going to be spending here, you know, and we'd go down the list and
11 work on, you know, what projects and, you know, the in-frame of an
12 engine is going to be \$50,000, the crab pumps are each going to
13 cost several thousand dollars apiece, you know, and just go over
14 that, a haul-out will cost 50,000, you know, and just -- and so we
15 just -- we just work up a budget usually at that time of the year.

16 And then we'd look forward to okay, well, the next fishing
17 season, what's going to be different, is there anything we need,
18 do we need more pots, do we need pots re-webbed, you know, maybe
19 as you're finishing up opilio you could bring some pots to Kodiak
20 that we could re-web and that kind of thing, and then we would get
21 kind of an overarching budget that would be well, okay, we're
22 going to spend \$350,000 this spring, you know, is everybody good
23 with that.

24 And invariably, Gary would just -- because he wasn't really a
25 money guy, he would be like okay, well, that's our number then,

1 let's try and hit that. But generally, Gary would not participate
2 in the maintenance as much as I would because I'm down here most
3 of the time, so I would be hands-on on the -- what's going to be
4 done. Gelia would keep a big notebook with each project detailed
5 and every invoice that would come in, and Gary would get some much
6 needed rest and relaxation time.

7 Q. So is it fair to say that, based on what you just said, you'd
8 have a work list of stuff and you got feedback from him based on
9 what was working well, what might need a little bit of maintenance
10 or needs to be replaced? So you'd have this work list, but it
11 sounds to me, and correct me if I'm wrong, that you're saying
12 that, you know, you guys would have a budget and you guys would
13 prioritize so there would be something at some point, a cutoff
14 line for stuff that would be like okay, well, we can -- that's
15 doing okay enough that we can replace that next year or --

16 A. Of course.

17 Q. Okay.

18 A. Of course, that's just being discerning.

19 Q. Okay. So I'd like to talk about like with all of that
20 maintenance and the investment that you're putting into the boat.
21 Can you talk to me about marine surveys, specifically for the
22 *Scandies Rose*? Did you or a representative on your behalf engage
23 marine surveyors to conduct the condition evaluation survey for
24 that boat?

25 A. Yes.

1 Q. Okay. And what was the purpose for that, in 2019, for you to
2 engage that marine surveyor?

3 A. Well, we always do every time we haul out, so every 2 years
4 we'd have a survey and just for insurance purposes, the
5 underwriters would want to know that we were maintaining the
6 vessel and performing the -- you know, appropriate haul-outs,
7 replacing zincs, things like that. Nobody wants to insure a
8 vessel for three and a half million, four million dollars and see
9 that we're not replacing the zincs on it, but it's -- you know,
10 the boat was built in 1979, we're not -- we're not dealing with a
11 young boat, it's a boat that requires maintenance.

12 Q. Okay, that makes sense. And then, so can you tell us about
13 the level of scrutiny that the marine surveyor went into or what
14 you contacted that marine surveyor to do in terms of documenting
15 the condition of the *Scandies Rose*?

16 A. Well, the marine surveyor came by several times while the
17 boat was hauled out and just took pictures and reviewed what was
18 going on, on the boat, if repairs were being made, and then would
19 go down and note any equipment changes and what the boat -- what
20 the vessel looked like.

21 Q. Would the marine surveyor have gone into any void spaces,
22 like the one that you said where the starboard chute was that had
23 the wastage, would they have gone into that space?

24 A. Not necessarily. Not necessarily. Generally not, if they
25 were familiar with the vessel. Generally, on a first survey the

1 surveyor may go through single space and ascertain what's going
2 on, but we already -- those repairs were in process. So other
3 than going in that space, crawling through that space and going
4 okay, there's welding going on here, they wouldn't have seen that
5 until the very end.

6 And even then, you couldn't tell, you could not tell if the
7 welds were porous. It's not a -- it's not like there were big
8 gaps or anything, it's just the welds were not up to snuff, they
9 were not proper ABS-certified welds, they were -- and they weren't
10 dye checked or any of the nondestructive testing you could do on
11 those welds, and so that's where you were just getting seeping
12 through and you're seeing rust build up on the inside of the void.

13 But the surveyor would not have seen that because even if he
14 would have crawled through the vessel after it was done, all he
15 would've seen were welds and you wouldn't have noticed the
16 porosity of them unless there was some kind of nondestructive
17 testing done on them.

18 Q. Okay. So in terms of the marine surveyor, would he have
19 tested any of the equipment? Like, would he have run engines,
20 done steering checks? I know that you said that at one point it
21 was hauled out at Anacortes.

22 A. No, he wouldn't unless we pointed out something that we'd
23 done that was different or odd. Now, if you're buying a boat and
24 you bring a surveyor along with you, like I believe we had
25 Jake Jacobsen come up when we bought the *Scandies Rose*. So the

1 Scandies Rose was in Dutch Harbor, so when Gary and I came up
2 there, Jake flew up and we did run all engines. We ran everything
3 to make sure that well, we weren't buying a lemon, which I pretty
4 much knew we weren't buying a lemon, but I had to just make sure,
5 for my partners' benefits -- benefit, that everything was -- so we
6 ran everything just to make sure and put loads on the generators
7 and thought that we had, you know, made a good purchase, so we --
8 we moved on. But there's no reason for Jake or any other surveyor
9 to run the engines if we say the engines are running fine. And
10 especially with us, we had so many problems with those generators
11 over the years, the gensets, not the generator end, but the
12 engines running them, that we had, basically, a 2-year-old and a
13 3-year-old engine on our pro (ph.) gensets and we had two recently
14 rebuilt main engines that were giving no problems.

15 So other than looking around and making sure that all the
16 hoses and everything were good and if there wasn't obvious leakage
17 or exhaust leak, the surveyor would not automatically ask us to
18 start them, start them up.

19 Q. And you just said "we," right, so like "unless we told them
20 that there was a problem." So the "we" in that is either you or
21 the captain of the vessel, is that correct?

22 A. Yeah. Or we have had a port engineer at times, you know. So
23 if, when -- you know, our port engineer died last year, but when
24 Chip was around, we would -- he would be the primary
25 mechanic/engineer who was in my employ, who would guide the

1 surveyor if there was any need to say can you look at this, you
2 know, is there -- we think we might have an issue here. But we
3 also regularly audio gauge the hull just because it was a 40-year
4 old hull, you know, so we -- but we would do that on our own, you
5 know. Well, not on our own, we would hire somebody to do that,
6 but it wasn't like at the behest of the surveyor, but we would
7 show the surveyor the results, you know, if there were any issues.

8 Q. So would he have -- if you had shown him the gauging, hull-
9 gauging reports, would he then have put that in his condition
10 evaluation survey? Is that something that he would've added in?

11 A. I'm not sure. I think you probably have a copy of the survey
12 and I'm not sure that he puts the audio gauge done by a third
13 party in there.

14 Q. We do have it.

15 Lieutenant McPhillips, would you pull up Exhibit -- Coast
16 Guard Exhibit 004, which is the condition evaluation survey for
17 2019 for the *Scandies Rose*? If you could go to page 36, toward
18 the bottom, please. So scroll down a little bit.

19 Does this look familiar? This is the 2019 report produced by
20 Mr. Jacobsen for the *Scandies Rose*.

21 A. Um-hum.

22 Q. And if I could -- if I could actually have you read on page
23 -- making sure I'm in the right place. Could you read the section
24 toward the bottom that says "Construction and Structural" and if
25 you could read the notes, please?

1 A. Sure. "The vessel is well constructed with very good
2 scantlings and workmanship. The construction of this vessel is
3 extraordinary for a boat built by Bender Shipbuilding during the
4 late 1970's. The craftsmanship, materials, and design are on par
5 with the best of the West Coast-built fishing boats.

6 Number 2: Welds appear sound. The bulwarks, railings and
7 internal bulkheads available for visual inspection appear sound
8 and in good condition.

9 3. A crack on port rudder shoe support was repaired while
10 the vessel was in drydock" -- that's wrong there, it's 2019. So I
11 mean, we've -- and that's actually one thing that *Scandies* had
12 several times, we had cracks in that rudder shoe support and had
13 to repair them. That was one of the reasons -- one of the things
14 we would always look for when we hauled the boat out.

15 Q. Okay. So the reports were obviously pretty extensive, it's a
16 fairly large document, 47 pages, but you would get a copy of that
17 when you got a report, is that correct?

18 A. Yeah.

19 Q. And then would that -- would you produce -- would you give a
20 copy of that report to the insurance, as you mentioned, that it's
21 for insurance purposes?

22 A. Yes.

23 Q. Okay, understood. And in terms of the evaluation or the
24 condition of the vessel, you would not have pointed out the hull
25 repair work for the starboard chute to Mr. Jacobsen, or you would

1 have?

2 A. Oh, no, I probably would tell him. I would give him pretty
3 extensive lists of what we've done --

4 Q. Um-hum.

5 A. -- you know, and any improvements we've made just so that he
6 doesn't like, you know, gloss over it and just assume that we've
7 got the same, you know, crab lock or launcher that we had in the
8 last survey. I'd point out pretty much everything that we were
9 doing and I'd have him make note of it. Some things he wouldn't
10 think were, you know, that significant as far as the condition and
11 evaluation of the vessel, it might be a cosmetic repair or
12 something, but anything that was material I would point out to
13 him.

14 Q. Okay. I'm going to go ahead and shift -- I'm going to go
15 ahead and shift in terms of what we're talking about.

16 You can pull that down, Lieutenant. Thank you.

17 I do want to ask just a few questions with regards to the
18 insurance company and, you know, you produced those documents for
19 them. Have you ever heard of an insurance company denying
20 coverage because of a particular captain being employed on a
21 vessel?

22 A. Oh, yeah. Yeah. I mean, sometimes you have to have -- well,
23 in the insurance group that I'm a member of, and I've been a board
24 member for many years, I just recently left the board, we'd have
25 to get approval on every skipper and generally, you don't -- you

1 know, an owner has the most self-interest. He's not going to hire
2 somebody, or she is not going to hire somebody who they think is
3 going to crash the boat. So they'd give the recommendation and
4 say Joe Blow wants to -- we want Joe Blow to run our boat, here's
5 his experience. And so then we'd look at it and then the board
6 members could have any input if they knew this guy and said no,
7 he's bad news or whatever. To the best of my knowledge, we never
8 had to do that with our group of boats.

9 Q. Okay.

10 A. We never had to turn anybody down, but I have heard that
11 people could not get a job because they didn't have a license or
12 they didn't have the experience that the underwriters wanted.

13 Q. So have you ever heard of an insurance group denying coverage
14 because of the quality of a report or errors made in reports like
15 either a survey or a stability report?

16 A. I have not heard of that, but we use -- I mean, we use
17 Jake Jacobsen because his surveys are accepted as good surveys.
18 So I mean, I wouldn't go to a new surveyor unless I was forced to,
19 just because I know he's familiar with the boat, he's got a big
20 file that has year after year of *Scandies Rose* surveys and has
21 pretty much followed the improvements, repairs, and et cetera,
22 that we've made over the years.

23 So I would be leery, but there are several other surveyors
24 who are perfectly fine though, too, and if I had to bring them on,
25 it would be fine. It would just cost me more money because they

1 would have to do more background --

2 Q. Okay.

3 A. -- in order to catch up on all of the details of the
4 *Scandies*.

5 Q. Sure. How about naval architects?

6 A. I'm not here to hang anybody out to dry, but the reason why
7 we did -- we used Bruce Culver because he had done the original
8 survey, the original stability report, and again we thought that
9 he would have more familiarity with the boat and it was just going
10 to be a simpler incline test with Mr. Culver.

11 Q. Okay.

12 A. I've used Hockema Whalen on different occasions, too, for
13 different -- for like the *Shaman*, for example, and for the
14 *Billikin* years ago, but just because Culver had done the previous
15 stability report, we hired him.

16 Q. Okay. Sir, have you ever examined either the Coast Guard or
17 National Transportation Safety Board's Report of Investigation for
18 the *Destination*, for the sinking of the *Destination*?

19 A. No, did not read the report, but that's the reason why I did
20 a new stability report for the *Scandies Rose*. We just thought --
21 figured that everybody's using heavier pots than stability reports
22 were written for and a lot of these vessels have had alterations,
23 whether minor or major, and I just thought it was prudent to do a
24 new incline test.

25 Q. So those are some of the takeaways, for sure, from those

1 reports. How did you find out about them? As an owner, did you
2 maybe see those from the Marine Safety Information Bulletins or
3 safety alerts? Is that how --

4 A. I probably should say yes, but honestly, no.

5 Q. That's okay. No, no worries. Yeah, honesty is best. So
6 then how did you come to the decision to -- I mean, you named some
7 of those things like where you have things changed, so was it in
8 conversation with other fishing vessel owners?

9 A. I don't need to talk to any fishing owners about stability.
10 I ran the *Shaman* for 15 years and it had issues, I mean, just the
11 design of the vessel. I'm very familiar with vessel stability and
12 I was doing it for the *Scandies Rose*, which did not have issues.
13 I mean, it was a very, very stable platform. I just did it as a
14 matter of prudence, just as an owner looking at the feedback that
15 David Wilson got and I just said you know, it's time to do a new
16 stability report for the vessel. But I've done it for all three
17 of the vessels, you know, just got new reports because I just
18 think it's prudent.

19 Q. Did you use the same naval architect for all three boats?

20 A. No, I did not.

21 Q. And were you there for the actual -- when they were doing the
22 incline, the stability --

23 A. Of *Scandies*, yes, I was.

24 Q. Okay. And about what time frame was that? If you remember.
25 To the best of your recollection.

1 A. Let's see. Well, it was after the haul-out. It had to be
2 May. I think May of 2019. But I don't know. I probably got the
3 stability report here, so we probably could look it up, but it was
4 -- or it says April 2019, so that was it.

5 Q. Okay, perfect. And so during that time, how did that go?
6 Can you walk us through briefly how that day went, like how long
7 it took, who you met up with, how did that go?

8 A. Well, we took the boat to Northlake Shipyard after calling
9 ahead and making sure that they had room for us because -- and the
10 reason why we did that is Northlake has a big crane and we asked
11 if they had the ecology blocks, you know, that are used to shift
12 weight around and they said yeah, we've got some and we can have
13 it, you know, precision weighed. And so we went over there and it
14 probably took 6, 6 hours total. I wouldn't say it took more than
15 that, but they just set up their little bobbin, you know, to
16 measure the angle of heel and then we moved that weight.

17 Q. So you just said they, so was it more than the naval
18 architect? Did he have an assistant?

19 A. He had an assistant.

20 Q. He did have an assistant. And do you recall how he gathered
21 the data? Was he using like a tablet or taking notes on a notepad
22 or his assistant was --

23 A. You know, I can't recall. I can't recall, so I don't want to
24 speculate.

25 Q. Okay, not a problem. And you guys met up and he explained

1 what was going to be happening? Is that --

2 A. Yeah, just I've done incline tests before.

3 Q. Um-hum.

4 A. So I mean, he asked me -- he asked me where the fuel was, you
5 know, just what -- the crab tanks, if they were empty or full,
6 whatever, you know, and just -- and that was about it, you know,
7 and just -- and then set up their weight and the tank at the
8 bottom and we moved that, you know, weight back and forth, and he
9 measured the distances that it was being moved and, you know, then
10 he went to do his -- his work.

11 Q. Okay. And when you guys were talking about like he was
12 directing the movement of the ecology blocks, the weight?

13 A. Yes. But Northlake is actually just one, they have one giant
14 thing, so it was a little bit easier, but still you had to then
15 move a 10,000-pound weight around the deck.

16 Q. Okay. So in speaking to the naval architect, you were able
17 to clearly understand what the plan was to conduct that test?

18 A. Yes.

19 Q. Okay. Okay. I have a question in terms of the weight that
20 you were talking about. The result of that stability test was
21 that -- that the *Scandies Rose* could've carried 208 835-pound
22 pots. Does that sound right to you?

23 A. Yeah.

24 Q. Okay. Can we pull up Exhibit -- Coast Guard Exhibit 036,
25 page 5? It's the *Scandies Rose* stability report from 2019. So I

1 have just a few questions in regards to that.

2 The note -- the report in there says that that can be -- that
3 the *Scandies Rose* could pull 208 or carry 208 835-pound pots in
4 non-icing or icing conditions. And it further stated that -- you
5 know, it further states some conditions of carriage for those
6 pots. The words icing or ice are only contained in the report a
7 few times. Is that typical of what you've seen in stability
8 reports?

9 A. For a large house aft boat like the *Scandies* or say, the
10 *Billikin*, which I ran for 4 years --

11 Q. Um-hum.

12 A. -- yeah. Icing, moderate icing has very little effect on the
13 stability of those vessels. On a boat like the *Shaman*, which I
14 ran for 15 and owned for 15 years, yes, icing was mentioned much
15 more often because it's much more susceptible to changes in
16 righting angle.

17 Q. Okay. So for that large a vessel, you're saying that it's --
18 it's reasonable for it to not be mentioned as much?

19 A. As much, I would say. Yeah, not as much as a house
20 forward/western style combination boat. It's not just the size of
21 the vessel, but it's also the way it's built.

22 Q. Do you recall how the 2019 stability report compared to the
23 stability report that was previously in place, which was -- you
24 referenced earlier that it was the same naval architect that did
25 it, so I believe it was 1988.

1 A. I believe it was like 220 pots that we could carry under, you
2 know, optimal conditions with one load. And so, I mean, just
3 looking at it we were pleased because you can't -- these guys do
4 -- well, for example, the *Alaska Challenger*, my smaller boat, it's
5 stable with one tank down for a hundred and ten pots. I just got
6 done running the boat. You cannot put a hundred and ten pots on
7 that boat without going above the wheelhouse. So saying that 208
8 pots were possible, it would be very difficult to get 208 pots on
9 that boat or much less 220 pots under actual fishing conditions.

10 So the fact that they put a limit that was more than we were
11 going to carry was good news for us. At least we thought it was
12 good news, you know, that okay, since we don't push it that much,
13 we -- we should be fine.

14 Q. Do you recall if the calculations included the weight of the
15 gear that you would use or is that just for the pots?

16 A. Well, there's certainly the fuel, you know, I mean gear, but
17 we don't carry much other gear. On a pot-fishing boat you're
18 pretty much self-contained. Each pot has its own lines and buoys
19 and everything there.

20 So other than bait cans that are -- or bait sacks that are
21 thrown in there, which are minimal weight, it's really not -- it's
22 not an issue. I mean, if you take -- if you account for the bait
23 that's going to be in the freezer, the fuel that's going to be on
24 the boat, the water, your consumables, then that should be all you
25 need to know.

1 Q. Do you know if, for the calculations, the weight included
2 for what fishery, because I know that for some fisheries you
3 would need two shots of line; for some fisheries you need three
4 shots of line, which would weigh more. So do you know in the
5 stability calculations what was assumed? Was it for the most
6 conservative --

7 A. He asked me for the weight of the pots.

8 Q. Okay.

9 A. So I told him 835 pounds. I got that because the previous
10 king crab I had worked on the vessel --

11 Q. Um-hum.

12 A. -- and the Coast Guard had come down to the dock and just
13 randomly picked up three pots and "let's hook this one, this one
14 and this one" and 835 pounds was the real average weight of those
15 pots with two shots and buoys, the same buoy setup that would be
16 in it for cod.

17 The only difference would be you would have -- which would be
18 a minor weight of the cod triggers, they may weigh a half pound
19 apiece, so you might be adding another pound in there, but I'm not
20 sure that would be really relevant because the three pots that the
21 Coast Guard picked up, I think, were three pots that looked pretty
22 stout, too.

23 I mean, they weren't trying to undercount the weight, they
24 were trying to, if anything -- you know. And these were just the
25 inspectors in Dutch Harbor were trying to get a reasonable high

1 average and so I just use that as my weight of the pots.

2 Q. Okay. So once you got the report from the naval architect,
3 what did you do with it? Did you discuss it with the captains,
4 since there are multiple captains that were on the *Scandies*?

5 A. Yeah, there were multiple. It was all Gary.

6 Q. All Gary.

7 A. It's other than me. I mean, we've had other captains on
8 periodically for small seasons, but Gary was going to be the
9 captain for tendering and for the crab season, so there was no
10 need to talk with any other captains. Actually, Gary made several
11 requests that we get different scenarios for tendering, you know.

12 Okay, what about if number one and number two tanks are down
13 and what if -- you know, what if I go to number two and three, you
14 know, just how about one and three, you know. And also what are
15 the pot-carrying capabilities of that, but just so we could have a
16 clear understanding of the stability of the vessel.

17 Q. Okay. So then did you relay that to the naval architect and
18 was he able to produce --

19 A. Yeah.

20 Q. -- that information? Perfect.

21 A. Yeah, just based upon his own -- you know, the fact that he
22 had already moved the weight around, he could do the calculations.

23 Q. Okay. Were there any issues or concerns that you had with
24 the stability report that you received in 2019?

25 A. No.

1 Q. No?

2 A. No. I mean, I'm a fisherman, I'm an educated fisherman, but
3 I'm not a naval architect or an engineer.

4 Q. Okay. I'd like to shift a little bit to your role as captain
5 on the *Amatuli*.

6 CAPT CALLAGHAN: Commander, before you shift, could we use
7 this time to take a 5-minute break quick? So the time is 1042.
8 We're going to put the hearing in a 5-minute recess and resume at
9 1047.

10 (Off the record at 10:42 a.m.)

11 (On the record at 10:48 a.m.)

12 CAPT CALLAGHAN: It's now 1048, this hearing is back in
13 session. Back to you, Commander Denny.

14 BY CDR DENNY:

15 Q. Thank you. Sorry, I'm having a little bit of difficulty
16 here. Okay.

17 Mr. Mattsen, I know this is a lot of questions and I
18 appreciate your cooperation. What we have up here is page 11 of
19 Coast Guard Exhibit 001 and we just put this up, it's got an image
20 of the *Amatuli* on here and we wanted for the public to be able to
21 see the vessel while we're talking about it briefly because I
22 wanted to shift our attention to you as the captain of the *Amatuli*
23 during the accident time frame.

24 Could you tell us about the *Amatuli* in comparison to the
25 *Scandies Rose* in terms of, you know, the size, the age, the

1 propulsion and other details, like how did those two vessels
2 compare? Briefly.

3 A. The *Amatuli* is much smaller. It's old, it's -- Pacific
4 Fisherman built, I think, nine of these hulls and the *Amatuli* is
5 right near the first of them, built in 1967. The horsepower of
6 its main engines is probably 400 horsepower apiece. *Scandies Rose*
7 is 850 apiece. It's got three small gensets that each put out 90
8 kw and the *Scandies Rose* hotel (ph.) set third generator put out a
9 hundred kw, so each one of the big generators puts out 330.
10 *Amatuli* is 105 feet overall and maybe a 20 -- I'm not sure on the
11 beam, somebody's going to correct me online, I'm sure, if they're
12 listening to this, but probably 24-26 foot beam. The *Scandies*
13 *Rose* is 135 feet overall with a 35-foot beam.

14 Q. Okay.

15 A. So it's just a smaller version. It's a house aft crabber, a
16 former crabber, it's a tender only now, but it's a much smaller
17 vessel.

18 Q. Okay. Thanks, Lieutenant. Could we pull up Coast Guard
19 Exhibit 023, please, to page 15 and then 16-17?

20 And, sir, what we're pulling up right here is the AIS data.
21 So page 15, what you'll see up there is the *Amatuli*'s AIS data for
22 the 29th of December and then as we move forward, it will show the
23 30th and the 31st. So could you walk us through, very briefly, if
24 you can see -- can you see the dots okay, the --

25 A. Oh, yeah.

1 Q. Yeah, okay. If you could walk us through the *Amatuli's* track
2 and what you were doing there.

3 A. Yeah, I took off and I -- I'm not that familiar with Kodiak,
4 I mean, it's only been the last few years that I've spent
5 extensive time there. So looking at the tide and with my limited
6 knowledge, I didn't think I could make it through Whale Passage
7 efficiently, so I elected to go the other way. Instead of going
8 down the west side of the island through Shelikof Strait, I went
9 down the other side.

10 Side benefit is you get a lot more longer Internet and phone
11 service if you go down that side because of the MISLE launch site
12 and everything else. But I was really -- then I thought I missed
13 the tide, so I just went down to -- down the east side and cut
14 through north of the Trinity Islands and set a course for right
15 near the Semidies which are down at the lower border there and
16 that's basically a straight-line course towards Kupreanof Point,
17 and that was my -- that was my course, and the difference there is
18 you get a little bit sloppier sea if you get a northwestern --
19 northwesterly wind, but it's also a little bit warmer because it's
20 not coming right off the land.

21 Q. Okay. And so, Lieutenant, could you shift us to page 16,
22 please?

23 And that shows kind of a bigger-scale picture of the entire
24 transit and to the best of your recollection, is it accurate to
25 say that the *Amatuli* got to Dutch Harbor by the 31st of December

1 and that was its location at approximately 2152 local time? In
2 the Dutch Harbor area.

3 A. Yeah, probably. I was still making my way right into town.
4 We had stopped to see where -- we pulled into Unimak Bight, it was
5 just too rough for me to go through Unimak Pass, I was tired, it
6 was dark, and I did not want to go side-sea down to Dutch Harbor
7 being fatigued. So I pulled in and I dropped the anchor there,
8 spent the night, took off the next morning and was going to go
9 through Unimak Pass and the weather was still too foul, and Gary
10 actually suggested I go down Avatanak Strait and kind of -- if you
11 look at that -- on that last little bit, that's not a straight
12 line coming through Baby Pass and then going around Priest Rock
13 and heading into Dutch Harbor. I kind of had to make my way
14 almost over to Cape Cheerful and then turn down so -- to get in
15 there because the weather was just too -- it was too tough for me
16 to get in.

17 Q. Okay. And to the best of your recollection, what were the
18 weather conditions that you were experiencing?

19 A. Well, I got my log book right here, so --

20 Q. And then to the --

21 A. Because I think northwest 45 is what I wrote down on the
22 night in question.

23 CDR DENNY: So Captain, sir, for the benefit of the public
24 and the Board, we don't have a copy of the *Amatuli's* log, so may
25 we afterwards make a copy of that --

1 THE WITNESS: Yes, of course.

2 CDR DENNY: -- and then request that we make that an exhibit,
3 the next exhibit number?

4 CAPT CALLAGHAN: I would concur. I would ask the parties in
5 interest if there's any objections to that.

6 MR. BARCOTT: No objection.

7 CAPT CALLAGHAN: Mr. Stacey?

8 MR. STACEY: None from us.

9 CAPT CALLAGHAN: We will make that -- we will make that the
10 next Coast Guard exhibit.

11 CDR DENNY: Thank you, Captain.

12 BY CDR DENNY:

13 Q. So, Mr. Mattsen, while you're looking that up -- I'll
14 actually let you look that up and that way we can get an answer on
15 the weather conditions.

16 A. These are a couple denotations of horrible weather.

17 Q. Um-hum.

18 A. But on 12/31, I actually don't have a wind direction, I'm
19 mainly focusing on the barometer readings at that point and let me
20 see here, because I was getting past the worst of the weather, I
21 thought, so -- yeah. Yeah, for the 30th and 31st, I just have
22 barometer readings, I don't have the wind direction.

23 Q. Okay.

24 A. But previous to that, I have northwest 40-45 icing, you know,
25 written down and you can have the copy here.

1 Q. Okay. So we'll grab that from you in a little bit. But let
2 me ask you a couple questions with regard to that. So what was
3 *Amatuli* doing in late December and January? Were you guys also
4 set up to pot cod?

5 A. No.

6 Q. No?

7 A. No, we had a cod tender contract and I was under a bit of
8 time pressure because I -- our contract started on January 1st, so
9 obviously I couldn't start a contract if I wasn't there, so I had
10 a pressure to be in Dutch Harbor on the -- by the 1st, so that's
11 what our goal was, to get there on the 31st so we could clean off
12 the boat and say start paying us.

13 Q. Okay. And is there any connection -- so were you in any way
14 connected as the chase boat for Discovery Channel --

15 A. No.

16 Q. -- at that time? That was not --

17 A. No, we lost that contract, so they went with a different
18 boat. We did it for 7, 8 years but they wanted something a little
19 bit fancier.

20 Q. Okay, understood. So if you had a contract, you had cargo,
21 you had pots on board? You did not have pots on --

22 A. No, just tender gear.

23 Q. But just tender gear.

24 A. Just tender gear. Fish pump, which stays on the boat at all
25 times. Dewater box. Weigh box, you know, just --

1 Q. No extra gear.

2 A. -- the standard tendering for pumping off fish.

3 Q. Okay, understood. And so were you concerned, based on the
4 weather conditions, to the best of your recollection, did you --
5 did you have any icing concerns as you were transiting, for your
6 vessel?

7 A. Yeah, it was definitely icing, but on a crab boat like that,
8 you have no -- you have very little concern if you're not carrying
9 any weight that's going to raise the center of gravity of the
10 vessel. We didn't have anything, all of our equipment was
11 aluminum, it was all on deck, and I was monitoring it, of course,
12 when we were making ice, but it was not really a concern other
13 than me going out on deck, checking the forward -- checking the
14 forepeak and looking at that. Problematic because the deck boards
15 were all icy.

16 Q. Okay. And you left Kodiak on the 29th, is that correct? And
17 you arrived in Dutch Harbor right around December 31st because of
18 the 1 January contract. I just want to make sure I've got that
19 right.

20 A. Let me just -- let me look. I have actually departed on the
21 28th.

22 Q. Okay.

23 A. At 9:45 in the morning.

24 Q. Okay, excellent. And could you talk me through, like, when
25 you departed Kodiak, like, what were some of your concerns? Was

1 forecast weather one of your concerns?

2 A. Yeah, but it was a question of making the contract and is the
3 weather doable, and we thought we had a small weather window where
4 we could get down through the Semidies and get some shelter once
5 we got to -- next to the peninsula and from then on we could -- I
6 had hoped for smooth sailing, we didn't get smooth sailing, it
7 really howled out of Cold Bay and Pavlof Bay, but you know, it was
8 -- it was a difficult crossing. The reason why I was even -- I
9 wasn't going to run the boat. My wife has put her foot down, I am
10 not to be a wintertime fisherman, and I -- but my port engineer
11 was going to run the boat and I did not want him to run the boat
12 for the first time and have to take the trip from Kodiak to Dutch
13 Harbor in late December and January.

14 So I said well, I'll run the boat down there and I'll maybe
15 stay on for a trip or two to just make sure everything's going
16 fine and then I'll just fly out and you can run the boat. So
17 that was my goal, was just to be on there for maybe a week and
18 -- or maybe a few days extra, including transit time, but of
19 course, once I heard the news of the *Scandies Rose*, I flew out
20 immediately.

21 Q. Okay. Well, can you talk about that a little bit? So can
22 you tell us about when did you find about that the *Scandies Rose*
23 was in distress, how did you hear about that?

24 A. Well, I arrived in Dutch Harbor. Local time was -- well, by
25 the time we finally got tied up because there was nobody working

1 at Westford Seafoods, it was icy, it was miserable conditions to
2 try and get on the dock to even get a line over there. It took me
3 until about 1000 to 1100 local time to tie up, 2300, 10 to --
4 2250. So given that it was New Year's Eve, I called my wife, who
5 was out camping, and just wished her a happy new year and said I
6 was exhausted and I'm going to go to sleep, and I said I'll talk
7 to you in the morning, I said, but I'm just -- I'm beat and I said
8 I need to get some sleep. So I set my alarm on my phone for 7:00
9 a.m., told the guys, I had three crew, I told them that we were
10 going to get up early and get the boat squared away so that we
11 could legitimately say start paying us, we're on charter, and at
12 some point during the night -- and I was out, I was dead tired.

13 So at some point, probably 5 o'clock in the morning or so, my
14 alarm went off, at least I thought it was my alarm, so I bounced
15 out of bed and went downstairs, I'm going to wake up the crew, but
16 as I walked over to the far state room, I looked back at the clock
17 in the galley and said wait a minute, it's not 7 o'clock and I was
18 sure I had set my alarm for 7 o'clock, you know.

19 So I went back upstairs and looked at my phone and it had
20 blown up with people calling and, you know, offering condolences
21 and everything else, so that's when I found out about it, it was
22 about 5 o'clock in the morning, January 1st, and so I started
23 making phone calls, you know, just trying to get -- you know, talk
24 to my wife and talk to Gelia, who was actually -- Gelia was
25 camping with my wife, so they drove back home and started taking

1 care of the things that needed to be taken care of.

2 Q. Okay. So how involved would you say you were in directing
3 the company's response to federal requirements for a marine
4 casualty of this nature?

5 A. Very little, to be honest. Of course, the Coast Guard had
6 been directly involved with us so they knew what was going on and
7 my partner, John Walsh, had already called Mike Barcott and so it
8 was just a matter of -- I mean, I was pretty much in a daze at
9 that point because to even imagine that that could happen to the
10 *Scandies Rose* was almost incomprehensible to me. But we had
11 talked it over, should I come home, and Mike had said well, you
12 don't really need to come home immediately if you don't want to,
13 but I said no, I'm out of here.

14 I handed the keys to the port engineer and said -- asked him
15 if he was good and he said yeah, no problem, they can do it just
16 fine, and I arranged -- I didn't arrange, Gelia arranged for a
17 plane flight out for me and then we started this process.

18 CDR DENNY: Okay. Captain, I'm done with my questions at
19 this time.

20 Thank you so much, Mr. Mattsen, for your testimony. I
21 appreciate it.

22 THE WITNESS: You're welcome.

23 CAPT CALLAGHAN: Thank you, Commander Denny.

24 At this time I'll pass over to Mr. Bart Barnum from the NTSB.

25 MR. BARNUM: Thank you, Captain Callaghan.

1 BY MR. BARNUM:

2 Q. And thank you again, Mr. Mattsen. I do have some questions
3 for you, a little bit more about the company, I guess, Scandies
4 Rose, LLC and also Mattsen Management. In relation, you described
5 fairly well that -- the ownership between you and Gary and then
6 Mr. Walsh. Could you explain a little more about who owned the
7 quotas for the boat, fishing quotas?

8 A. Well, all three of us had quota and then we had two other
9 primary quota shareholders who had fairly large portions of quota,
10 Mr. Paul Duffy and Mr. Lou Laferrier (ph.), and so we've -- you
11 know, we just combine all the quota and the fish --

12 Q. Could you estimate the percentage breakdown, I mean, how much
13 did Gary own versus how much did you own as far as quotas?

14 A. Oh, man, Gary was fairly miniscule, I mean, he had quite a
15 bit of captain's shares but probably only maybe 6 or 7 percent of
16 the quota for Gary, that's probably all he owned. Between Paul
17 and Lou, they had about 60 percent and then the rest of it was
18 split up probably equally, fairly equally between John and I.

19 Q. Okay. You talked earlier about the drug-testing policy for
20 the boat and recordkeeping, I know this might be a question for
21 Gelia, as well, but typically how would you conduct or how would
22 you have the drug screens conducted for new crew or all your crew
23 members?

24 A. Typically, it would be done by a third party. We'd just have
25 either somebody in Dutch Harbor would come by and just perform all

1 the drug tests or else we'd take them up to a clinic if we were
2 leaving from Seattle. But we always have drug test kits on board
3 for last-minute hires or if we've got to pick up somebody, swap
4 out a crew member in a remote location, we're able to test on
5 board with just a cup and reading the stripes on the label.

6 Q. And who's in charge of administering it?

7 A. The captain.

8 Q. Yeah. And so he e-mails or how does he supply the results to
9 the company?

10 A. It would be better to talk to Gelia about that because she
11 actually handles that. But normally what we do is have them -- if
12 we have to perform the test like that, you pee in a cup --

13 Q. Um-hum.

14 A. -- you pull the label off after a couple minutes and hold it
15 up like this to your face and we take a picture of it. So Joe
16 Blow took this test, there are all the stripes, you know, Jill
17 Blow took that test and here are all the stripes, you know, that's
18 showing that you passed, so --

19 Q. And it's zero tolerance if anyone were to fail any one of
20 those?

21 A. Yeah, zero tolerance. Zero tolerance, especially --
22 especially for, you know, meth or opiates. You can't have
23 anything. Nowadays with pot, you almost can't find a crew member
24 who hasn't had some pot, and pot sticks in your system for a long
25 time, but you still have to be -- you know, you just can't have

1 somebody who's showing up on the test. The only exceptions I've
2 ever made is if somebody failed in Seattle, I'd let them ride the
3 boat up and say, you know, we're going to test you again in Kodiak
4 or Dutch Harbor, whenever we get there, and if you don't pass
5 that, you're on a plane coming home.

6 Q. And for THC or marijuana, do you make an exception for that
7 since it stays in your system for so long?

8 A. That's what I said.

9 Q. Yeah.

10 A. That's what I just said, is that I wouldn't make an exception
11 for it, but I might if we're doing a long transit --

12 Q. Okay.

13 A. -- I would let them test again and risk a plane fare on their
14 dime if they failed it.

15 Q. Okay. Thank you. Let's talk about fishing associations. Do
16 you belong to any personally or does the boat belong to any?

17 A. Well, we belong to Alaska Bering Sea Crabbers, but that's
18 mainly to get information, you know, just they keep their finger
19 on the pulse of the -- what issues affect crabbers, so you really
20 want to be at least peripherally involved.

21 Q. Okay. How about the United Fishermen of Alaska?

22 A. No, I'm not a member.

23 Q. You were talking earlier about training, you had taken some
24 extensive training throughout licensing requirements and whatnot.

25 Have you ever taken any training at the North Pacific Fishing

1 Vessel Owners Association or AMC, any of those organizations?

2 A. Yeah, the NPFVOA, that's right, in my drill instructor
3 course.

4 Q. Yeah.

5 A. I don't know that I've done many there, I mean, a lot of
6 stuff I've done, I had to do a master, mates, and pilots, things
7 like that, you know, for radio operator and Crawford, I think I
8 did bridge resource management down there and my radar examiner
9 tests. Usually, you just went down to Crawford's and I would just
10 test out where I don't have to take a course work, I know how to
11 plot, so -- and that was fine with them as long as I did the plots
12 and did them accurately, I was recertified.

13 Q. Did you ever take any stability training, specifically?

14 A. No. No, but I've taken extensive stability training in
15 running the *Shaman* for 15 years.

16 Q. Yeah.

17 A. And I might not be an engineer, but I know when a vessel is
18 unstable.

19 Q. Okay. How about the training organizations I mentioned
20 earlier, did any of the crew on board the *Scandies Rose* for the
21 accident voyage, that you know of, take any training there?

22 A. Well, other than advanced firefighting, I'm sure Gary took a
23 firefighting course. Other than that, I don't know. We don't
24 have any formal requirements that people go through training,
25 they're mainly trained on the boat, you know, just by doing the

1 safety drills and --

2 Q. Okay. Speaking of Captain Cobban, to your understanding, he
3 did not have a license. I believe earlier there was talk that he
4 had attended some sort of navigational school in his early years,
5 is that correct?

6 A. Yeah, he took courses right in Kodiak on navigation. Now,
7 Gary's been running boats since he was 16 years old, so his father
8 owned a boat and Gary couldn't get a license, he's color blind, so
9 he couldn't pass the physical based on color blindness alone, but
10 other than that, Gary had no problems as a captain.

11 Q. Had he ever taken any formal stability training --

12 A. No.

13 Q. -- that you are aware of?

14 A. Nothing I know of, so --

15 Q. Okay, a few questions on the vessel in particular. Did the
16 vessel have a heated bow?

17 A. Yes, it did.

18 Q. Could you explain that a little bit?

19 A. At some point during its history, long before I owned it,
20 Leif Larsen had done some bow modifications and put in a heater
21 between the old bow and the new bow, which was probably a foot
22 higher and I think it's a 60,000 watt heater and it was there just
23 to keep ice off the bow.

24 Q. Was that utilized?

25 A. I have no idea. I mean, I'm never on the boat in the

1 wintertime, so I -- it never came up as a maintenance item and
2 Gary said well, we got to look at the heater and repair it, so I
3 really have no knowledge of it. I just assumed it continued to
4 work but I don't know that.

5 Q. Okay. Could you please -- Lieutenant McPhillips, could you
6 please pull up Exhibit Number 4, page 3?

7 It's the -- Mr. Mattsen, this is the condition evaluation
8 survey. Page 3, I think it's up there, indicates that there was
9 modifications completed in 1988 and 1995. Are you familiar with
10 those modifications or can you speak of those?

11 A. Long before I ever bought the boat, but the vessel had a fire
12 at one point, that's when they rebuilt the wheelhouse, and if you
13 see where the -- what looks like a rub rail above the flower and
14 the Norwegian and American flags, I believe that part of the bow
15 has been raised up a little bit, that was the other modification,
16 but I don't know that for a fact and you'd have to find the old
17 owner to have him --

18 Q. Okay.

19 A. -- confirm that.

20 Q. So your understanding, the 1988 modification potentially
21 could be the fire and the '95 would be the modification of the
22 bow?

23 A. Yeah, you know, it happened so long ago, I think '88 was the
24 fire. I was not -- I was running the *Billikin* at the time and I
25 believe that's the case, but again, I don't know, that's a long

1 time ago. I wasn't involved at all in *Scandies Rose* in those
2 days, so it was just more of a background noise, you know,
3 *Scandies Rose* had a fire, do you know anybody on there, how are
4 they doing?

5 Q. Okay. I want to ask you a couple questions about the crab
6 tanks. Basically, you know, for the accident voyage, if Captain
7 Cobban was maintaining an empty tank, how would he monitor that?

8 A. Probably strip on it.

9 Q. Yeah.

10 A. He'd run a crab pump with the suction open towards the -- to
11 the pump and just pump it overboard, so you wouldn't be -- you
12 wouldn't have a sea chest open unless you might have a sea chest
13 just a little bit and then you would strip the water and the pump
14 would just keep pulling a little bit of water from the sea chest
15 and any water from the tank and pumping it straight overboard.
16 Standard operating procedure on crab boats.

17 Q. Would he do that consistently or only periodically?

18 A. It all depends. I would do it -- myself, I did it. Once we
19 left, if we needed an empty tank and I had crab pots on, we'd
20 strip the entire time, but I have no knowledge of what Gary would
21 do.

22 Q. Is there any sort of level indication that is on the bridge
23 that Gary would be able to know how much --

24 A. No.

25 Q. -- liquid is in that tank?

1 A. No. You got flow alarms on the pumps, so if you're running a
2 pump, you're just assuming -- you know, periodically you check,
3 but you're assuming that if the flow alarm is not going off that
4 you've got flow through that pipe, which would indicate that the
5 pump is still pumping water.

6 Q. Okay. So conceivably if he was not taking a suction on that
7 tank, if he wouldn't have a flow alarm, there's no other
8 indication of level on that tank?

9 A. No, but you can feel a slack tank and Gary's been running
10 boats, like I said, since he was 16. If he had a slack tank and
11 he was -- well, and he was awake, I mean, he would feel it.

12 Q. Was that tank -- so the tank wasn't equipped with a slack
13 tank alarm?

14 A. No.

15 Q. No. Are other vessels that you operate or are familiar with,
16 do they have slack tank alarms?

17 A. None of the vessels that I operate now have a slack tank
18 alarm, but we all have flow alarms on our piping, so that's what
19 we're relying upon.

20 Q. Could you describe the functionality of a slack tank alarm,
21 how does that function?

22 A. Well, some boats went with basically two bilge alarms, top
23 and bottom, so if you -- if the water's full, both of them, both
24 of the little floaty balls are up and if you -- if that's the
25 case, you're trying to do -- if you -- if one of them goes down,

1 it trips the alarm so then you would have indication that you've
2 got slack in your tank.

3 Q. Couple questions on the starboard void that we talked about
4 previously. Where can you access that void from?

5 A. From the engine room and from the forepeak.

6 Q. Okay.

7 A. Lower forepeak.

8 Q. And is that a hatch or a manhole?

9 A. Yeah, it's a standard oval whatever 20-volt hatch.

10 Q. Okay, so there's no dogs on the hatch, actually you have to
11 unbolt it?

12 A. No, it's a bolt-down hatch, an enclosed space.

13 Q. Okay. Were those hatches typically in place or are they
14 removed in the normal operation?

15 A. They're always in place in the forepeak and sometimes I
16 believe we had to plug in the voids, you know, just with a -- you
17 know, a capped hole that plugged and sometimes we would leave that
18 hole open on the -- in the engine room side.

19 Q. But the hatch would be in place, just the 1-inch plug?

20 A. Yeah, you just have a little plug and that would just be an
21 indicator for you that they're -- you know, because if you started
22 seeing water seep out of it you'd know, okay, we got a crack
23 somewhere or something.

24 Q. Okay. Any bilge alarms in that space?

25 A. I do not believe so.

1 Q. Okay. And while I'm on it, bilge alarms in the engine room?

2 A. Of course.

3 Q. How many in location?

4 A. Down in the lowest part of the bilge and I believe there's
5 only one, but there could be two. I'm not -- you know, I was only
6 the captain of that boat on two occasions, so --

7 Q. Okay. You mentioned audio gauging earlier to Commander
8 Denny. I see on the condition evaluation survey they have
9 indications that it was completed in 2003 and 2012, but you
10 alluded that it might have been more often than that, is that
11 correct?

12 A. No, probably not. I mean, that must be I had an indication
13 that we had a problem there. Generally, on these -- on these
14 boats you've got issues around your sea chests and issues around
15 your waste tank. They're very often the places that go rotten, so
16 -- but we had no indications there. We did an extensive repair on
17 the waste tank a long time ago, I'd have to look back through the
18 surveys, and so that removed that because we basically put a tank
19 inside the tank.

20 Q. Um-hum.

21 A. So there was no -- we weren't going to get any degradation
22 around the waste tank anymore and we check all the sea chests
23 every time we haul out.

24 Q. So there was no audio gauge completed after that 2012 audio
25 gauging?

1 A. Again, you can ask Gelia about that.

2 Q. Okay.

3 A. She might have the records. To the best of my knowledge, I
4 don't -- I can't recall one.

5 Q. Okay, all right. Crab pots. Okay, so we know that prior to
6 the king crab season for the *Scandies*, the Coast Guard weighed
7 some pots there in Dutch Harbor. Would those be the same pots
8 that were on board --

9 A. Yeah.

10 Q. -- the *Scandies Rose* when they departed Kodiak for opilio?

11 A. Yeah, they were because -- because Lance from Dungeness Gear
12 Works happened to come by the boat to talk to Gary and say -- and
13 he looked at these pots because we had re-webbed them with what
14 are called combo tunnels --

15 Q. Um-hum.

16 A. -- and the combo tunnels, they were made by Dungeness, we
17 replicated them, you know, we got them sent up from Dungeness and
18 taught the gear webbers in Kodiak how to put them in and Lance had
19 just taken a look at it and said, you know, these are not quite
20 right, you should really -- he told Gary, and I'm trying to recall
21 exactly what he said, he said you've got to either tighten the
22 tunnels or loosen them or something, but there was one thing that
23 he wanted Gary to do to make the pots fish better.

24 And so Gary brought all those pots to Kodiak at the end of
25 king crab, you know, every pot that he carried in December, he

1 carried back in late October or early November, and they took
2 every pot off and used come-alongs and tightened up or loosened up
3 the tunnels to Lance's spec and then, you know, retied them so
4 they were good, so he had looked at every single pot and then put
5 them back on the boat.

6 Q. Okay.

7 A. And that's all I know about it.

8 Q. Yeah. The size of those pots, there's a couple different
9 sources that I've seen referred to as 7 by 8 by 34, some of them,
10 I think I saw somewhere else 7 by 8 by 24. Can you confirm what
11 size?

12 A. No, that was wrong.

13 Q. Okay.

14 A. They're not 24, that would be way too small. They're 7 by 8
15 by 34.

16 Q. Okay. Does the vessel -- those 195 or those pots that Gary
17 brought back to Kodiak and left them on the accident voyage, does
18 the vessel or -- do they have access to other pots located in
19 other locations?

20 A. Well, we've got some more gear out in Dutch Harbor, but I
21 sold -- I had only 31 seven by eights. We have over a hundred
22 what we call eight by sevens. The seven by eights are seven foot
23 at the door, eight foot where the tunnel is on each side. The
24 eight by sevens are eight foot at the door and seven foot where
25 the tunnels are, so it's a little different configuration, and

1 that's just from one of Gary's old screwball ideas and anyway,
2 they worked, so I mean, he used those pots for years and we ended
3 up getting them for the *Scandies Rose*, but --

4 Q. And how many were those, how many were there?

5 A. We got about 115, I think, still in Dutch Harbor.

6 Q. In Dutch, okay. Are you familiar with the Alaska Department
7 of Fisheries and Game regulation for -- to contact the Coast Guard
8 24 hours prior to departure when fishing for crabs?

9 A. Yeah, but Gary would be familiar with that.

10 Q. Okay. Do you know if he did that for the accident voyage?

11 A. I have no idea.

12 Q. Okay.

13 A. Of course, again, I was out at sea, so I had no contact with
14 Gary after I left.

15 Q. Okay. But you sailed on the *Scandies Rose* while she's been
16 crabbing before, correct?

17 A. Yeah.

18 Q. Okay. Have you ever seen Captain Cobban contact the Coast
19 Guard prior to departure to notify them?

20 A. Well, before king crab the Coast Guard always comes down to
21 your boat and most of the time they just said that was the -- you
22 know, they said when are you leaving and Gary's just giving them
23 the time and then they said okay, well, we'll check your weight,
24 the weights of your pots, and this is the number of pots you're
25 going to put on here, you're good, you know. So they haven't been

1 -- it has not been you better call -- my God, you only called 23
2 hours, you can't go, you got to wait an hour, it's not like that,
3 they're not dicks up there.

4 Q. Okay. Have you ever seen it done for opilio season or just
5 the king crab?

6 A. I haven't, because it wasn't -- when I was an active opilio
7 fisherman, it wasn't -- that wasn't the rule.

8 Q. Okay.

9 A. And I'm never up there that time of year because I don't fish
10 -- I never fish on the *Scandies Rose* for an opilio.

11 Q. All right. My understanding, the cod fisheries broke in two
12 seasons and the *Scandies* was departing to participate in the "A"
13 season?

14 A. "A" season, yes.

15 Q. Does she also participate historically in the "B" season?

16 A. Well, we had tried to the previous year and just had -- we
17 were still re-webbing all those pots, pots that the *Scandies*
18 carried for king crab. It's just that the timing didn't work out.
19 It's going to be a short season and couldn't get the gear done,
20 rigged on the boat, get out there and fish in a timely manner, so
21 we just elected to pull the plug and concentrate on going king
22 crab fishing.

23 Q. What was the plan for this -- for the "B" season in 2020?

24 A. Going fishing.

25 Q. Taking fish.

1 A. Because we had all the pots, we'd have the hundred and --
2 there's been a lot of numbers talked about, how many pots were on
3 the boat. Gary told me there was 192 pots, so --

4 Q. Okay.

5 A. -- Gary would know better than anybody how many pots were
6 actually on the boat and so that's the number I'm going to use
7 because I believe that Gary knew more than anybody else, but so we
8 had 192 pots that were all freshly re-webbed and we had the cod
9 triggers for them, we had -- we would've been set for 2020.

10 Q. Okay. When did he tell you that he had the 192?

11 A. I'm pretty sure it was just on his way in. He might've had
12 195 when he left, but you oftentimes lose a few pots, just they
13 get tangled or a bad knot or a rotten line or something like that.

14 Q. Okay. Was Kodiak the traditional port of departure for the
15 *Scandies* during the opilio -- for the opilio season?

16 A. No, I wouldn't say so. Normally, we just keep the boat in
17 Dutch after king crab, but Dutch Harbor has so many transportation
18 issues now, you can't get a flight in, you got to -- you know, you
19 had -- well, recently we started transportation but you just --
20 you have to charter a plane to get in there.

21 Kodiak is a no-brainer, I mean, they've got Alaska Airlines
22 jets go in there and you can -- you can pretty much always get
23 into Kodiak. You might have a weather delay, but they take off
24 from Anchorage, they pretty much know they can get to Kodiak in an
25 hour, so it's a lot better than flying on a smaller plane up to

1 Dutch Harbor where it's going to take you three and a half hours
2 and they get out there at about Cold Bay, they go oh, we're going
3 to have to land here and wait for a few hours, you know. So we
4 just didn't -- and given that Gary had to do the gear work or
5 wanted to do gear work and Gary lives in Kodiak, it just seemed
6 like that was the best bet, to bring the boat to Kodiak.

7 Q. The pots that remained in Dutch, were those -- what were they
8 rigged for?

9 A. Mostly opilio. The king crab quotas have been so low, that
10 really don't have to have two loads of gear, so Gary just brought
11 one load of gear, cod and king crab, and delivered it, you know,
12 just -- we would've brought the other pots out for opilio.

13 Q. Okay. So I want to talk about -- ask you about the
14 conversations that you had with Captain Cobban during the accident
15 voyage. You mentioned earlier you guys communicate by tag phone.

16 A. Um-hum.

17 Q. Your counsel had provided us earlier, right after the
18 accident, with a call log, *Scandies Rose* call log, on that
19 *Amatuli*, they called *Amatuli* twice, two separate times with 10
20 minute conversations or so. Can you recall those conversations
21 and what was talked about?

22 A. Well, I recall when he called me shortly after getting out of
23 Whale Passage and, you know, we had -- just saying hey, I'm on the
24 way, blah-blah-blah, you know, just the usual stuff. And then the
25 second conversation I had with him was the time I was trying to

1 get through Unimak Pass and then he said I should just turn around
2 and go through Avatanak Strait and then cut through Baby Pass and
3 they said that's -- he says that'll be a lot easier for you and
4 you'll have the protection of Akun and Akutan Islands in that big
5 northwest, so I took his advice and I changed course and went that
6 direction. But the first conversation, I don't really recall
7 anything about what he talked about other than I'm finally out of
8 town and everything, so --

9 Q. Okay. During the second conversation, do you remember
10 anything in particular about --

11 A. He did not mention anything about -- he just said the weather
12 was foul.

13 Q. Yeah.

14 A. I mean, he said the weather is real foul, but he mainly -- I
15 just said I'm having trouble getting through Unimak Pass and I was
16 looking at these big container ships, you know, bucking, you know,
17 very violently and I said I don't know if I can do it now, you
18 know, it's going to take me hours and that's when he gave me the
19 advice to turn around and go down below the islands and that was
20 the main conversation I remember. And he did not mention a thing
21 about his boat.

22 Q. Okay. He had no concerns at all about the weather other than
23 it was foul or the performance of his vessel?

24 A. Not at that time, no, not that he mentioned.

25 Q. Okay. How did he sound to you, in your opinion? Did he

1 sound concerned or --

2 A. No, not at all. Not at all.

3 Q. Okay. A couple questions about the EPIRB on board. You
4 obviously own a couple vessels yourself, you're a master. How
5 often do you test, do function tests of those EPIRBs?

6 A. Usually once a month during the -- we have another -- in
7 addition to the drill page, we had another page that just kind of
8 has equipment, so -- that we send in. You look at the -- and log
9 your EPIRB registration, you can do the test at that time or the
10 beginning of the hour, do your tests, just push a button and see
11 if it beeps a couple times and check your hydrostatic release on
12 your life raft, your repacking date and survival suits. I mean, I
13 don't go through -- I don't have to pull out the survival suits
14 every month, but I pull them out periodically and just check the
15 batteries and check the zippers and the --

16 MR. BARNUM: Okay. Lieutenant, can you bring up Exhibit 11,
17 please? That's what Mr. Mattsen's referring to.

18 BY MR. BARNUM:

19 Q. Okay, great. Sir, is that what you were referring to, off
20 the page?

21 A. Yeah.

22 Q. Yeah. I notice on there, there's no -- no place to indicate
23 that the EPIRB was tested. Is there a different document that
24 that is recorded on?

25 A. No. No, I always just put it in the log book if I got to a

1 test --

2 Q. Okay. All right. And that's a fairly simple procedure, you
3 mentioned you just press a button, is that correct?

4 A. Yeah. Yeah, you're supposed to do it, I think, within 5
5 minutes of the top of the hour. I'd have to look it up, but -- so
6 don't quote me on that, but there's a specific time window that if
7 you just test your alarm with just the -- push the button, it
8 beeps, beep-beep-beep, you know, three times, it's tested. And
9 whoever's monitoring that in the Coast Guard knows that if it's
10 right at the top of the hour and it's just the three beeps, that
11 that's probably just a test.

12 Q. Um-hum. Did you ever have a conversation with Gary, Captain
13 Cobban, is this something -- were you confident that he was doing
14 this, testing his EPIRB?

15 A. I'm not confident, but not doubting that he would test it,
16 just part of your pre-voyage check. I would always test my EPIRB
17 and just pull it out and just look at the hydrostatic release.

18 Q. Okay. There doesn't appear to be any -- other than in his
19 personal log book, any sort of company document that requires an
20 actual logging of that test or --

21 A. No.

22 Q. -- confirmation?

23 A. Not that I'm aware of.

24 Q. Okay. Are you familiar with what a personal locator beacon
25 is?

1 A. Yeah.

2 Q. Do you know if any of the crew on board had one of those?

3 A. I have no knowledge of that.

4 Q. So stability, Commander Denny was questioning you on several
5 aspects of that. I just have a couple follow-ups with respect to
6 stability. You mentioned that you got a new stability report for
7 the *Scandies Rose* following the *Destination* disaster and you also
8 received new stability instructions for your other vessels. Who
9 are the naval architects that performed stability reports on your
10 other vessels?

11 A. Well, the Hal Hockema Group, Hockema Whelan. I mean, there's
12 several other partners now, but you know, I trust Hal and also he
13 sent his team out to do the incline tests.

14 Q. So it was different than the *Scandies Rose* naval architect?

15 A. Yes.

16 Q. Okay. And why was that?

17 A. Excuse my French, but my fucking boat sank, so I wasn't going
18 to go back to the same naval architect until we found out what the
19 hell was the cause of that.

20 Q. Sure.

21 A. So I was going to go through -- and a couple friends
22 recommended Hockema and I used Hockema in the past, but that's
23 why.

24 Q. Okay. That was my misunderstanding, I assumed or I thought
25 that you had gotten the new stability instructions prior to the

1 Destination.

2 A. No, no, no.

3 Q. The *Scandies*.

4 A. No.

5 Q. No.

6 A. I wasn't going to send architects up to Dutch Harbor, so as
7 the boats rotated down and did their haul-outs, I arranged to have
8 stability tests for each vessel --

9 Q. Okay.

10 A. -- in succession.

11 Q. Okay.

12 A. So they were both after the *Scandies Rose*.

13 Q. Thank you. In the process of obtaining the stability
14 instructions in 2019 for the *Scandies*, did you shop around at all
15 or did you just use -- you mentioned you used the same one as
16 previously. Did you get another quote?

17 A. I used Culver just because he had done the previous one, that
18 was the -- that was the impetus, that was the sole impetus.

19 Q. Okay. So talking a little bit about icing and how it
20 pertains to stability. When I was a captain, you know, you hear a
21 lot of captains that -- you know, different comfort levels with
22 icing. You mentioned you don't have pots on deck, there's a
23 different comfort level. On a vessel loaded with pots, you know,
24 how much ice are you comfortable with, seeing accumulation on
25 board?

1 A. Well, it certainly depends how many pots you have on board,
2 how long your voyage is, you know. I mean, if you're going to run
3 up to the border, you know, from Dutch Harbor and you've got a big
4 northeast and you've got a hundred and ninety, a hundred and
5 ninety-two pots on board, I'd be much more concerned about icing
6 than if I was going to fish, you know, 7 hours out of Akutan on
7 the southern edge. So it really depends, you know, on a complex
8 web of factors. It also depends on the vessel.

9 Q. Um-hum.

10 A. You know, just -- I mean, moving -- on the *Scandies Rose* you
11 could put about 70 pots on deck, you know, upright on deck, that
12 are basically protected by the wave walls, you know, so you're not
13 going to get icing on those pots except spray that comes over the
14 rail.

15 I would carry 70 pots from here to the borderline up to the
16 Arctic Ocean and wouldn't worry about it, any ice I build up
17 wouldn't be consequential. On the smaller boats, I would be very
18 worried about making that same voyage if I didn't have the same
19 protection.

20 Q. Okay. Can you put it -- you know, several inches or do you
21 -- you know, what's the most ice?

22 A. Depends on the boat.

23 Q. Yeah.

24 A. *Scandies Rose* could handle several inches of ice on the
25 rails.

1 Q. Okay.

2 A. I'd start to get worried if I had a big stack on, I was
3 building ice on the pots, you know, but just building ice on the
4 rails, if I was carrying a moderate load, 60, 70 pots, I wouldn't
5 be too concerned about it. Now, on the *Shaman*, if I was carrying
6 60 pots and I was building ice like that without the protection of
7 wave walls and the -- I'd be very concerned. I'd be getting some
8 pots off the boat.

9 Q. Okay. I know some stability instructions are different than
10 others, but this particular one, it didn't mention icing in the
11 introductional segment. Do you know how much the stability
12 instructions for your vessels, how much ice is accounted for
13 that's written into the safety factor for the stability
14 instructions?

15 A. Only what I've learned after the fact, what the federal
16 regulations consider icing, so it's not very much.

17 Q. Okay.

18 A. Not nearly as much as you build on the Bering Sea in the
19 wintertime, so --

20 Q. Okay.

21 A. -- I mean, we can have ice accretion of easily an inch an
22 hour and --

23 Q. Right.

24 A. -- you know, I've had to -- I've had to run for an hour, hour
25 and a half and turn around and get the guys up and have them pound

1 all the ice off, turn around, run for an hour, hour and a half, I
2 have to do the same thing to get up to the grounds, in the past.
3 But, you know, it's -- it really depends on the vessel, too.

4 Q. Yeah. And it's safe to say that the ice accumulation amounts
5 that you just indicated you've learned after the accident, are
6 they realistic to what you're experiencing?

7 A. They're totally unrealistic, they're not -- they're not
8 adequate for what -- the ice you can actually build up in the
9 wintertime fishing in the Bering Sea.

10 Q. Okay. Thank you for that. I just have one other follow-up
11 question here on one of Commander Denny's questions. You had
12 mentioned the *Amatuli*, you were sailing to Dutch to meet a
13 contract deadline.

14 A. Um-hum.

15 Q. You needed to be there by the 1st and you were under some
16 pressure. Did that pressure transfer also to the *Scandies*, kind
17 of pressures -- did she have a contract obligation?

18 A. No. No, we were only going to fish one trip of cod, it was
19 mainly just to get a delivery, and then he was going to switch to
20 opilio because our main quota share owners wanted us to fish
21 opilio, not cod, so -- and the plan was for him not even to go up
22 to where the best cod fishing supposedly is, but he was going to
23 go up to -- off of Akutan on the southern opilio grounds where
24 there's still good codfish, but mainly to scope out whether we
25 could stay low.

1 As I said earlier, we would prefer to fish down on the east
2 side of St. George Island and fish down that edge coming down
3 towards Akutan and Unimak Island. Not many boats fish there and
4 it hasn't been that good the last couple years, but with expanding
5 opilio, we thought this might be the time for Gary, who is very
6 expert in that area, to go out, put in a nominal cod trip and then
7 fish and find some opilio and figure out if he could stay south
8 rather than make the long run up to the northwest of St. Paul
9 Island.

10 Q. Okay. And you were planning on tendering for the *Scandies*?

11 A. No, no.

12 Q. No.

13 A. No, we had a tender contract with Alyeska Seafoods and
14 *Scandies Rose* fished for Trident.

15 MR. BARNUM: Okay, great. Thank you. Thank you,
16 Mr. Mattsen, that's all the questions I have.

17 I'll pass to Mr. Suffern from the NTSB.

18 BY MR. SUFFERN:

19 Q. Good morning, Captain Mattsen. Appreciate your time today.
20 I have some follow-up questions with regards to the weather
21 conditions. When you were transiting there from Kodiak to Dutch,
22 how did that particular weather compare to previous trips that you
23 had taken in previous years for that route?

24 A. Well, I don't think I've ever run from Kodiak to Dutch in
25 previous years. I was pretty much a Dutch Harbor fisherman.

1 Q. Okay

2 A. So my boat would be -- when I was active, fishing opilio, the
3 boat would stay in Dutch Harbor at the end of king crab and we
4 would either fish Bear (ph.) Island, which was open for many
5 years, or else we'd just wait and fish opilio come first of the
6 year. We'd fly in. We'd fly in sometime after Christmas and get
7 out there and fish our opilio. So it was really a new trip to me,
8 but I know it's -- you know, it's horrible in that kind of
9 weather, so I just -- that's why I wanted to run the boat rather
10 than have my port engineer have his maiden voyage on the *Amatuli*
11 be that particular trip.

12 Q. Okay. And earlier you had mentioned something about, I
13 believe the term was Ice Lady and that Gary had a good
14 relationship. Could you describe what the Ice Lady is or was?

15 A. Oh, I don't deal with her because I -- again, I don't fish
16 opilio anymore and that was -- it's been a fairly recent, you
17 know, development that you could just call her up and get the ice
18 information, you know, from her directly. Gary would -- Gary was
19 well aware of, you know, her and would just try and keep tabs on
20 where the ice is.

21 But this is not just ice spray, this is also ice pack, you
22 know, where is the ice pack, where can I set, what is the forecast
23 movement for the ice pack as it's coming south, you know, can I
24 fish here or should I be 60 miles farther south, you know, to do
25 it, but I never had any direct communication with her at all. I

1 just look at the fax pictures or look at the weather pictures that
2 I get on my computer and make my decisions.

3 Q. Okay. And so is the Ice Lady a company personnel, is it
4 somebody in Seattle, is it --

5 A. No, National Weather Service.

6 Q. The National Weather Service.

7 A. The National Weather Service.

8 Q. Okay, okay. And going to what you were just speaking about
9 as far as getting weather information, where did you -- what were
10 your weather information sources that you used?

11 A. Well, on the *Amatuli*, my weather sources, I would use Fleet
12 One and there's a weather app you could get on or I would have the
13 home office, I'd have Gelia send it to me, just what's the weather
14 look like, because she could get the written forecast and would
15 send it down to me.

16 Q. So she would send that via e-mail or text or --

17 A. Well, we did it this last --

18 Q. -- or a call?

19 A. -- winter via text. We've got a -- now we're using, like
20 inReach or Garmin inReach or else this year we were using -- with
21 Zoleo and it just -- you can get text messages via satellite.

22 Q. Earlier you had said that as far as your vessel logs that you
23 were -- you know, you would scratch down some weather information.
24 Would that just be once a day or it would depend on the weather,
25 if the weather was really bad and the wind was shifting, you would

1 maybe take two weather logs that day?

2 A. Yeah, it would just depend, but like I said, as I got -- you
3 know, weather generally moves from west to east across the -- you
4 know, from Kamchatka across the Bering Sea and then -- or else it
5 comes up from, you know, the tropics and -- but it moves west to
6 east. So if I'm reading my barometer reading and I'm heading west
7 and my barometer is rising, I'm probably getting out of the worst
8 of it because the main system is going that-a-way and I'm going
9 that-a-way, so -- and we're mainly dealing with low pressure
10 systems, so that's why I would keep -- at that point of the trip
11 for me, it was yeah, look out the window, the weather's still
12 crappy and we're still getting a big northwest and it's still
13 cold, but the barometer's at last rising, so I must be getting at
14 least farther away from the center of it.

15 Q. As far as the weather reports and logs you would take, did
16 you ever share that information with other vessels or back with
17 the home office or anything like that or just keep that --

18 A. Except just to say weather's horrible, we're making four
19 knots or we're making six knots. I don't -- never saw the point
20 of letting them know that we were seeing northwest 40 as opposed
21 to northwest 45 or whatever. It means really nothing to the home
22 office.

23 Q. As far as the weather forecast that you typically saw, was
24 there a source that you found more reliable? It sounded like you
25 had several different sources of information. Was there one that

1 you found more helpful than another?

2 A. Well, I like the text version I'm getting now. At the time,
3 though, the Fleet One weather service is pretty good, it gives you
4 a -- you can draw out the area, you know, just with the squares,
5 you know, what you really want to look at and it will give you an
6 idea of what's going on and that's very helpful, too.

7 Q. How did you receive -- you, you particularly, how did you
8 receive warnings as far as whether freezing spray conditions would
9 be likely for your group?

10 A. Well, they still broadcast on 41-25, so you know, you can get
11 an idea there. And as you're passing the towns, oftentimes
12 there's a VHF warning, you know, like around Sand Point or
13 something, and you can just monitor VHF and it would come on and
14 you switch it to Channel 22 and it will tell you that there was
15 freezing spray.

16 But really, running a tender in good shape and the *Amatuli's*
17 in very good shape, without carrying any gear, it was just -- it's
18 more of an annoyance than anything else. The weather's crappy,
19 it's like so what, what else is new, you know, I'm just -- there's
20 nothing here that's going to cause harm to the vessel, so we're
21 just -- be careful and run down to get to Dutch Harbor.

22 Q. So it was your particular practice to pull up the VHF and
23 listen to that as you went through just in case there was a big --

24 A. Oh, yeah. Well, you always got -- I don't allow any music in
25 the wheelhouse or anything, I mean, I don't have -- I'm old

1 school, we don't have any distractions like that, you just -- your
2 job is to be on watch and, you know, so let's -- really, I always
3 have the radios going on in the background and getting any
4 information I can.

5 Q. Could we bring up Exhibit 026? Zero-two-six, please. And
6 when that comes up, this is an exhibit of an application out
7 there, it's called Windy.com, it provides weather information.
8 Are you familiar with this type of application?

9 A. Oh, yeah. I mean, I've got it on my phone. I use it down
10 here more than I use it up there, so --

11 Q. Okay. Did you and Gary ever discuss about what information
12 was available on that app?

13 A. No. Again, I'm a very good fisherman, but Gary was a better
14 fisherman. I generally caught as much as he did, but Gary's a
15 much better fisherman. I'm just more organized and more
16 methodical about things, but I wouldn't presume to tell Gary that
17 your weather sources are inadequate. He would tell me if he
18 needed more equipment or anything like that and I would just take
19 that and put it in the process and figure out if we could do it or
20 -- you know, or when we could do it.

21 Q. Okay. And related to that, earlier during the questioning,
22 you had mentioned that, I guess, towards the -- when the season
23 was over it sounded like that you and Gary and maybe Mr. Walsh got
24 together and talked about, you know, new tools or new crew that
25 you could use for the following fall and winter. Were there ever

1 any discussions at those points of "I found this new weather tool
2 or this new weather application," was that ever part of the
3 discussion during the off season?

4 A. No, it wouldn't be. That would be probably just between Gary
5 and I because John is an insurance agent in Seattle, so he doesn't
6 have the same concerns about weather that Gary and I might have,
7 but it would never be -- that wouldn't need to be part of that
8 kind of conversation. Gary would tell me if he needed something
9 else or -- you know, we had -- on the *Scandies* we had full
10 Internet, so he could really get whatever he wanted out of the --
11 now, it wasn't fast Internet connection, but he could call up
12 anything he really wanted to -- look at weather. Which is more
13 than I have, say, on the *Amatuli* or the other boats. I do have
14 Fleet One there, so I've got some communication, but not at all
15 like the *Scandies* had. *Scandies*, you could check Facebook or
16 other nonsense, so --

17 Q. I guess I have one more question related to, I guess, that
18 particular route that the *Scandies Rose* took. Have you ever taken
19 that particular route west --

20 A. Oh, yeah, all the time. All the time.

21 Q. Were there any challenging sea current conditions that you
22 could experience going near Sutwik Island or anything there?

23 A. Not that I noticed in the times that I passed. I mean, it
24 hasn't been like, oh my god, this is foggy cape or we're heading
25 into the foggy cape current, never anything like that. It's just

1 been -- that area is just kind of a desolate area and when you get
2 a northwest, it comes right over the peninsula and it goes over
3 the mountains and gets like super chilled, so it's very cold the
4 closer you're in to shore.

5 MR. SUFFERN: Okay, thank you for your time. That's all the
6 questions I have.

7 THE WITNESS: You're welcome.

8 MR. BARNUM: Thank you, Mr. Mattsen.

9 Mr. Chairman, that's all the questions we have right now.
10 Thank you.

11 CAPT CALLAGHAN: Thank you, Mr. Barnum.

12 At this time I'd like to pass it to Mr. Stacey, see if you
13 have any questions.

14 MR. STACEY: Good morning, Captain, the rest of the panel,
15 Nigel Stacey on behalf of PII Dean Gribble and John Lawler. All I
16 want to do is echo Mr. Mattsen's opening statement thanking the
17 Coast Guard and thanking Mr. Mattsen --

18 THE WITNESS: I'm not hearing anything.

19 MR. STACEY: Apologies. Can everyone hear me? I'm getting
20 the thumbs up from Lieutenant Commander Comerford, Mr. Mattsen.
21 So I have no questions, so I just want to pass along my thanks to
22 the witness and pass it back to Captain Callaghan.

23 THE WITNESS: Still not hearing anything, so --

24 CAPT CALLAGHAN: Thank you, Mr. Stacey.

25 So just to summarize, Mr. Stacey had no questions, just

1 wanted to extend his thanks and appreciation for your testimony,
2 sir.

3 THE WITNESS: Oh, okay.

4 CAPT CALLAGHAN: So now, Mr. Barcott, any follow-on questions
5 for you, sir?

6 MR. BARCOTT: No, I don't have any questions, thank you.

7 BY CAPT CALLAGHAN:

8 Q. Thank you. Mr. Mattsen, I know it's getting close to the end
9 of your time. I have just a few follow-on questions that I'd like
10 to cover, if that's okay with you, just to go -- it might take us
11 just a few minutes past.

12 A. No problem.

13 Q. So with that, just to go back real quick on insurance. Are
14 you aware of any insurance companies denying insurance for vessels
15 with captains with either color blindness or hearing loss?

16 A. I'm not aware. I'm not aware, but I wouldn't doubt hearing
17 loss. Might disqualify you if you can't listen to a radio.

18 Q. Thank you, sir.

19 Separately, so we previously had -- Mr. McPhillips, if you
20 would bring up Exhibit 016 again, please. This is the monthly
21 drill report. Number one is donning of immersion suits.

22 As a captain and someone who submits these forms on a regular
23 basis, sir, can you tell me what the expectation is to complete
24 number one?

25 A. Well, first that you can put it on in an efficient manner,

1 you know, teach guys, you know, if they're wearing boots or
2 something, it's kick your boots off, you're not -- they'll provide
3 shoes for you when they pick you up, you know, but also we use
4 that as a check on the zipper, so if the zipper needs any waxing,
5 but the expectation is that you can get into your survival suit in
6 about a minute, roughly, give or take, and be ready to exit the
7 vessel.

8 Q. So, sir, would the expectation then be that everyone on the
9 crew dons a survival suit to make that check?

10 A. Yes.

11 Q. Okay. Thank you, sir.

12 Mr. McPhillips, you can take that exhibit down, please.

13 Sir, you had mentioned previously that the welding was -- for
14 the forward starboard chute was not done in the Lovric shipyard
15 but had been done in Seattle. Can you say where in Seattle that
16 work was done?

17 A. Go to the Ocean Beauty dock right at the ship canal.

18 Q. Okay. Who oversaw that work?

19 A. Well, I was there and Gelia was there and we just -- we hired
20 a welding crew that we've used before that we haven't had any
21 problems for, problems with, and then -- yeah. Could've, you know
22 -- looking, you know, in retrospect, it's easy to say we should've
23 demanded dye checks and everything, but this was a pretty simple
24 project and kind of slipped through our -- slipped through our
25 consciousness.

1 Q. Thank you, sir. Was this the same facility and the same time
2 that the aft starboard chute was closed off?

3 A. Yes.

4 Q. Yeah. Do you know if any nondestructive testing was done on
5 that welding?

6 A. I don't believe so.

7 Q. Okay, thank you.

8 Mr. McPhillips, if you could pull up Exhibit 112, please.

9 This is a series of text messages from Gary. Are you
10 familiar with this series of text messages, Mr. Mattsen?

11 A. I think so. I think Gary sent them to me.

12 Q. Okay. And do you remember what the purpose for sending it
13 was?

14 A. Well, he wanted to effect a repair.

15 Q. Okay. And scrolling down through this, the date shows as
16 November of 2019, is that correct?

17 A. Probably. Before he went to Hawaii and -- yes.

18 Q. Mr. McPhillips, go down to specifically page 12, please. So
19 is there a reason that that part of the repair job wasn't done in
20 a shipyard?

21 A. But the forward trash chute was done in a shipyard, it was
22 just done poorly.

23 Q. Okay.

24 A. You mean why it wasn't done in the shipyard, I mean, at
25 Lovrics or why it wasn't done --

1 Q. Just recalling the putty. So if you wouldn't mind, on this
2 page here, could you read the first text message there?

3 A. The forward trash chute is leaking water into the starboard
4 void. We got all the water out of the void, the leaks are coming
5 through the splash zone that we applied to keep from sinking last
6 winter.

7 Q. Okay, so is the first time you had become aware that there
8 was an event the previous winter?

9 A. Absolutely, yes.

10 Q. So in reading this, I presume that these are the repairs not
11 made at the shipyard in Seattle but rather repairs that the crew
12 made previously?

13 A. Yeah, evidently. Evidently, so -- but then we, you know,
14 like I said, we repaired it -- we repaired it down in Seattle with
15 a welding crew and then we, you know, had all the leakage through
16 those welds.

17 Q. And just for the record, these photos and this text series
18 was dated November, a few months after the repairs were effected
19 in Seattle.

20 A. Yes.

21 Q. And then just for the record, could you read the second text
22 message there?

23 A. I thought this had been repaired in the shipyard, in
24 shipyard.

25 Q. Okay. And then what was the -- what were the actions taken

1 following this round of text messages, sir?

2 A. Well, he says down below, I want to call Cooper and have him
3 come look at it and I said sure. Cooper is the -- has the weld
4 shop, premier weld shop in Kodiak, and I don't know what they're
5 called, Highmark Welding or something, but they -- when he said
6 that he wanted to have Cooper look at it, I said yeah, get him
7 down there because we had some time and it certainly should be
8 done before opilio.

9 Q. Okay. Mr. McPhillips, can you scroll up just slightly,
10 please? One more, please. One more.

11 So this appears to be the forward side of the chute looking
12 aft. As the supervisor of the repairs made in the -- during the
13 welding period in Seattle, does that resemble the repairs that
14 were made?

15 A. It resembles the void, certainly, so yes, I would say it
16 does.

17 Q. Okay. And is that fresh steel or is that epoxy?

18 A. I can't tell from the picture. I believe it would be fresh
19 steel. You know, wheeled (ph.) and primed probably, so -- but I
20 -- to be honest, I can't tell you definitively.

21 CAPT CALLAGHAN: Okay. Sir, that's all I have for today and
22 so we are now finished with your testimony for today. However, I
23 do anticipate that you may be recalled to provide additional
24 testimony at a later date during this hearing, therefore I am not
25 releasing you from your testimony at this time. You do remain

1 under oath.

2 THE WITNESS: Okay.

3 MR. BARCOTT: Captain, before we adjourn, your questions have
4 caused me to want to ask maybe a minute's worth of questions of
5 Mr. Mattsen.

6 CAPT CALLAGHAN: I will grant one additional question.

7 MR. BARCOTT: Thanks very much.

8 BY MR. BARCOTT:

9 Q. Mr. Mattsen, the Board knows this but others who are watching
10 may not. Because of the concern about the repair work that was
11 done in Seattle and welding was done in Seattle, was this area
12 re-welded by that premier shop in Kodiak?

13 A. Yes, it was.

14 MR. BARCOTT: Thank you. That's all I have, thank you.

15 CAPT CALLAGHAN: Thank you, sir.

16 I will remind you, Mr. Mattsen, that you do remain under oath
17 and we'll work with your counsel if we need to schedule another
18 appearance during this hearing.

19 THE WITNESS: Okay, so we'll get at least a day's notice?

20 CAPT CALLAGHAN: We will do our best, absolutely. Yes, sir.

21 THE WITNESS: Okay, thank you.

22 CAPT CALLAGHAN: And so the time is now 1206. This hearing
23 will adjourn and will resume at 1300, February 22nd, 2021.

24 (Off the record at 12:06 p.m.)

25 (On the record at 1:00 p.m.)

1 has all of the documentation, that I stay in contact with the
2 captain and the boat, any paperwork from 2692s to just making sure
3 that we have all of the hiring documentation and anything else
4 that basically makes sure that we can fish and tender throughout
5 the year.

6 LT McPHILLIPS: Can you briefly tell us your relevant work
7 history?

8 THE WITNESS: Yes. So in the late '80s I was on a UniSea
9 barge for 3 years and then 3 years -- nine and a half years ago, I
10 was on the *Scandies* tendering and I have been in this position for
11 7 years.

12 LT McPHILLIPS: What is your education related to your
13 position?

14 THE WITNESS: Hard work. And paying attention.

15 CAPT CALLAGHAN: Ms. Cooper, can we pause one second? Can I
16 just have you unmute the -- hit the unmute on the Zoom in front of
17 you?

18 THE WITNESS: Oh, oh.

19 MR. BARCOTT: Oh, it's on mute.

20 THE WITNESS: It isn't -- oh, wait. Maybe -- no, it's -- can
21 you hear me now? Okay.

22 CAPT CALLAGHAN: Thank you.

23 LT McPHILLIPS: Captain, would you like me to repeat the
24 questions?

25 CAPT CALLAGHAN: Keith, are you good?

1 MR. FAWCETT: Yes.

2 CAPT CALLAGHAN: You can continue on.

3 LT McPHILLIPS: Do you hold any professional licenses or
4 certificates relating to your position? Please explain if you do.

5 THE WITNESS: I am a shipyard pump person but other than
6 that, I don't have any other licenses or documentation.

7 LT McPHILLIPS: Thank you very much. Captain Callaghan will
8 now have follow-up questions for you.

9 CAPT CALLAGHAN: Good afternoon, Ms. Cooper. Thank you for
10 being here today. During this testimony segment we'll ask you
11 questions and have scheduled breaks, but if you need a break,
12 please let us know. There is an exhibit binder available, as well
13 as the ability to share exhibits virtually. Prior to today's
14 testimony, the legal representative was provided an exhibit list.

15 The recorder, Lieutenant McPhillips, will put any exhibit up
16 on the monitor and your virtual desktop. There's a laser pointer
17 on the desk if you should need it.

18 Ms. Cooper, before we begin, the Marine Board would certainly
19 like to offer our condolences on the loss of colleagues and
20 friends aboard the *Scandies Rose*. Again, if at any point you need
21 to take a break in testimony, please let us know.

22 We're going to talk to you today about your role as a vessel
23 manager for Mattsen Management with particular focus on your
24 knowledge of the company, operation of the *Scandies Rose*, and the
25 crew members that were on board.

1 BY CAPT CALLAGHAN:

2 Q. Would you please provide a brief explanation of your
3 background and any experience in the fishing industry that led to
4 your current employment?

5 A. I don't have any.

6 Q. Okay, thank you. How did you come to work at Mattsen
7 Management and who hired you?

8 A. Dan Mattsen hired me. I had moved up here and started
9 working for him in his DRM Quotas, some of his other companies,
10 and then went on the *Scandies Rose* the first year tendering and
11 when I came back, they were restructuring and he wanted me to come
12 on board and help more with the vessels, so he offered me the
13 vessel management position.

14 Q. Thank you. Can you expand what your roles were on the
15 *Scandies Rose* when you worked on board?

16 A. I did fish tickets, purser, and some deckhand work.

17 Q. Thank you.

18 A. Cook, also.

19 Q. And for what fisheries did you work on board?

20 A. Salmon. We did the Bristol Bay and then Southeast. For all
21 3 years.

22 Q. Just for clarity, then, did you work on board at any time
23 during -- for any pot fisheries?

24 A. No.

25 Q. Thank you. Are you currently a salaried employee?

1 A. Yes.

2 Q. Do you receive any incentives based on catch or company cost
3 savings?

4 A. I'm sorry, that's loud and I can't -- you're hard to hear.
5 Can you ask me that again?

6 Q. Do you receive any incentive based on catch or company cost
7 savings?

8 A. No. Incentive based on catch, is that what I heard?

9 MR. BARCOTT: Could we pause for just a minute? We're
10 getting some audio back here. Okay.

11 BY CAPT CALLAGHAN:

12 Q. Can you please take a moment and expand on your duties in
13 your current position as the vessel manager for Mattsen
14 Management?

15 A. Yes. So it starts from in the shipyard. Any captain
16 generally gets the information to me, what needs to be looked at,
17 brought into our list of shipyard work, that goes through me.
18 Then I get it to Dan and we talk about what's going to happen,
19 where we're going to do the shipyard, and then I'm involved in the
20 shipyard in that I'm there daily making sure that we have
21 laborers, making sure that the invoices are correct and sent to
22 our bookkeeper doing some work during that time.

23 When it's time for the vessel to -- vessels to go to their
24 next fishery or tender, then I crew the ship, minus the captain,
25 because I don't -- I don't do that. The captain generally gets a

1 hold of me and says hey, I have this guy, this guy, this guy's
2 coming back or this gal, and I make sure all the paperwork's good.
3 If they're new, then I make sure to get them all the pre-hiring
4 information, get a background check, that sort of stuff. Once
5 they leave, then, I'm logistics when they need any parts or they
6 need information because I have high-speed Internet, I look that
7 up and figure out a way to get them the information. I am the
8 contact, I watch them as they go, I have the VMS log-in. I send
9 them reports that they ask as far as weather. We now have the
10 Zoom, which is great, so I use the PKZ Alaska Marine Text and I
11 can use whatever PKZs are on their end. I make sure they have
12 food. It's just what I do, so I don't know how to think all the
13 -- all of the responsibilities through, but basically, really,
14 running the day-to-day, making sure that they can be out there
15 safely and get the job done, that's what I do.

16 Q. Okay, thank you. Can you tell us how many vessels are
17 currently owned and operated by Mattsen Management and the names
18 of those vessels?

19 A. Owned and operated? The *Alaska Challenger* and the *New*
20 *Venture*.

21 Q. Okay, thank you. With regards to the *Scandies Rose*, can you
22 tell us what you know about the ownership of the vessel?

23 A. The ownership? Yeah, it's owned by Scandies Rose Fishing
24 Company, LLC, which is owned by Mattsen Fisheries, Share Caught
25 (ph.) Fisheries, yeah. And then the same -- the breakdown that

1 Dan gave earlier, the 50.2, the 30.8, and the -- or 30. Gary
2 owned 30 percent and John is the rest of that percentage.

3 Q. Okay, thank you. Do all of the vessels under Mattsen
4 Management have a similar ownership structure?

5 A. No. *New Venture* is owned 50 percent by Mattsen Fisheries and
6 50 percent by Share Caught Fisheries, which is owned 100 percent
7 by -- was by Gary Cobban. And *Alaska Challenger* is 50 percent
8 Mattsen Fisheries and 50 percent Ocean Beauty Seafood.

9 Q. Okay, thank you. What documents or policies are you aware of
10 from Mattsen Management in writing for the captains?

11 A. They have to do a skipper's questionnaire and that we send to
12 the insurance companies and then each -- or each fishery, so
13 sometimes between like, for cod there's federal and then there's
14 state, so each fishery they do a new contract and the contract's a
15 three-page contract, and then we have other forms that we have
16 them fill out, but if they filled out our anti-drug, anti-
17 harassment policy, I don't have them do that every fishery.

18 Q. Okay. So just, I want to go through a couple different areas
19 and see if you can elaborate a little more on what company
20 policies may be in place with regards to crewing. Are there any
21 company policies in place for crewing?

22 A. Can you ask me that a little differently, because I'm not
23 sure I understand.

24 Q. Are there any company policies in place for how the vessels
25 are to be crewed?

1 A. In that we have paperwork that they have to fill out, we have
2 to get an application, of course, I-9, a background history, and
3 then when that comes back, we do -- I have a conversation with the
4 captain, did you know, you know, and then the decision's made, but
5 really, it really is ultimately the captain's decision and I'm
6 just supporting him in making sure they're a fit.

7 Q. Okay. Are there any company policies with regards to upkeep
8 and maintenance of the vessels?

9 A. Company policy, no.

10 Q. Okay.

11 A. I mean, there's an understood, but not a written company
12 policy.

13 Q. Sure. How about any company policies related to safety and
14 training requirements for the crew?

15 A. Um-hum. We have the monthly drill, I forget what it's called
16 at the top, and then the safety drills. So both of those are to
17 be done once a month where they check all the safety equipment and
18 make sure that the crew knows what to do if there's an emergency.

19 Q. Thank you. Similarly, any company policies or instructions
20 related to work or rest procedures?

21 A. No.

22 Q. No. And you had mentioned -- you alluded to a drug policy.
23 Is that only included in the contract that they sign?

24 A. I don't understand that question.

25 Q. The drug use policy from the company, is that included in the

1 contract that they sign?

2 A. It is, yeah.

3 Q. Okay. Is it anywhere else beyond -- besides the contract?

4 A. No.

5 Q. Thank you. Do you know of any company procedures or policies
6 for prescription or over-the-counter drugs or medications?

7 A. Company procedures or policies? The procedures are we ask
8 that on our medical questionnaire, there's a question, any over-
9 the-counter or prescription medications, and then we check it out
10 and see if that's something that is okay to be on the boat, you
11 know, but rarely does anybody have -- matter of fact, I don't
12 think I've ever had one. I've just been told, because I think I
13 asked that question, what do we do if someone comes in and is
14 taking this very big narcotic and so we would -- we would get
15 clarity, but there's no written -- that's where they answer that
16 question.

17 Q. Thank you. And then lastly in this line of questioning, any
18 company policies on how the voyages are planned or what
19 considerations are to be taken for weather during that process?

20 A. Any company policies on how voyages are planned? No.

21 Q. Okay, thank you. So you mentioned you were pretty much the
22 sole individual responsible for the hiring process once the
23 captain gives you the go-ahead. Can you describe that a little
24 more, does the captain -- do you present that information to the
25 captain and he vets them for you or do you do some vetting before

1 that?

2 A. I do some vetting and he does some vetting. And usually it's
3 he calls me and says hey, Gelia, Joe -- I want to hire Joe, get
4 him hired. And if he hires them off the dock, then he'll do all
5 the paperwork and send it to me.

6 Q. Okay. Lieutenant McPhillips, can you please pull up Exhibit
7 017, please? This exhibit shows the employment contracts for crew
8 on the *Scandies Rose*. Ms. Cooper, do you recognize these
9 contracts?

10 A. I do.

11 Q. In scrolling down through these, notice that there is -- the
12 signatures are for the 31st of December, 2019.

13 A. I see them for the 30th.

14 Q. Or for the 30th, I'm sorry. Is it standard procedure for all
15 of the crew to sign their contracts on the same -- at the same
16 time on the date of departure?

17 A. Um-hum.

18 Q. Okay, thank you. And then once they sign the contracts, how
19 is that delivered back to you at -- in the company?

20 A. Usually through the seafood company, like in Kodiak, Ocean
21 Beauty will scan them and send them to me, Westward or Alyeska up
22 in Dutch Harbor.

23 Q. Thank you.

24 Mr. McPhillips, you can take that exhibit down, please.

25 Does the company policy include pre-employment drug testing?

1 A. Yes.

2 Q. Can you please tell us how the company procedures are for
3 pre-employment drug testing?

4 A. Um-hum. If we have time, we send them to a clinic. Up in
5 Dutch Harbor we use Aleutian Biological. Kodiak, the only place
6 we have is Providence and if we can get them in there, we do.
7 Down here it's much easier to get them to a walk-in clinic. If we
8 don't have time because the captain, somebody's walked off and he
9 needs to get somebody ASAP, then he does it with the -- either I
10 bought anywhere from 5 to 12 panel, whatever I can get on Amazon,
11 really, and send it to him and he does the drug screen on board.

12 Q. Thank you.

13 Lieutenant McPhillips, could you please pull up Exhibit 081,
14 please?

15 This exhibit includes a series of text messages from Captain
16 Cobban from December 30th, 2019 --

17 A. Correct.

18 Q. -- as well as a copy of the drug test for a crew member,
19 Jon Lawler, dated December 23rd, 2019. Ms. Cooper, do you know
20 who received these messages?

21 A. I did.

22 Q. Thank you. Was this normal procedure for how the results
23 were delivered?

24 A. If Gary were doing them on the boat and getting them to me,
25 he would take a picture and send them to me, yes.

1 Q. Would you normally have a picture that identified the
2 results?

3 A. Versus this picture? Do you mean one that actually showed
4 the lines? Yes.

5 Q. Yeah. And so you said you are normally the one who receives
6 the results. How are they kept on file?

7 A. I then pull them off and stick them visually into my
8 computer.

9 Q. Okay, thank you.

10 Thank you, Lieutenant, you can pull that down.

11 Ms. Cooper, in regards to the testing, aside from having the
12 person pose with the picture, was there any other measures taken
13 to ensure that that person who provided the sample was the one who
14 took the picture with it?

15 A. No, I assume that the captain does his due diligence, so I
16 make sure that he sends me the proof of what he did.

17 Q. Okay, thank you. Once the company -- the vessels are under
18 way, how often do you routinely communicate with them?

19 A. It depends. There really is no usual. Gary, when he's
20 fishing, not a lot, actually. He pretty much goes into fishing
21 mode. When he's tendering, I get a little more. One of the other
22 captains, I get a whole lot of communications, so it just really
23 depends on the captain and what they feel they need because I'm
24 pretty much 24/7 to make sure that they feel supported.

25 Q. Thank you. When you do talk to them or communicate with

1 them, how is that done? Is it telephone, radio, e-mail?

2 A. All. So I have a tag phone at my house, so I use that. Text
3 is Zoleo now. With Gary, they had a phone, they had a pretty good
4 system on the *Scandies*, the KVH, so we'd get e-mail, I would get
5 phone calls, texts when he was near town, and very seldom did I
6 have to tag phone him because his phone worked most of the time.

7 Q. Thank you. And so from your time at that company, who is
8 responsible for making sure that the vessels were seaworthy and
9 materially sound?

10 A. Well, we do a dockside, so we have that every 2 years. We
11 hire -- I guess I'm not sure I understand the question.

12 Q. Who would ask you to schedule the docksides?

13 A. We just know to do it every 2 years.

14 Q. Okay. In the 18 months preceding the accident, do you recall
15 how many --- how many times the vessel was hauled out of the water
16 or shipyard work was done while it was in the water?

17 A. I believe that we had it down fall of 2018 and then spring of
18 2019.

19 Q. And the spring of '19 was when it was actually hauled out of
20 the water --

21 A. Correct.

22 Q. -- is that correct?

23 A. Well, I think it was hauled out in 2018 because we had to --
24 there was something going on with the generator or the motor and I
25 don't remember because we had -- our port engineer was alive then,

1 so he really handled those sorts of things. But I want to say we
2 were hauled out at Lovrics in fall of 2018, but I cannot swear to
3 it.

4 Q. Okay, thank you. And so the shipyard period in the spring of
5 2019, am I correct, that was a previously scheduled shipyard
6 period?

7 A. Yeah, every 2 years we'd have the boat hauled out and have it
8 painted, re-zinced, look at the bottom.

9 Q. Are you aware of any major work with regards to steel
10 replacement or anything that was scheduled for that time frame?

11 A. In the haul-out or that shipyard period?

12 Q. In the shipyard period.

13 A. Yes.

14 Q. And can you indicate what steel work was planned?

15 A. Um-hum. The crab chute up forward near the pot launcher
16 needed to be redone and then the over-fill from the aft tank we
17 were closing off.

18 Q. Okay, thank you. So from a company perspective, was there a
19 budget maintained for preventive maintenance or was that addressed
20 as instances came up or it was necessary?

21 A. There isn't a budget maintained, it's -- I mean, we bring in
22 revenue and we always know that boats need maintenance, so there's
23 always money kept in the account, but there isn't a set amount
24 that says okay, we have a hundred and eighty thousand for the
25 shipyard and that's all we have. There's -- if that answers your

1 question.

2 Q. Yes, thank you.

3 Lieutenant McPhillips, could you please pull up Exhibit 089,
4 please? This is an invoice from Aztec Welding, LLC.

5 A. Um-hum.

6 Q. Ms. Cooper, can you tell us where the work for this invoice
7 was conducted?

8 A. Down at Ocean Beauty, at 1100 West Ewing. At dock.

9 Q. So this was not work conducted while the vessel was at
10 Lovrics shipyard --

11 A. Oh, no.

12 Q. -- is that correct?

13 A. No, no.

14 Q. To your knowledge, was the work on the starboard forward
15 waste chute completed at that -- by this company?

16 A. Yes.

17 Q. Okay. Lieutenant McPhillips, if you can please transfer to
18 Exhibit 112, please.

19 And this an exhibit with a string of text messages from Gary
20 in November of 2019. Were you familiar with this text string at
21 all?

22 A. Yes, because that's my text string.

23 Q. Thank you. And was this received from you before or after
24 the work from the previous exhibit invoice from Aztec Welding?

25 A. After.

1 Q. Thank you.

2 Lieutenant McPhillips, you can pull that down, please.

3 Ms. Cooper, did Captain Cobban express any concerns about the
4 material condition of the vessel leading up to or after the time
5 in the shipyard in 2019? Aside from the text message that was
6 just up there.

7 A. Which was after the time and I think I -- I'm really having a
8 hard time hearing you and I apologize. You asked if he had any
9 concerns up to leaving Seattle to go north?

10 Q. Yes, that's correct.

11 A. No.

12 Q. And I understand that Peter Wilson was the captain, the
13 relief captain, who brought the vessel up to Kodiak --

14 A. Correct.

15 Q. -- from Seattle, is that correct?

16 A. Correct.

17 Q. Did Cap Wilson express any concerns about the material
18 condition of the vessel during that voyage?

19 A. No. Not to my knowledge, anyway.

20 Q. Thank you. The most recent stability report conducted on the
21 *Scandies Rose* was in Seattle on April 12th, 2019. Do you know
22 what prompted the company to conduct a new stability test in 2019?

23 A. I think it was the sinking of the *Destination* and Dan felt
24 like we needed to get an updated stability report just so we were
25 ahead of the curve and making sure that we were doing everything

1 we could.

2 Q. Are you aware of any modifications to the vessel that
3 would've necessitated a new stability report outside of the
4 information from the *Destination*?

5 A. I'm not, no.

6 Q. Thank you.

7 Lieutenant McPhillips, would you please pull up Exhibit 046,
8 please?

9 This is Coast Guard Safety Alert 11-17 titled "Remain Upright
10 by Fully Understanding Vessel Stability." Ms. Cooper, had you
11 ever seen this document?

12 A. No.

13 Q. No. Okay, thank you.

14 Mr. McPhillips, you can take that down now.

15 Ms. Cooper, shifting to the time frame right before the
16 accident, can you tell us who the intended crew was leading up to
17 the accident voyage?

18 A. Um-hum. The intended crew?

19 Q. So the crew that the company intended to send on the voyage
20 prior to some last-minute changes.

21 A. Okay. Yes. Gary, Art, Brock, David, Seth, Dillon Gamby, and
22 we were hoping to get back and I forgot his name, but I have him
23 in my computer, one other person who had fished king crab but Gary
24 was -- but anyway, he -- the last two didn't go.

25 Q. Okay. Do you know what prompted the change in the last week

1 or two leading up to the voyage?

2 A. Yes. Dylan had started -- he was working when they were
3 doing gear work and it was really cold and he had gone back to
4 Gary and said I don't think this is for me, the king crab was his
5 first season with us and he felt like he would be a detriment to
6 the crew, so he asked if he -- well, he didn't ask, he said I'm
7 not going. And I'm sorry, his name's right here. Anyway, he
8 didn't get contacted by Gary soon enough and took another job.

9 Q. Okay, thank you. And can you tell me who the replacements
10 were for those two?

11 A. Yes. Jon Lawler and Dean Gribble, Jr.

12 Q. Could you explain the timeline for hiring Mr. Jon Lawler and
13 who made the decision?

14 A. Gary. Gary made the decisions to bring both on. It was -- I
15 believe I had a week to get them both. Jon Lawler's in Anchorage
16 and Dean Gribble, Jr., I think, was down in Las Vegas or somewhere
17 south. And so Gary said he wanted them, I got a hold of Jon and
18 got him a -- you know, got his paperwork sent back to me, got him
19 a drug test, got him out there on the 27th.

20 And then Dean Gribble, Jr. said he needed a day or two to get
21 his stuff together, so I got him as much paperwork as I could and
22 I don't believe that was very much, we couldn't get him a drug
23 test down there so we got him a ticket, got him up, and got him on
24 board on the 28th.

25 Q. Thank you. And regarding the intended voyage for the

1 *Scandies Rose*, can you tell us what fishery they were intending to
2 engage in and do you know of any time frame that they were -- had
3 scheduled for any deliveries?

4 A. I don't know about deliveries. I know that -- yeah, they
5 were going to do the cod fishery and once you start fishing, once
6 you start pulling cod on board you have 3 days, so you wouldn't
7 set a delivery until they actually started bringing fish on board.

8 Q. Okay, thank you. And at any point did Cap Cobban indicate
9 how many pots he intended to carry during that voyage?

10 A. No, I've only heard that from Dan.

11 Q. Okay, thank you. Do you know if the *Scandies Rose* departed
12 in accordance within the original intended time frame?

13 A. They did not.

14 Q. Can you tell us why?

15 A. I don't know exactly. I know that he had wanted to leave on
16 the 28th and he called me that day and said KMS won't stay open,
17 the plane gets in at 4:15, KMS closes Sunday. They close at 4:00
18 and so he wanted to make sure that Dean had whatever he needed, so
19 that was the first part, although it was -- I suggested that he
20 could just go buy what he thinks he needs and if it's correct,
21 they can -- off they can go and if it's not correct, they can
22 stay.

23 So that was the 28th. Gary called me on the 30th or 31st and
24 I can't remember, sorry -- and just talked about the fact that he
25 had a blood test, so I think in that time frame he also went to

1 the doctor.

2 Q. Did he indicate what he had gone to the doctor for, what the
3 purpose was for going to the doctor to get the blood test?

4 A. He said some stuff and I wasn't fully paying attention, but
5 he did say he was relieved at the outcome, so I was more paying
6 attention to was he upset or okay and he was relieved.

7 Q. Thank you. Had he ever previously expressed any concerns
8 about his own health?

9 A. Yes, but I can't remember what. I want to say high blood
10 pressure, but I'm making that up.

11 Q. Would you be able to recall the -- how long ago or the time
12 frame that he may have mentioned those concerns?

13 A. Uh-uh.

14 Q. Okay.

15 A. I've known him since I've been in Washington, so you know, I
16 don't know. Could've been 3 years ago.

17 Q. Were there any concerns relayed to you from Gary, the
18 forecasted weather for the period of the vessel's departure?

19 A. Only on the 28th when he said great, we can't get out of town
20 because KMS won't stay open and we wanted to get out of town. And
21 I might be making this up, but I think he said we had a weather
22 window, but now that I've heard that so much during this last
23 year, I may be inserting that.

24 Q. Okay, thank you for that. Are you aware of any other time
25 that the *Scandies Rose* delayed sailing due to weather?

1 A. I don't know about delayed. I know that Gary watched the
2 weather, I know he was very adamant and he calls it Windy T (ph.),
3 not just windy, but I can't say that I've heard him not leave
4 because of weather.

5 Q. Okay. So I'm going to move towards the time frame of the
6 vessel's distress call. When did you personally find out that the
7 *Scandies Rose* was in distress and how did you hear about it?

8 A. His sister, Gerry Knagin Cobban, called me at 3:00 a.m. It
9 was New Years Eve and I had turned my phone to do not disturb and
10 so it took her calling I think four times before it kicks through
11 and then I woke up and took the call.

12 Q. Do you remember where you were when you --

13 A. Yeah, I was at Dosewallips camping.

14 Q. And can you describe your actions that you took immediately
15 after receiving that call?

16 A. Yeah, I got up, got dressed and -- because I didn't have a
17 car there, so I got Kim up, who I was camping with, and we got the
18 truck running and I came back to Bremerton so I would be near
19 high-speed Internet and tag phone and phones and so I came -- got
20 backed up for e-mail (ph.), I want to say.

21 Q. And, Ms. Cooper, are you familiar with the post-casualty
22 requirements for drug and alcohol testing?

23 A. Yes.

24 Q. Did you or are you aware if anyone else arranged for post-
25 casualty drug and alcohol testing in accordance with the Title 46

1 Code of Federal Regulations Subpart 4.06?

2 A. Am I aware did anyone else do that? Is that that question?

3 Q. Did you or did anyone else arrange for the post-casualty drug
4 testing?

5 A. I did with the help of Gerry Cobban Knagin. First we tried
6 to get the hospital to do the drug testing. They wouldn't because
7 it's not in the service of their treatment. So I asked Gerry if
8 she would go to Walmart and pick up two, you know, in-home drug
9 screening kits and she did and to come back and ask them to take
10 the test.

11 Q. Okay. Lieutenant McPhillips, can you pull up Exhibit 080,
12 please?

13 These are the screen shots of the two home drug test kits
14 sent by Gerry Cobban on January 1st, 2020. Ms. Cooper, do you
15 know who these tests were sent to?

16 A. Me.

17 Q. Thank you. And are these the tests that were recorded to
18 meet that post-casualty testing requirement?

19 A. Yes.

20 Q. Can you tell us what the results of those tests were?

21 A. John's was negative and Dean's was positive. For THC.

22 Q. At what point was that positive test relayed to you?

23 A. As soon as she got them, she texted them to me.

24 Q. And were the results ever validated by a certified lab or
25 anything?

1 A. No.

2 Q. And so going back to company policy, did this test, line of
3 testing meet company or federal requirements for post-casualty
4 testing?

5 A. It does not meet federal requirements, no, that's supposed to
6 be a DOT. For us, we do whatever we can knowing that we're in an
7 environment where our hands are a bit tied.

8 Q. Okay, thank you.

9 Mr. McPhillips, you can -- you can take that down, please.
10 And, Mr. McPhillips, if you wouldn't mind pulling up Exhibit 016,
11 please.

12 And, Ms. Cooper, do you recognize these?

13 A. I do.

14 Q. So these are the drill reports, and so scrolling through
15 these, the number of drill reports provided for monthly tests, I
16 noticed that there are some with the header of North Star and then
17 there are others.

18 So North Star Insurance, page 8, and then if you --
19 Mr. McPhillips, if you can go to page 5, please.

20 And then there are some from Ocean Beauty Seafoods. Is there
21 any difference between the two?

22 A. Not a bit. I just -- I actually made those for the *Amatuli*,
23 which is owned by Ocean Beauty, and it has a different insurance
24 company and I just wanted to -- you know, to be -- all I did was
25 go into my PDF creator and change the heading.

1 Q. Okay, thank you. I just wanted to make sure there was no
2 difference --

3 A. No.

4 Q. -- between the two. Thank you.

5 Lieutenant, you can pull that exhibit down, please.

6 And then, Ms. Cooper, so I had a couple questions for you
7 regarding shipyard periods and any knowledge you had of gauging
8 that was conducted on the hull. Do you know when the last gauging
9 was conducted?

10 A. I don't.

11 Q. Do you know how often hull gauging was conducted?

12 A. I don't. You know, I know that, for instance, Lovrics
13 shipyard has an audio gauge that if we feel like hey, let's look
14 around this space, they'll do it, but a full hire-out of an audio
15 gauge company, I don't.

16 CAPT CALLAGHAN: Okay, thank you. Ms. Cooper, that's all the
17 main questions I have for you right now, so at this time I'd like
18 to turn it over to Mr. Barnum with the NTSB.

19 MR. BARNUM: Thank you, Captain.

20 BY MR. BARNUM:

21 Q. Hello, Ms. Cooper. I only have a couple questions for you.
22 First off, a question regarding the vessel's EPIRB. In your
23 capacity as vessel manager, what type of taskings or jobs would
24 you have with regard to the vessel's EPIRB?

25 A. I make sure it's maintained, that if it needs a new battery

1 that we get the new battery. Work with Marine Safety in Seattle
2 and get it over to them and get it fixed and back on the boat.

3 Q. Okay. Who is in charge of registering the EPIRB?

4 A. Me.

5 Q. Okay. So you would also register the EPIRB. How would you
6 do that?

7 A. Through the online registration portal.

8 Q. Okay. To the best of your knowledge, was the EPIRB on board
9 the *Scandies Rose* at the time of the accident, was it registered?

10 A. Yes.

11 Q. I think there also was a record that you had listed one as
12 being destroyed.

13 A. Correct.

14 Q. When did you do that?

15 A. I don't know. Whenever it was no good. I think it was up in
16 Dutch Harbor that Gary took it in to Marine Safety up there and
17 they said you need a new one, so I think we got a new one, but I
18 need to have my papers in front of me for that.

19 Q. Does September of '16 sound okay?

20 A. Sure.

21 Q. Okay, thank you.

22 A. Yes.

23 Q. Okay. Why was that one registered as being destroyed?

24 A. Because when Marine Safety up in Dutch Harbor, if I remember
25 correctly, said you need to replace it. I don't know, I didn't go

1 why, I just go okay, well, let's get a new one. And then I know
2 to go in and make sure that the Coast Guard knows that that one no
3 longer is in use.

4 Q. Okay. And do you know what happened to that EPIRB?

5 A. I don't.

6 Q. The same question. You mentioned earlier how you sometimes
7 give weather reports to the captains of the fleet there. How
8 would you do that?

9 A. I wouldn't to Gary.

10 Q. Okay.

11 A. But just in general?

12 Q. Yes.

13 A. And I just started literally since we got the Zoleo, which
14 was 6 months ago, and I go to the marine, I text marine weather,
15 Alaska marine weather, put in the PKZ number, it brings it up, I
16 copy and paste and text it to them.

17 Q. Okay, that answered my question. But you never gave Captain
18 Cobban those?

19 A. He had all of his ways. He had on his computer the NOAA
20 marine weather right on his desktop so he didn't have to find it.
21 He had Windy T, which he called it, so he just never needed to ask
22 me.

23 MR. BARNUM: Okay, thank you. That's all the questions I
24 have, Captain Callaghan.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum.

1 At this time I'd like to ask Mr. Stacey, if there's any
2 questions from Mr. Stacey?

3 MR. STACEY: Good afternoon. No questions from us. Thank
4 you, Captain.

5 CAPT CALLAGHAN: Thank you, Mr. Stacey. For the record, no
6 questions from Mr. Stacey.

7 Mr. Barcott.

8 MR. BARCOTT: I do. There's just one area I'd like to go
9 into. Could we have Exhibit 8, page 8, please?

10 CDR DENNY: Zero-zero-eight, page 8.

11 MR. BARCOTT: Yes. Oh, I'm sorry.

12 CDR DENNY: Hold on.

13 MR. BARCOTT: Zero-one-six, page 8.

14 CDR DENNY: Oh. Lieutenant, 016, page 8. Sorry, thank you.

15 BY MR. BARCOTT:

16 Q. Gelia -- oh, we had it. Do you see this record of drills and
17 instruction?

18 A. Yes.

19 Q. And if we can scroll down just a little bit, I need it to be
20 higher so it shows the date. Top of the page, please. Thank you.
21 Do you see the date on there?

22 A. I do, 12/31/19.

23 Q. Is that date correct?

24 A. It is not.

25 Q. And can you explain to the Board why you say that?

1 A. Because Gary sent me these drills via text and he sent me the
2 text on 12/30. I didn't catch it at the time, actually, but yes.

3 MR. BARCOTT: Okay, thank you. That's all I have.

4 CAPT CALLAGHAN: Thank you, Mr. Barcott. Sorry, I'm just
5 gathering a thought here real quick.

6 BY CAPT CALLAGHAN:

7 Q. Prior to hiring the new, two new crew members, was there any
8 concerns with the individuals that were being hired?

9 A. Yes.

10 Q. Can you elaborate on what those concerns were?

11 A. We had tried to hire Dean Gribble, Jr. before and I asked
12 Gary via text, I thought we weren't -- I thought he was not
13 hirable because of drugs.

14 Q. And, Ms. Cooper, are you familiar with the term cash call?

15 A. Um-hum.

16 Q. And can you elaborate on what that term means?

17 A. Cash call is when we need money for maintenance, generally,
18 is when it comes in. But it's basically asking the partners for
19 their share of whatever amount we feel is needed. Their
20 percentage.

21 Q. Okay, thank you. And do you know how often cash calls were
22 made for Mattsen Management?

23 A. For the *Scandies Rose*?

24 Q. Yes.

25 A. I don't.

1 Q. Do you happen to recall when the last one was made?

2 A. No.

3 CAPT CALLAGHAN: Thank you. Commander Karen Denny has just a
4 couple of follow-on questions for you, Ms. Cooper.

5 Commander Denny.

6 CDR DENNY: Thank you, Captain.

7 BY CDR DENNY:

8 Q. Ms. Cooper, good afternoon. Just a few questions. You know,
9 we talked about Aztec Welding doing the work. Is it -- and
10 certainly, you guys have owned the vessel for a while and that's
11 not the first time that you've had to contract welding work. Is
12 it typical for Mattsen Management or for the owners of the
13 *Scandies Rose* to ask for nondestructive testing or essentially for
14 quality assurance work to be done on welding work? Do you have to
15 ask specifically or is that --

16 A. We do have to ask specifically.

17 Q. Okay.

18 A. And unfortunately, our -- Chip, our port engineer, had just
19 recently died, and that was a detail that I didn't do.

20 Q. Okay. So because you didn't specifically ask for it, they
21 didn't do it?

22 A. I don't know if that's why they didn't -- well, I know that's
23 why they didn't -- I know I didn't ask for it, therefore they
24 didn't do it, but I also know that Highmark Welding does dye test
25 and I didn't have to ask them, so --

1 Q. Okay. Were you on board when they did the work?

2 A. Yes.

3 Q. Okay. So how does that work? For the benefit of the public,
4 you're there overseeing them doing the work, if they cut out
5 pieces of waste metal, they do the welding. Do you do quality
6 assurance? When are they considered done? Do you do a check?

7 A. We do a check, I mean, we look at it. We didn't do the dye
8 welding or the dye test. And that's why we hire professional
9 vendors when it comes to machinery or hull work because we don't
10 want to be responsible because we're not welders. So I watched
11 them and it certainly looked like it was all done and, you know,
12 there were no gaping holes and they said yeah, we're done, so we
13 assumed that they were -- and we've used them before.

14 Q. Okay. That was going to be my next question, had you used
15 them before --

16 A. Yeah.

17 Q. -- or have you used them since on any of your other vessels?

18 A. Oh, no. Nor will we.

19 Q. Okay. So you mentioned that Captain Cobban had made the
20 decisions to bring both Mr. Gribble and Mr. Lawler on for the cod
21 season, cod and opilio. And you mentioned that you had not
22 previously employed Mr. Gribble before.

23 A. I haven't actually gone back and looked and I should have. I
24 can't remember if we didn't because he failed a drug test or if we
25 started to hire him, I don't remember that fact.

1 Q. Okay, that's fair. Had Mr. Lawler been previously employed
2 by Mattsen Management Company or by Scandies Rose Fishing --

3 A. Mr. Lawler, no.

4 Q. So he had -- he was not there for the previous season, for
5 king crab?

6 A. No. He had been on the *Western Mariner*.

7 Q. Okay, so he had been on *Western* -- all right. So he replaced
8 the gentleman who took a job with another company, is that
9 correct? Mr. Lawler.

10 A. I don't know which one replaced whom, but there were two gone
11 and two came.

12 Q. Okay, okay. But they didn't come at the same time?

13 A. No.

14 Q. Okay.

15 A. No. In the same time period because we had to get them up
16 there before the boat left --

17 Q. Um-hum.

18 A. -- but one's coming from Anchorage and one's coming from, I
19 think, Las Vegas or somewhere down south.

20 Q. Okay.

21 A. It might've been California.

22 Q. So then since you're not -- and I'm not trying to put words
23 in your mouth, but since you're not like super familiar with that
24 time frame, is that because Captain Cobban was really handling the
25 on-the-ground details of that crewing? Is that a fair statement?

1 A. No.

2 Q. No? Could you help me, could you clarify for me, then?

3 A. Sure. Can you ask me a little differently so I know what the
4 question is?

5 Q. Um-hum. So based on my understanding, Mr. Lawler was hired
6 on or was there a little earlier.

7 A. The 26th to 27th.

8 Q. Okay. And then Mr. Gribble -- I understood that Mr. Gribble
9 replaced Mr. Gamby, it was an unscheduled -- it was an unscheduled
10 departure, right?

11 A. Before Mr. Lawler was hired, we knew we had two spots.

12 Q. I understand.

13 A. Okay.

14 Q. Okay, now I get it, all right. But Mr. Gamby was -- you
15 weren't -- that was not like -- that was an oh, my gosh, now we
16 need two people. So do you know the details of how Mr. Gribble
17 came to be, you know, in Gary Cobban's pool of potential
18 employees?

19 A. In his awareness?

20 Q. Yes.

21 A. Um-hum. Captain Buholm, Bryce Buholm. He was working for
22 Bryce in the previous season and Gary and Bryce were talking and
23 Bryce told Gary hey, John and Dean.

24 Q. Okay, thank you. The picture that Captain Callaghan had
25 pulled up before in Exhibit 081 with Mr. Gribble holding up the

1 sample, that original picture, was that sufficient for you in
2 terms of yeah, he's done his test or do you usually ask for more?

3 A. I ask for more.

4 Q. Could you walk us through that?

5 A. I ask Gary, I can't see the double lines and Gary said that
6 he'd already thrown it away and he said are you looking for me to
7 pull it out of the trash can and I said no, but I need to make
8 sure and do a series of tests. He assured me that he had five
9 witnesses and that he tested negative and since Gary's the one
10 there, I went okay.

11 Q. Do you log that information somewhere?

12 A. I have it in my texting. I haven't pulled that out and put
13 it in any files, no, but obviously you have those texts because I
14 forwarded them, so that's where I have them right now.

15 Q. Sure. And I was just wondering if like for per company
16 standards, do you have to file, you know, negative like pre-
17 employment tests, do you file those somewhere?

18 A. I do digitally in their employment folder.

19 Q. Got it.

20 So, Lieutenant McPhillips, can we pull up Exhibit -- the crew
21 contracts? I believe it was Exhibit 016. No, I'm sorry, 017.

22 So you had noted that they were dated 12/30/2019. Do you
23 still see that up there, correct?

24 A. I still see that.

25 Q. So if they filled out their crew contracts on the 30th, which

1 is the day they got under way, and that's what would have the
2 medical questionnaire, how do you do the vetting for their medical
3 stuff?

4 A. Usually, I send that out in pre-employment, so I --

5 Q. Um-hum.

6 A. -- you know, I have a series of I-9s first, as well as the
7 application, then the medical questionnaire and the drug test,
8 then I send them a deckhand responsibility and all of our anti-
9 drug, anti-harassment, so that when they get to the boat, if I
10 have time, then Gary's just doing the -- this crew contract. But
11 I didn't have time with either of them so, you know, we're going
12 off the referral and then when they fill out that paperwork, Gary
13 looks over it really quick and I look over it really quick to make
14 sure there's nothing that's glaring.

15 Q. So if there was something that was glaring, do you -- do you
16 feel empowered within the company to tell Gary like hey, this is a
17 red flag?

18 A. I do. I do.

19 Q. Has that ever happened, have you ever had that scenario?

20 A. I have with another boat, I'm trying to think if that was
21 Gary. Well, I mean, you have the text where I asked him are we
22 sure we're hiring this guy. I'm trying to think if there's been
23 one with Gary. Seems like I've read something and asked him, but
24 he then talks to the guy and we write it on the medical form,
25 asked them, this is what their answer is and we feel okay about

1 it. But I can't pull one out.

2 CDR DENNY: Lieutenant, we can pull that down.

3 Captain, I have no further questions. Thank you.

4 CAPT CALLAGHAN: Thank you, Commander Denny.

5 BY CAPT CALLAGHAN:

6 Q. I do have just three follow-up questions, one is for
7 clarification.

8 Lieutenant McPhillips, can you please pull up Coast Guard
9 Exhibit 081, please? Which is the text message string between
10 Gary and Ms. Cooper. Thank you.

11 And so, Ms. Cooper, for clarification, I just wanted to
12 clarify your previous point on the dates.

13 Lieutenant, if you could go to page 3, please.

14 And this is the text string you were referring to in -- that
15 this report was delivered to you, Ms. Cooper?

16 A. Yes.

17 CAPT CALLAGHAN: And so to put Ms. Cooper's point on the
18 record regarding the date, I just wanted to note that this picture
19 says 12/31/19, but if we turn, go to page 1 of this exhibit, the
20 text string is dated 12/30/2019.

21 Thank you, Lieutenant, you can pull that down.

22 Ms. Cooper, Lieutenant Commander Comerford has just a couple
23 follow-up questions for you.

24 Lieutenant Commander Comerford.

25 LCDR COMERFORD: Thank you, Captain.

1 BY LCDR COMERFORD:

2 Q. Good afternoon, Ms. Cooper. Thank you for coming here today.
3 First, earlier Mr. Mattsen discussed your responsibilities in the
4 Mattsen ship management and if you could, could you describe if he
5 provided any guidance to you about when he needs to be notified
6 about the day operations? Okay. So that's a no?

7 A. That's a no, sorry.

8 Q. No, thank you. And then --

9 A. Well, that's not true. If there's an emergency he wants
10 notified immediately and he's told me that a couple times, but
11 anything else, no. We don't have a --

12 Q. Is there sort of an implied level of emergency or any
13 guidance he gave on what would raise to a level of emergency?

14 A. No.

15 Q. Thank you. You mentioned earlier about excluded crew. Could
16 you describe how you would know if someone was -- or you think
17 someone might be an excluded crew from contracting?

18 A. In other words, not hireable? Is --

19 Q. Yes.

20 A. -- that what you mean? Okay.

21 Q. That was the term you used, thank you.

22 A. Yeah. So we do a criminal history background check on them,
23 that's one. And of course, we're dealing with the fishing
24 industry, so there is some leniency and we look at dates. Someone
25 might have some really sketchy history 10 years back, but since

1 then it's been good, so they're fine, but if -- so that's one way,
2 criminal history. One is just asking people, because the fishing
3 industry is super small, so you know, they fished on the *Western*
4 *Mariner*, let's call Bryce, what do you know about this guy, he'll
5 tell us.

6 Q. Did you make any phone calls for the two new hires?

7 A. I didn't because I knew specifically that Bryce and Gary had
8 been talking.

9 Q. Now, shifting gears a little bit. In April 2019, or May and
10 April of 2019, coming up to the dockside, do you recall who the
11 port engineer was for the Lovric shipyard time?

12 A. I think Chip was dead, so I think that it was -- you know, we
13 have our own, but of course, Lovrics is a full-service shipyard,
14 so they have their own port engineer there, but I believe that we
15 were -- when we up at Lovrics, we were relying on them because I
16 think Chip was dead at that point, but I can't remember the dates.

17 Q. After Chip, was the company looking at a new port engineer or
18 going through a hiring process there?

19 A. Yeah.

20 Q. Could you describe the efforts that you were aware of or --

21 A. Yes, I actually had someone in mind, so we brought him on
22 first as a laborer/engineer just to kind of gauge what we felt
23 like his knowledge was on the *Amatuli* and then felt like he was
24 pretty knowledgeable, he's been in the industry for a long time
25 and he knows how to get information if he doesn't have it and so

1 we hired him.

2 Q. About when was he hired?

3 A. Oh, yeah, that's right. That was him. Okay, yes. We
4 brought him for that shipyard, the *Scandies*, but we had two boats
5 down, the *Scandies* and the *New Venture*, I think, so he was going
6 between two.

7 Q. What was his name again? What was his name again?

8 A. Jameson -- Jamie Griggs.

9 Q. Would the port engineer be someone you consult outside of
10 shipyard availability times?

11 A. Um-hum.

12 Q. Did you consult him on any other issues for the *Scandies Rose*
13 in that last year?

14 A. No, I didn't. I mean, I'm thinking.

15 Q. Take your time.

16 A. I don't remember. I don't think so, but it doesn't -- it's
17 not drawing anything.

18 LCDR COMERFORD: Thank you.

19 That's all the questions I had, Captain.

20 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

21 At this time, I'm just going to go around one more time real
22 quick with Mr. Barnum with the NTSB, if he has any more questions
23 for you.

24 MR. BARNUM: I do not, Captain. Thank you.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum.

1 Mr. Stacey.

2 MR. STACEY: We have no questions.

3 Thank you very much, Ms. Cooper.

4 THE WITNESS: Thank you.

5 CAPT CALLAGHAN: No questions from Mr. Stacey.

6 Mr. Barcott, any follow-on questions?

7 MR. BARCOTT: No further questions, thank you.

8 CAPT CALLAGHAN: Okay. Ms. Cooper, as we close up, is there
9 anything that we might not have covered in this line of
10 questioning that might be important to talk to about this hearing?

11 THE WITNESS: Not that I can think of.

12 CAPT CALLAGHAN: Okay, thank you. Based on what you know, do
13 you have any recommendations to make to this Marine Board that may
14 help prevent accidents on board commercial fishing vessels in the
15 future?

16 THE WITNESS: It seems like you're covering it, it seems like
17 making sure that we have correct information about stability, so
18 that seems like a good thing. I think I like your question about
19 we don't have one on our form, did we test the EPIRB, I think
20 that's a great -- which I'm going to do actually today, put that
21 on that form. But no, I think you guys seem to be covering a lot
22 of ground here and it seems like you've got it covered.

23 CAPT CALLAGHAN: Thank you, Ms. Cooper. And, Ms. Cooper,
24 before we close your testimony for today, I do want to thank you
25 on behalf of the Board, that you have been very supportive and

1 been very helpful over the past year and immediate response and
2 providing a lot of documentation to assist the Board in this
3 investigation, so we do want to thank you for your efforts here
4 and your support.

5 THE WITNESS: Thank you.

6 CAPT CALLAGHAN: Ms. Cooper, at this time you are now
7 released as a witness in this formal hearing. I want to thank you
8 for your testimony and cooperation. If I later determine that
9 this Board needs additional information from you, I will contact
10 you through your counsel, if applicable. If you have any
11 suggestions about the investigation, you may certainly contact
12 this -- contact any members of the investigation in the future.

13 (Witness excused.)

14 MS. COOPER: Thank you.

15 CAPT CALLAGHAN: Thank you for your testimony today.

16 MS. COOPER: Thank you.

17 CAPT CALLAGHAN: It is now 1409. The proceedings will now
18 adjourn. Current schedule has the next witness at -- scheduled
19 for 1515 subject to availability. We will attempt to start a
20 little sooner, but at this point, we will take a recess with
21 planned resumption at 1515. We are now adjourned.

22 (Off the record at 2:09 p.m.)

23 (On the record at 2:45 p.m.)

24 CAPT CALLAGHAN: Okay. It is now 1445. Hearing is back in
25 session. We will now hear testimony from Mr. John Walsh.

1 Mr. Walsh, at this time Lieutenant McPhillips will administer
2 your oath and ask you some preliminary questions.

3 LT MCPHILLIPS: Stand and raise your right hand.

4 (Whereupon,

5 JOHN P. WALSH

6 was called as a witness and, after being first duly sworn, was
7 examined and testified as follows:)

8 LT McPHILLIPS: You may be seated. Please state your full
9 name, and spell your last name.

10 THE WITNESS: John Philip Walsh, W-a-l-s-h.

11 LT McPHILLIPS: Please identify counsel or representative if
12 present, and have them state and spell their last name. Also
13 define the company relationship.

14 MR. BARCOTT: This is Mike Barcott appearing for the *Scandies*
15 *Rose* and the owners of the *Scandies Rose*, Holmes Weddle & Barcott,
16 B-a-r-c-o-t-t.

17 LT McPHILLIPS: Please tell us what is your current
18 employment and position.

19 THE WITNESS: Are you referring to me?

20 LT McPHILLIPS: Yes, sir.

21 THE WITNESS: I am an insurance broker with the firm of North
22 Star Insurance -- North Star Insurance Services, and my title is
23 president.

24 LT McPHILLIPS: What are your general responsibilities in
25 that job?

1 THE WITNESS: General office management and the placement of
2 marine and property casualty insurance.

3 LT McPHILLIPS: Can you briefly tell us your relevant work
4 history?

5 THE WITNESS: In insurance or my fishing career prior?

6 LT McPHILLIPS: In insurance and in fishing if possible,
7 please.

8 THE WITNESS: I started fishing in Bristol Bay in 1982 as a
9 deckhand, and I fished on and off until 1994, my last season
10 fishing in Bristol Bay. I started doing marine insurance in 1989,
11 and I worked for three firms: Fishermans Insurance Services;
12 Carlton, Irvin and Peterson (ph.); Aon Risk Services, and then
13 started North Star Insurance Services in 2001.

14 LT McPHILLIPS: What is your education related to your
15 current position?

16 THE WITNESS: Thirty-one years of on-the-job training, and I
17 currently have the license -- the Washington State broker's
18 license in property, casualty, and life and disability, as well as
19 the surplus lines licensed in the State of Washington.

20 LT McPHILLIPS: Do you have any other professional licenses
21 or certificates related to your position?

22 THE WITNESS: No, I do not.

23 LT McPHILLIPS: Thank you. Captain Callaghan will now have
24 follow-up questions for you.

25 CAPT CALLAGHAN: Okay. Thank you, Mr. Walsh. I will now

1 turn it over to Commander Karen Denny for questioning.

2 EXAMINATION OF JOHN P. WALSH

3 BY CDR DENNY:

4 Q. Good afternoon, Mr. Walsh. All of my questions are set in
5 the timeframe leading up to and including the accident date of
6 December 31st, 2019. And in addition, I'm going to ask you some
7 overarching questions on safety compliance, risk management and
8 insurance for commercial fishing vessels.

9 So first of all, thank you for being on the line with us and
10 attending this hearing virtually today. If at any point I ask a
11 question or we ask a question that you don't understand or can't
12 hear because of a technical issue, just ask us to repeat it or
13 rephrase it, and we will do so.

14 A. Understood.

15 Q. We're going to take breaks throughout the hearing, but if at
16 any point you need to take a break, please let us know, and we'll
17 go ahead and coordinate that.

18 A. Thank you.

19 Q. This virtual platform is a little bit dynamic, and since
20 you're our first virtual witness we have the ability to use this
21 platform to share the exhibits virtually, so you'll see them on
22 your monitor. The recorder, Lieutenant McPhillips, will put up
23 any exhibit that we call so that you'll be able to see it. If at
24 any point you want to focus on something or highlight it, just ask
25 Lieutenant McPhillips to zoom in on something, and he will do that

1 for you. Okay?

2 A. Understood.

3 Q. Mr. Walsh, before we begin, the Marine Board would like to
4 offer their condolences on the loss of your crew and friends
5 aboard the *Scandies Rose*. Again, if you need -- if you need a
6 break at any point, please let us know.

7 A. Thank you very much.

8 Q. So as I mentioned, we're going to break your testimony into
9 two main parts. The first is as the part-owner of the *Scandies*
10 *Rose*, and then the second is in your role providing marine
11 insurance for vessels -- commercial fishing vessels in the
12 industry.

13 So I'd like to go into and go a little bit more in depth into
14 some of the questions that Lieutenant McPhillips already asked
15 you. Could you talk to us about your ownership of the *Scandies*
16 *Rose*? Could you elaborate a little bit on how you came to be
17 involved in owning that vessel and --

18 A. Sure. It's a relationship with Dan Mattsen I've had over the
19 years. Initially I met Dan as his insurance broker. Lord, I
20 didn't look back on the dates, so I'm going to guess. So I would
21 say close to 20 years ago he owned a boat called the *Shaman*. He
22 needed a partner for various reasons. At that point in time, I
23 bought in in just one-sixth, I believe, I own and Mattsen
24 Fisheries which owns the *Shaman* and was purely as an investment to
25 help out a friend who needed some cash flow. We then sold the

1 boat in the buyback. Again, I want to say that's 2004 at which
2 point we were out of the commercial fishing business.

3 Dan chose to go back to school, got his MBA at the University
4 of Washington, realized he liked fishing a lot better than working
5 in a boardroom and we bought the new venture along with Gary
6 Cobban.

7 Q. About what year was that?

8 A. That was 2004-2005, right after -- right after the buyback.
9 I'd have to go back and look at exact dates but --

10 Q. Okay. And how about with this -- the *Rose* -- sorry. How
11 about when did you get involved with the *Scandies Rose* ownership?

12 A. *Scandies Rose* was a few years later. I insured the boat.
13 Leif Larsen was the owner. He wanted a group of fishermen to buy
14 the boat which when I called Dan Mattsen, Gary Cobban and some
15 other friends. And I think it was a group of seven of us that
16 bought the boat from Leif.

17 And then the other partners were in the long run
18 (indiscernible) long run business, were building a brand new boat
19 and asked to be bought out of the *Scandies*. So at that point, we
20 bought them out which was probably 2012. I'd have to go back and
21 look at dates to be certain but --

22 Q. Okay. So roughly 2012. So you've owned -- you've been a
23 partial owner of the *Scandies Rose* since 2012, and since then what
24 has been your role in ownership? You know, oftentimes there's a
25 division of responsibilities. What's been your role?

1 A. Purely as an investor. I mean, I've never fished the Bering
2 Sea. My fisheries experience was Bristol Bay on 32-foot go
3 netters, far cry from fishing the Bering Sea on a 130-foot crab
4 boat. I never sailed on the boat, so really I was an investor.

5 Q. Okay. We've heard this before, but I just want to confirm.
6 Currently you owned a share that was approximately 30 percent; is
7 that --

8 A. Twenty.

9 Q. Okay. Twenty percent.

10 A. Yeah. Gary owned 30 percent, and I owned --

11 Q. Okay.

12 A. -- I think it's an odd number --

13 Q. Nineteen point --

14 A. 19.98 or something like that.

15 Q. My apologies. My fault on that one.

16 Okay. So in terms of the role, and I understand that it was
17 purely an investment for you, how did your -- how did your
18 insurance company relate to the *Scandies Rose*, and how did
19 you -- how involved were you with insuring that vessel as it was
20 your company?

21 A. You know, the -- I insured the boat for the previous owner.
22 I insured it for various ownership changes between our group and
23 continued to insure the boat. And I say as an insurance broker I
24 represent the vessel owners, two insurance companies. We're not
25 an insurance company. So we represented the insurance companies

1 that have the boat, the physical asset of the vessel, the cargo,
2 the crew and any (indiscernible) liabilities covered.

3 Q. Okay. Sir, do you in part or in whole have ownership
4 of -- in any other fishing vessels?

5 A. I do. I own -- again, I'm not sure of the exact percentage
6 because it's through Mattsen Fisheries, which is Dan Mattsen,
7 which was the original company we bought the *Shaman* with. And so
8 I believe I own one-twelfth of the new venture and one-twelfth of
9 the Alaska Challenger. Mattsen Fisheries owns 50 percent.

10 Q. Okay. So what would you say is fair to say in terms of your
11 management or involvement in the *Scandies Rose* on the more day-to-
12 day operational things? Do you have any knowledge at all? Like,
13 do you get told anything at any kind of frequency?

14 A. No. We intentionally stay -- you know, we as a partnership
15 group, you know, made the decision a long time ago that it was
16 best for me in my position not to know what was going on with the
17 boat. Typically when it would come back in the spring, I might go
18 own and say hi and have a beer with the guys. But I had
19 no -- because I insure other fishing boats that do the same thing,
20 it was best for me not to know what they were doing because then I
21 could never share that information, and I would never share
22 information with somebody else.

23 Q. Okay. So then were there any written documents that
24 delineated those --

25 A. No.

1 Q. -- business rules, if you will? It was just the verbal --

2 A. Yeah. We typically would have a financial meeting, you know,
3 once a year. Typically before going into shipyard, we have this
4 amount of money. We're going to spend it. Being a minority
5 partner I answer 99 percent of the time, sure, fix the boat.

6 Q. Okay. Even though you were a minority owner, I'm sure you
7 had expectations for your investment. How did you communicate
8 those either to your partner owners or any employee of the company
9 that kind of ran *Scandies Rose*?

10 A. You know, about a year and a half ago, Gary and I had started
11 talking. Gary's son David was taking a more active role in the
12 boat, and he had brought up, you know, would I be interested in
13 selling my shares. And so we started that conversation maybe
14 12 -- not from today's date but from the date of the sinking,
15 12 months prior to that, we actually had a meeting in December,
16 had lunch at Ray's Roadhouse (ph.) where we came to a verbal
17 agreement for me to sell my shares to Gary. And then my last
18 conversation with him was via text on the 30th, and I think that
19 share was (indiscernible).

20 Q. Mr. Walsh, actually I'm going to ask for those to get pulled
21 up.

22 CDR DENNY: Lieutenant McPhillips, could you please pull up
23 Coast Guard Exhibit 094, and those are -- that's the text
24 message -- several text messages that you did provide the Marine
25 Board of Investigation regarding the conversation of Mr. Cobban

1 looking to buy your shares. So we'll share that in just one
2 second, sir.

3 BY CDR DENNY:

4 Q. Mr. Walsh, do you see that on your screen? Do you see
5 Exhibit 094?

6 A. I do.

7 Q. It looks -- okay. Excellent. Could you read us that text
8 message, please?

9 A. Sure. This was after Gary and I had lunch, and we basically
10 chatted in the parking lot. And so I said I hadn't really spent a
11 great deal of time thinking about selling my shares. But I looked
12 at the value of the boat of 3.5 million versus the loan amount,
13 said 20 percent is roughly worth 340-. You know, I dropped the
14 value down to allow him and -- he and David to purchase my shares
15 in the boat.

16 CDR DENNY: Mr. McPhillips, will you scroll down to the next
17 page, please?

18 BY CDR DENNY:

19 Q. And you were saying, Mr. Walsh, you were -- you had dropped
20 it down so that he could buy it.

21 A. Yeah. You know, Gary was a friend and David -- and they're
22 both career fishermen. I had stopped fishing, as I said, in '94.
23 And the *Scandies* was in my mind the best boat in the fleet, and
24 Gary loved it, and I wanted him to have it. Then I was 63 years
25 old, so the time for me to get out was probably right, turn it

1 over to Gary and David.

2 So I gave them a discount for cash, and we came to an
3 agreement via texts because that's how Gary and I would talk
4 periodically. We never emailed. I don't even know if Gary has an
5 email account, to be honest. And at which point if he'd scroll
6 down to the next --

7 CDR DENNY: Scroll down to the next, please.

8 THE WITNESS: -- is he had told me he had already sent the
9 down -- he had already made the loan arrangements with Mountain
10 Pacific Bank. He'd send -- he'd sent the down payment down, and
11 I'd asked him if he wanted to wait until after fishing, and he
12 said no, he wanted to do it immediately. Tren is the company
13 attorney. So I said okay. I'll send the documents over to Tren,
14 and get the ball rolling. And that was the last conversation I
15 had with him.

16 CDR DENNY: Okay. Excellent. You can take that down.
17 Thanks, Lieutenant.

18 BY CDR DENNY:

19 Q. Thanks, Mr. Walsh, for giving us context for that. And so
20 just to clarify, you said that the majority of your conversations
21 happened either face to face or via text; is that correct?

22 A. That's correct.

23 Q. Okay.

24 A. I'd say with Gary it was maybe once or twice a year. I'd see
25 him in the spring in the shipyard or as the boat was leaving.

1 Q. Okay. How about over the telephone? Did he contact you at
2 any point over the telephone when he was on the boat?

3 A. Yeah. He called me on the morning of the 30th which was, you
4 know, unusual. Gary and I typically didn't get a lot of phone
5 calls. And he just left me a voicemail and said hey, I'm getting
6 ready to get out of town. Can we talk about the purchase of
7 your -- of your shares in the company? And knowing he was getting
8 ready to get out of town I just sent him a text because trying to
9 contact a captain when they're gearing up is next to impossible on
10 the boat. And that's how we communicated the rest of the day.

11 Q. And how did he sound when he did leave you that voicemail?
12 What was your general impression of that voicemail?

13 A. He was fine. He was excited. He wanted to buy the shares
14 for the boat for he and his son.

15 Q. All right. Do you have any knowledge as to why because you
16 guys had lunch together? Did he indicate why he wanted to buy
17 your shares?

18 A. I had offered it down the road and said I'm getting to that
19 age where it's time to start liquidating some assets and if he
20 wanted to do it to get back to me and he did and that's -- it was
21 a -- the lunch we had Ray's Roadhouse with the partnership group
22 and (indiscernible) was processing our quotas. We always had kind
23 of a kickoff meeting. And I think that was early December, and he
24 went off to Hawaii afterwards. So I probably didn't talk to him
25 for a couple of weeks.

1 Q. Got you. Okay. I just want to shift this a little bit.
2 Sir, either as the -- you know, either as an owner for the
3 *Scandies Rose* or from the insurance broker point of view, had you
4 examined or read, in part or in whole, the Coast Guard or NTSB
5 report about the *Destination* sinking?

6 A. No. I haven't done that but I was -- I have enough friends
7 in the industry and colleagues, we all know about the *Destination*.
8 I, you know, read the newspaper articles, and with Trident
9 Seafoods, Joe Bundrant and Dave Abbassian and I, we actually put
10 on two fundraiser golf tournaments for the families of the
11 *Destination*.

12 Q. So did you happen -- I mean, then through those
13 conversations -- or let me ask this question first. So had you
14 seen any other marine safety information bulletins or safety
15 alerts from the Coast Guard or anywhere else that kind of talked
16 about some of the takeaways about stability?

17 A. Yeah. No. It was more conversations of the captains about
18 stability at which point I had a conversation -- I'm drawing a
19 blank on who I had this conversation with. But we talked about
20 heavy icing conditions and the misinterpretation at least I had
21 and I think other captains have that three or four inches was
22 heavy icing. And from my understanding it's half an inch or .6 of
23 an inch is deemed heavy icing in the stability report --

24 Q. So were you in -- I'm sorry. Please, you go ahead.

25 A. So that was one of the conversations I've had with a number

1 of captains and have since had further conversations about that,
2 working on helping get that information out.

3 Q. And would you say that that's with your -- you know, your
4 wearing of the hat of an insurance broker or as an owner?

5 A. You know, it's a little bit of both. It's learning
6 from -- you know, learning from what happened with the
7 *Destination*. It was devastating. *Scandies Rose* is off the chart.
8 But yeah. So we've done a couple of different things. We've
9 actually helped -- a couple of captains and I helped with the
10 stability class together that was geared on heavy icing
11 conditions.

12 Q. Um-hum. And when was that, sir?

13 A. Oh, I think the first class, we did it with John Crawford at
14 the Crawford Nautical School, and it was geared specific to pot
15 boats, winter operation in the Bering Sea. And we've done two
16 classes, so I want to believe that I'm doing it in their memory.
17 One in October and one in November.

18 Q. Okay. All right. So I just want to make sure that I have a
19 really good sense of your -- how much information was really
20 passing to you in terms of the material condition and
21 seaworthiness of the *Scandies Rose* because I know you've said
22 multiple times that it's an investment for you. But oftentimes
23 with an investment of that value some people want to know more
24 information. So I'm trying to get a sense of that from you, you
25 know.

1 A. Right.

2 Q. So in the last 18 months preceding the accident, are you
3 familiar with any areas of the vessel that were looked at or
4 worked on for repairs because of worn equipment or worn hull?

5 A. No. You know, I know the boat went into the shipyard in the
6 spring and -- spring of 2019, was hauled out of the water. I read
7 the survey report when it was done. I never went to the boat.
8 You know, typically Dan and Gary would make a shipyard list, and
9 they'd come up with a ballpark number and Dan -- you know, they
10 would say we're going to spend half a million; we're going to
11 spend whatever. I know when we repowered the generators in 2012,
12 that was a million dollar shipyard. So there was a lot of money
13 spent on the boat.

14 Q. Sure. So in 2019, as an owner, did you see a copy of the
15 condition and valuation survey done by --

16 A. I saw it as the insurance broker, absolutely. Yeah.

17 Q. Okay. So you got a copy with the insurance broker hat on.

18 CDR DENNY: Okay. Lieutenant McPhillips, could you please
19 pull up Coast Guard Exhibit 004? If you could actually go to
20 page 47.

21 BY CDR DENNY:

22 Q. So, Mr. Walsh, you've seen this document. It's the 2019
23 survey, and if you could just focus in on like halfway down the
24 page, and what I'd really like to focus on is so the vessel was
25 valued at -- that's good -- quite a bit of money from an insurance

1 perspective. These terms and conditions of the survey, is this
2 normal for what you'd see for survey reports or condition and
3 valuation reports?

4 A. Absolutely. And Jake was one of the best surveyors in the
5 industry.

6 Q. And these, like, conditions where he indicates kind of
7 exceptions about accuracy that -- you know, that all partners like
8 part fix by accepting the survey, all parties acknowledge that
9 this -- that its accuracy is not guaranteed and doesn't create
10 liability. Is that normal from what you've seen in the industry?

11 A. That's normal in the litigious world. Yeah. Um-hum.

12 Q. Okay. And then going back to the text messages that you had
13 you -- the quote that you gave Captain Cobban was based on this
14 estimated value; is that correct, sir?

15 A. It was the estimated value, and we'd actually had a
16 conversation a while back, and it said well, the boat's worth, you
17 know, \$3.5 million. If we were to sell part or all of it that's
18 what we'd want to sell it for. And that was, again, 12, 18 months
19 earlier. And then as we got -- you know, basically giving Gary a
20 partner discount.

21 Q. Got it. So I have a question from the insurance point of
22 view. Is a marine survey a requirement for obtaining and
23 maintaining marine insurance?

24 A. Yes, it is.

25 Q. Okay. And how frequently does that have to happen?

1 A. Two to three years.

2 Q. Okay. So not annual. Is there anything that would
3 precipitate that, any -- what's the threshold? Like, is it a
4 repowering? Is it a grounding?

5 A. If you had a serious marine incident, after the repairs were
6 done you'd do a new condition evaluation survey. Whether it was a
7 grounding, heavy weather, fire. Once the repairs were done you'd
8 resurvey the boat to restate the condition the boat is in.

9 Q. Okay. That's fair. But other than that it's every two to
10 three years.

11 A. Every two to three years for a marine survey. One of the
12 things insurance companies are requiring now is Coast Guard safety
13 decals which is a good thing so --

14 Q. So could you repeat that actually? You were saying that
15 major insurance companies. Is that all insurance companies or
16 some?

17 A. In general, yeah. Some do, some don't. But the majority of
18 the big boat companies that we work with will want to know that
19 the Coast Guard safety decal has been updated. And that's
20 part -- it will either be shown in survey or if the survey's
21 older, say if the survey is two and a half to three years old,
22 they will ask for a photo. And typically we'll just have to have
23 them snap a picture of the decal on the boat and send it down.

24 Q. Okay. How about stability report? Is that required for
25 marine insurance or specifically let's say for your company -- for

1 your insurance company?

2 A. Correct. It's a rarity not to have a stability report. And
3 any tank vessel, frankly you'd be foolish to go out without a
4 stability report because you're adding water to the vessel.

5 Q. Okay. Are you aware -- and you don't -- no names or
6 anything. But are you aware of any insurance company or your
7 specific insurance company ever denying coverage for a vessel
8 based on, like, a specific captain, like, denying coverage because
9 a specific captain is employed on a vessel?

10 A. That happens but it would be claims related.

11 Q. Okay.

12 A. I mean, if you had a captain that sunk two or three vessels,
13 he's going to have a hard time to get a job fishing.

14 Q. Fair. So slight change to that question. Has your insurance
15 company or have -- are you aware of other insurance companies
16 denying coverage for vessels based on errors in documents like a
17 survey and valuation report or stability reports?

18 A. Well, again, we're brokers. We're not insurance companies,
19 so we have had insurance companies put stipulations in renewals
20 that you need a new stability report because it's too old, or you
21 need new a new hull's condition and valuation survey prior to the
22 next renewal. And if they don't get it, they then don't offer
23 renewal terms.

24 Q. Okay.

25 A. It's more often in the last two to three years.

1 Q. Okay. Do you know why that is

2 A. I think post-*Destination* people are being more cautious and
3 reviewing documents a little more thoroughly.

4 Q. Okay. Sir, I'm going to -- I'm going to pull us back and ask
5 some general questions of you. Do you belong to a marine
6 insurance professional organization? If so, could you talk about
7 that?

8 A. Not really.

9 Q. I guess -- no. Like, so I guess what I mean by that is is
10 there such a thing as a professional organization for insurance
11 companies that set standards? Because you were kind of talking
12 how quite a few companies require the safety decal to be current.
13 Is there any kind of organization that kind of sets some standards
14 or protocols?

15 A. Well, each insurance company has their own set of rules and
16 guidelines. As a broker, we learn how to work within them. We
17 try to do basically additional risk management with some of our
18 clients. So we've -- for example, the North Pacific Fishing
19 Association, which the *Scandies Rose* was part of, we put hiring
20 protocols together which were background checks pre-employment,
21 you know, drug testing, things like that, to help out the smaller
22 fishing companies who are competing with the Tridents and Icicles
23 of the world that had to fully charter partner. We partnered that
24 way, but there's no real guidelines to it, working with them,
25 helping create the stability clause. We just find people in the

1 industry, and bring the resources to bear.

2 Q. Okay. Sir, are you a marine surveyor? Do you have any
3 experience with that? No.

4 A. No, I don't.

5 Q. Okay. Got it. Sir, are you familiar with the federal
6 advisory committee, the Fishing Safety Advisory Committee,
7 sometimes called CFSAC?

8 A. I believe surveyor Erling Jacobson was on that committee.

9 Q. Okay. So are you familiar with that? Would you be able to
10 speak to how they work with the commercial fishing industry?

11 A. I don't know -- no. I don't know other than Jake would give
12 me information periodically, and I did volunteer my name for it
13 and was not selected.

14 Q. Okay. Thank you.

15 A. If it's the same committee I'm thinking of.

16 Q. Okay. So insurance is a little bit confusing, right? If you
17 could just help me understand, for the benefit of like me and the
18 public, if you could just help us understand what kind of
19 insurance coverage the *Scandies Rose* had at the time of the
20 accident? Like, I don't know what some of the terms mean. So if
21 you could explain, like, indemnity and other insurance terms.

22 A. Sure. We can do a little insurance 101. We do it all the
23 time. So there are various policies of commercial marine, and
24 commercial marine is steeped in history. So a lot of things go
25 back to, you know, the 1800s. So if you read a hull and machinery

1 policy, heritry baritru (ph.) is all covered.

2 So the American Institute of Hull Clauses, which the *Scandies*
3 *Rose* hull and machinery was insured under, is a form that was
4 issued in 1977. We've made some "adaptments" to it. But so
5 there's a hull and machinery policy that covers the physical
6 vessel and her machinery. Then there's a policy called the
7 increased value which is the total loss policy. In the *Scandies*
8 *Rose* case, and again, I'm doing this from memory, the hull and
9 machinery policy was 2.8 million, and the increased value policy
10 was 700,000 (indiscernible) 80/20 hull (indiscernible) split
11 (indiscernible).

12 We then placed a protection and indemnity policy which is the
13 maritime version of work comp (indiscernible). So under a P&I
14 policy it picks up first-party and third-party liabilities. So it
15 picks up your crew coverage, and under maritime law and the Jones
16 Act it's maintenance, care, unearned wages, repatriation
17 regardless of fault. And then if there is fault then there's the
18 ability for the crewman to recover his (indiscernible) from the
19 vessel.

20 It also picks up what we call FFO, fixed and floating
21 objects. You get a dock up here, one of your Nab buoys, that's
22 where it's picked up under the liability, under the P&I side. It
23 also picks up wreck removal. If a vessel sinks in a navigable
24 waterway, the Coast Guard determines it needs to be raised, or it
25 sinks within three miles, Department of Natural Resources deems

1 the vessel is a hazard and needs to be raised, that is under the
2 P&I policy as well.

3 So then --

4 Q. Okay. I'm sorry.

5 A. -- there's a pollution policy. It's a lot of policies. You
6 have an OPA 90 policy. OPA 90 is post *Exxon Valdez*. That's where
7 the 1990 came from. It's the Oil Pollution Act of 1990. So we
8 placed a \$5 million pollution policy to the vessel as well.

9 And then we have excess P&I coverage. So what we do is we
10 buy -- in the property casualty world their personal lines, what
11 would be called the buffer sheet or an umbrella. So the excess
12 policy goes above the primary 1 million in the P&I and the
13 5 million of pollution. And in the *Scandies Rose* case it was a
14 \$9-million excess policy that provided a total of 10 million
15 liability coverage.

16 Q. Okay. Well, that is a lot of policies. So -- well, I think
17 you've covered quite a bit and I -- and so I guess my question is
18 from a risk management perspective for an insurance company are
19 there -- what are some types of things that a vessel can do to
20 either, you know, maintain their premium knowing that they have to
21 have all of those policies, all of that coverage? Are there
22 things like standards in the industry that insurance companies
23 drive with vessels for them to do things to be safer that you can
24 talk to us about?

25 A. Well, in essence we -- yeah. We start with a condition and

1 valuation survey. We're dealing with underwriters all around the
2 world, whether they're in Seattle, San Francisco, of late
3 Scottsdale, New York, London. What they see is the condition and
4 valuation survey we send out. We do a group bio on the company.
5 We'll write a little company history. You know, is the boat owner
6 operated? Is it a hired skipper? What's the skipper's history,
7 and I'll ask how many years has he fished?

8 Not any different than an auto policy, gains and debts. Have
9 you wrecked a boat? Have -- you know, all of those go into play
10 into the renewal discussion with underwriters. What was the
11 quality of the vessel, quality of the operating captain, quality
12 of the management and the loss history of the vessel?

13 Q. So how does an insurance company or the insurance industry
14 determine the competency of people that operate commercial fishing
15 vessels in terms of the insurance coverage? Like, let me give you
16 some areas that I was thinking about like technical competency to
17 manage the vessel. Do they think about the weather of where the
18 vessel's going to be operating, for example? What about medical
19 competency? Do they look at that? Do they ask for that
20 information? Drug- or alcohol-free on board? Is that the kind of
21 stuff they look at, and how do they evaluate that?

22 A. Yeah. It's a yes and no question. You know, on the larger
23 corporate level that's all being done -- that was one of the
24 things that we've done in the *Scandies Rose* as part of an
25 association we call the North Pacific Fishing Association. And so

1 we basically created guidelines that way. We, for lack of a
2 better term, pre-underwrote things for underwriters to help them.

3 The NPFA, to add a new skipper to a boat you had to have
4 three of the board members approve it. All the board members
5 would vote on it. That was one of the things we did in, as I
6 said, the hiring protocol where we had mandatory background checks
7 and pre-employment drug tests and -- I apologize. That phone
8 keeps going off. But maybe I can sneak it out the door of the
9 conference room on a break but --

10 So those are some of the things we did as a group to make our
11 operations safer. We also partnered with a doctor in Anchorage
12 called Dr. Lord. He's got a group called AMP, Alaska Maritime
13 Physicians. And we paid a fee as a group, as a number of our
14 other clients do, to have 24/7 access to a doctor. And that's
15 been a real plus where at the same -- this allowed the captains
16 not to play doctor. Somebody came up, whether they were sick or
17 had fish poisoning or, you know, trimmed a finger, they could get
18 online direct to Dr. Lord's office in Anchorage and -- in order to
19 get medical opinions and not us guessing.

20 Q. Okay. So do vessel owners or companies that own vessels get
21 a premium reduction or other kind of incentive if personnel are
22 safer, right? Like you mentioned before stability training that
23 you guys put on. So if they attend stuff like the stability
24 training or for SADE (ph.) or a drill conductor or some kind of
25 AMSI course, do they get any kind of incentive when it comes to

1 insurance, or how does that work?

2 A. Not at this -- not at -- you know, they're not going to get
3 it -- it's not like auto insurance where if you say you drive
4 50 miles a week you're going to get a break. It's they anticipate
5 operators of these types of vessels -- these are multimillion-
6 dollar vessels operating in the Bering Sea. They should know what
7 they're doing. You just try to help them, you know, from a
8 insurance broker standpoint, an industry standpoint, whether it's,
9 you know, the Bering Sea crabbing grid, or it's MPFDOA, they're
10 putting on classes, we encourage it. But to say, you know, if you
11 show I got this certificate you're getting a discount on your
12 insurance, not that I'd see.

13 Q. Okay.

14 A. You know, most quality people that want to go, you know,
15 whether you're in the military or not, you go from the back of the
16 deck to the wheelhouse. And to make that transition and to move
17 up grades, you have to be -- I mean, it's not just on-the-job
18 training. You need to go take classes and move up.

19 Q. Okay. So in your capacity as a marine insurance broker, do
20 you think that providing a premium reduction or some kind of
21 incentive for safety-related training might spur or enhance safety
22 in the commercial fishing vessel industry?

23 A. You know, I'm just not sure. You know, you're -- we're
24 dealing with, well, 30 years ago, 40, 50 insurance companies, and
25 now we've got about 10 of them. They all have different rules and

1 regulations.

2 I'm not -- do I say this? In the property casualty world you
3 would go insure your house with State Farm and Allstate. *Scandies*
4 *Rose* had seven hull underwriters alone. I mean, there were
5 probably 14 different underwriters covering that boat. Getting
6 them all to play on the same page, I'm not sure that's possible
7 yet. Is it a good idea? Sure, and we encourage people to do it.
8 I'm not sure how you mandate it.

9 Q. Do you think that if -- that's fair. Do you think that from
10 your experience and capacity that if some kind of incentive was
11 provided, if there was some kind of assurance for medical or
12 technical competency, if there was some kind of standard for that
13 of people operating those fishing vessels, do you think that that
14 would enhance safety for commercial fishing vessels?

15 A. There is. There is. You know, you have to have someone
16 onboard the vessel that has taken emergency medical training and
17 has CPR training. That's a current requirement.

18 Q. Oh, I'm sorry. Let me rephrase. I guess what I meant is
19 assurances of the operator's medical sufficiency like of their
20 health or like some kind of attestation to their health condition?

21 A. Well, any vessel over 200 GRT, that licensed crew and those
22 people have had physicals --

23 Q. Sure but under 200.

24 A. That's --

25 Q. Tough to say.

1 A. Tough to say.

2 Q. Okay. Well, thank you.

3 A. But that being in violation of the Americans with
4 Disabilities Act.

5 Q. Okay. Sorry. I was not trying to put you in a position.
6 Sir, is there anything that I might not have covered in my
7 questioning that might be important to talk about at this hearing?

8 A. No. I think we covered a lot of information, a lot of
9 positive things to change going forward. But no, I think you did
10 it pretty well.

11 Q. Okay. Do you have any recommendations to make to the Marine
12 Board of Investigation that might help prevent accidents on board
13 commercial fishing vessels in the future?

14 A. Well, I think the continuing education of the captains and
15 the crews is going to be critical. And like I said, I -- you
16 know, with the group of vessel owners we did put together a heavy
17 icing conditions, stability report class just to help people out.
18 And I think getting the information out that -- and again, I'm not
19 a marine architect, and I'm paraphrasing (indiscernible), I
20 believe heavy icing conditions on disability report are based on
21 roughly half an inch of ice which is not the norm. We get to
22 three to four inches of ice, and they're breaking ice. But I
23 think dispelling that rumor that two or three inches of ice is a
24 safe operating condition is probably a great start.

25 Q. Okay. Thank you for that. I did have one last question to

1 you, sir, before I turn you over to Captain Callaghan. You
2 mentioned Dr. Lord that you guys have -- that you guys have
3 established a relationship where you and your -- the captains
4 would be able to have 24/7 access to medical. And that was, of
5 course, in Anchorage. Was that relationship extended to
6 subsidiary areas in Alaska like Kodiak?

7 A. Oh, no. So what we did, we'd call ship to shore to Dr. Lord
8 or to one of his other treating physicians because he can't work
9 24/7.

10 Q. Right.

11 A. So there would be a medical provider on the phone, and we
12 could do a number of different things. If it was onboard
13 treatment he could give medical advice, and tell them how to treat
14 onboard. If they needed to get to the folks in the clinic, he
15 could then liaison with the clinic whether it was Kodiak, Akutan,
16 Dutch, St. Paul. He would work with the clinic and treat the
17 patient.

18 We also had the ability to -- because they were available
19 24/7, I'm giving a good example, we had a -- the first time we put
20 this together we had an injured crewman with a compound fracture
21 of his right arm. But we knew it was going to take eight hours
22 for the boat to get in. So at that point, we had a charter plane
23 with a nurse waiting for him. And from the time the boat docket
24 in Kodiak to the time he was on the plane heading to Anchorage was
25 30 minutes.

1 Q. Okay. Well, I'm just trying --

2 A. But you really could have that. You could accelerate the
3 treatment of crewmen outside.

4 Q. No. That's really great. What I'm trying to resolve, like,
5 for myself right now is to understand that when you -- when the
6 accident happened for the *Scandies Rose*, and the two crewmen were
7 rescued, is it fair to say that you were contacted fairly quickly?

8 A. I was contacted by Gelia Cooper at 6 a.m. in the morning.

9 Q. Okay. And so --

10 A. (Indiscernible) the call.

11 Q. So I guess what I'm trying to understand is Ms. Cooper
12 indicated to us that they were not able to do post-casualty drug
13 testing at the hospital, and I'm trying to understand why
14 this -- like, this service wasn't -- the 24-hour service wasn't
15 used to facilitate the post-casualty drug testing -- the DOT post-
16 casualty drug testing.

17 A. And that's a good question, and I would -- I'm going to guess
18 that the assumption was they were in the hospital on Kodiak, and
19 they were brought in by the Coast Guard helo, that it would be
20 taken care of. And frankly, I was trying to wake up, and get my
21 arms wrapped around it because that is the last boat I ever
22 thought would sink.

23 Q. Yes, sir. Thank you so much. I appreciate it.

24 CDR DENNY: Captain Callaghan, I have no further questions.

25 CAPT CALLAGHAN: Thank you, Commander Denny.

1 Thank you, Mr. Walsh.

2 I now turn it over to Mr. Barnum with the National
3 Transportation Safety Board.

4 MR. BARNUM: Thank you, Captain.

5 BY MR. BARNUM:

6 Q. And Mr. Walsh, thank you for your testimony today, and also
7 thank you for your testimony at the earlier time answering
8 questions for us. Thank you.

9 A. Thank you. No problem.

10 Q. I only have one follow-up question for you. I was curious,
11 could you go into maybe a little more depth about your
12 partnership, that training course that you put on with Crawford
13 Marine? Just give me another synopsis of that.

14 A. Yeah. I'd like to take a lot of credit for it, but all I did
15 was make a few phone calls. One of our fellow captains and friend
16 of mine, Oystein Lone, and I talked at length after the *Scandies*
17 *Rose* sinking, and he said we really need to look into icing
18 conditions and stability reports. So with Oystein's help and a
19 couple of other captains' help we contacted John Crawford at the
20 Crawford Medical School, and he put together the class. It's a
21 two-day, four-hour class a day based on pot boats fishing the
22 Bering Sea in heavy weather icing conditions. So it's really
23 specific to that gearset. And --

24 Q. And you said that -- sorry. Go ahead.

25 A. I was going to say that was our hope to, you know, dispel the

1 myth that two or three inches of ice is okay on the boat.

2 Q. And you said that class has taken place twice so far?

3 A. Yeah. We just -- you know, like anything else, it takes a
4 while to get the ball rolling. But the first which was really the
5 beta test, for lack of a better term, was done by three captains,
6 Oystein being one of them. We also invited a coastal pilot. Tony
7 Marsh was nice enough to join in. I will say of every captain
8 I've ever asked what heavy icing was, Tony's the only one that
9 said half an inch.

10 Q. Really. Okay. Interesting. So participation, you said the
11 first class had three individuals. How about the second class?

12 A. They really just want to limit it, very small classes and
13 make it very -- almost boat specific, so you can bring your own
14 stability report and ask questions. And the goal is to, you know,
15 turn this over to another agency. Out of my control. I'm done
16 with it, so I think it's a positive step forward.

17 Q. How about the participants? Have you received any feedback?

18 A. Yeah. They were very happy with it. Everyone I've talked to
19 is -- you know, that have taken the class so far. And I know it
20 helped -- have great confidence in Tony as she's driving Holland
21 America cruise ships in and out of Ketchikan.

22 Q. Sure. Okay. Thank you. That's all the questions I have.
23 Thank you, Mr. Walsh.

24 A. All right. Thanks.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum. I'll now ask

1 Mr. Stacey if he has any questions.

2 MR. STACEY: Good afternoon, Mr. Walsh. Good to talk to you
3 again. Like Mr. Barnum referenced, we have spoken previously.
4 We have no questions for you.

5 THE WITNESS: Thank you, Nigel.

6 MR. STACEY: Thank you.

7 CAPT CALLAGHAN: Thank you, Mr. Stacey.

8 I'll now pass it to Mr. Barcott. Any questions, sir?

9 BY MR. BARCOTT:

10 Q. Good afternoon, Mr. Walsh.

11 A. Hello, Michael.

12 Q. I actually do want to go into something that Commander Denny
13 raised and -- just so there's a complete understanding. She was
14 talking about, as I understood it, certificates and things that a
15 captain might do with that hoping to decrease the premium going
16 forward. I want to look the other direction. If there is an
17 unsafe captain who hasn't been properly trained and presumably has
18 a number of injuries or physical damage to the vessel, what
19 happens to that company's premium?

20 A. Those premiums raise significantly, and typically they want
21 to see a change in management, change in operational staff. If
22 you have a captain who has multiple incidents with the vessel, the
23 insurance is going to become harder and harder to get.

24 Q. Thank you. I just wanted to make sure that was understood.

25 CAPT CALLAGHAN: Thank you, Mr. Barcott.

1 I'll pass it to Lieutenant Commander Mike Comerford who just
2 has a couple follow-up questions for you, sir.

3 BY LCDR COMERFORD:

4 Q. Good afternoon, Mr. Walsh. For my clarity, did -- I'm
5 curious if you attended one of the two Crawford School courses in
6 person or just coordinated.

7 A. Just coordinated. I didn't attend.

8 Q. Thank you. Separate question. For surveyors or referring to
9 the insurance company through the owners or representatives, do
10 you or does the insurance companies or your insurance company
11 typically do any quality control, quality assurance of the
12 surveyors or have a preapproved list of those surveyors?

13 A. Yes. We have a preapproved list. It's approved by the
14 insurance companies. And if there's a new surveyor that comes
15 into the area or comes into town, typically we send their resume
16 and a number of their past surveys to underwriters for approval.

17 Q. Could you go a little bit more in length on that process? Do
18 you have a third party or somebody from the organization follow
19 them on survey to do spot surveying or -- I'm just kind of
20 curious, a little bit more about the approval process or the
21 quality control process for your surveyors.

22 A. Yeah. As an insurance broker we wouldn't do that. That's
23 not my expertise. I've never been a captain of a large vessel.
24 Most surveyors have spent time at sea.

25 I can think of, you know, Jake Jacobson who ran crab boats

1 and factory trawlers before he became a surveyor. Mark McElwaine,
2 Alexander Gow was a Washington ferry captain. So typically the
3 surveyors come from a commercial fishing or blue water or tug and
4 barge, and this is their exit from being on the vessel. And now
5 they're doing the same inspections they did when they were on the
6 boats. There's a couple of them -- you can go to SAMS and NAMS
7 which are the two qualifying entities for surveyors.

8 BY CDR DENNY:

9 Q. Just to follow up on Lieutenant Commander Comerford's
10 question right there, so what about like -- he asked you about a
11 pre-crew, you know, list. What about a pre-crew naval architect's
12 list? Does that exist?

13 A. No. For the most part you use, you know, Jensen Maritime.
14 I've been doing marine insurance for 31 years. Jensen's been
15 here, Bruce Culver's been here, Hawk and them. You can go down
16 the line. There's, you know, half a dozen marine architects that
17 have been working in the Pacific Northwest as long as I've been in
18 the industry, and that's typically where the -- case of the
19 *Scandies Rose* Bruce Culver had done the 1988 stability report. He
20 posed *Destination* as a partnership.

21 This is going to sound terrible, but boats are like people.
22 They get heavier with age. They don't lighten up. And so at that
23 point, we made the decision it was time to get a new survey and
24 write a stability report. So spring of 2019, Bruce Culver came
25 down and did a new stability report.

1 CDR DENNY: Sorry. I didn't mean to cut in on your line.

2 BY LCDR COMERFORD:

3 Q. Shifting gears for one last follow-up question, you talked a
4 lot about the captain and competency training of the captain. How
5 about the rest of the crew and how that falls into the insurance
6 factors, chief engineer or the engineer of the boat or the
7 deckhands? What other factors play for the rest of the crew?

8 A. Well, you want to see a consistent crew. You know, the crew
9 of the *Scandies* had been there other than Dean and John were new
10 with the boat, but the -- you know, Gary had been on the boat for
11 five or -- no. Gary had been on the boat since day one, David for
12 the last five or six years, Art I think three or four. So you
13 want to see consistency of crew. They know the boat inside and
14 out. They can work well with others.

15 Again, in the marine environment, you know, you start as a
16 greenhorn, and you're trained and you work your way up. So you go
17 from, you know, your first day on a boat until you're capable to
18 become a full-share deckhand. And then you work your way up to a
19 deck boss, and depending on your capabilities, are you doing that
20 in 4 years or 13, that's up to you.

21 Q. Okay. And the other thing you mentioned earlier was having
22 requirements that the companies have drug and alcohol prescreening
23 or evaluation programs. Do you do any or does the company do any
24 quality control checks or frequent audits of the vessels regarding
25 their -- following those policies or those guidelines that the

1 insurance company has?

2 A. Well, the -- in the North Pacific Fishing Association we had
3 done on the honor system; everyone's to do it. But when there was
4 a serious marine incident those documents then had to be presented
5 to the insurance company because we had represented we were doing
6 this. And that was the check and balance.

7 Everyone came up with a little different way of doing it. I
8 mean, with COVID we've had to get pretty creative. So we'll tap
9 in now for drug tests. There's people going to Amazon, buying
10 cases of the instant drug tests and then getting -- how do I say
11 this nicely? Taking the test and then holding the specimen up and
12 taking the picture and sending it to the office to prove that they
13 passed the test. So you get creative with COVID. In the old days
14 you could go into Kodiak and get it at the hospital. You could
15 have (indiscernible) biological chart.

16 BY CDR DENNY:

17 Q. Well, the accident, the -- sorry. But the *Scandies Rose*
18 accident happened before COVID became more of a thing here. And
19 so it seems like that's how they were doing it. So I'm not trying
20 to put words in your mouth. I'm just trying to understand.

21 A. No, no, no. We'd learned how to do that, you know, because
22 there was times we couldn't do it. And then it's been expanded
23 because of COVID.

24 Q. I see.

25 A. But yeah, the -- and again, I'd have to go back and look in

1 the files, but I'm 99 percent sure everyone on the boat had a pre-
2 employment drug test. And it was done with the Amazon drug test.

3 Q. Okay.

4 BY LCDR COMERFORD:

5 Q. And I think this is my last follow-up question, Mr. Walsh.
6 You mentioned a little earlier that your wake-up call was from
7 Gelia Cooper. If you're willing to do so, would you be -- could
8 you take us back to that day and describe that phone call and what
9 Gelia was -- what do you recall Gelia told you, what you did after
10 the phone call?

11 A. The phone rang. I unfortunately (indiscernible) in the dark.
12 Phone rang at 6 a.m. or thereabout and the caller ID -- and I'm
13 pretty well trained at this point when I see that at six in the
14 morning it's going to be a bad phone call. So I answered the
15 phone. Gelia said the boat sank, and we have two survivors in the
16 cockpit, and we're looking for more at which point I said I need
17 to wake up. Let me call you back

18 Went downstairs, had a cup of coffee, and I think maybe 15,
19 20 minutes later called her back to find out what was happening.
20 Frankly, I thought it was the *New Venture*. I couldn't believe it
21 was the *Scandies Rose* because they were both going out at the same
22 time. And the *New Venture* is 98 feet versus 130 feet. I just
23 assumed they had a problem.

24 So then I called Gelia back, and we talked, commiserated,
25 half an hour. She told me what she knew and that Gary's sister

1 was going to the hospital, Gerry with a G, to go meet with John
2 and Dean, and see what she couldn't do to help them out and get
3 them clothes and get them a phone.

4 And at that point, we kind of put the insurance cap on and
5 got the ball rolling. I contacted Roy Brown from The PRS Group.
6 We took the party adjuster, made sure that their (indiscernible)
7 called Mike and said okay, what do we need to do? Who do we need
8 to notify? You know, how long are we searching? And basically
9 that day went from six in the morning until 8 o'clock at night.

10 Q. Thank you very much. That's all the questions I have.

11 CAPT CALLAGHAN: Commander Denny, did you have some -- a
12 follow-up question?

13 CDR DENNY: Yes, Captain. Thank you.

14 BY CDR DENNY:

15 Q. Mr. Walsh, you've been very helpful in explaining risk
16 management to me, but I'm still kind of -- I'd really like
17 a -- like a little bit more discussion on risk management from the
18 insurance perspective about assessing both captain and crew if
19 they have -- what is the mechanism to -- in terms of risk
20 management if they have a medically unsafe condition like a heart
21 condition? Is that not something that the insurance companies
22 take into account when underwriting commercial fishing vessel
23 insurance?

24 A. You know, we don't ask for medical questionnaires. Under the
25 Americans with Disability Act we're not allowed to. You can under

1 a Coast Guard license scenario, but we can't as an insurance
2 broker. We do ask for, you know, a resume for the captain or what
3 we call a skipper questionnaire that outlines their past history.
4 We like to think they're going to be honest and truthful, and tell
5 us if they're physically fit to do the job.

6 Q. Okay. Are there red flags though? So from the
7 skipper -- from the skipper forms or from medical forms for the
8 crew, if they do disclose a condition of some sort, does that play
9 into the calculus of risk management for insurance?

10 A. Well, I think it would play into that from the vessel owner's
11 standpoint because that is one -- you know, we ask for a medical
12 history questionnaire. And obviously if you look at the medical
13 history questionnaire, and I'll make up a scenario, and it says
14 I'm diabetic (indiscernible) you know, and I need insulin daily.
15 Well, that's probably a conversation we would have with that
16 captain and crewman saying this is probably not the job for you
17 because what if we lose power, and your insulin can't stay
18 refrigerated. You might want to look at something that's more
19 shore-based versus being 30, 40 days out to sea at a time. So
20 things like that absolutely we take into consideration and have
21 that conversation. We still got to play within the guidelines of
22 the laws of the country.

23 Q. Sure. Okay. Thanks. I appreciate it.

24 CAPT CALLAGHAN: Thank you, Commander Denny.

25 So with the questions complete for the most part, Mr. Walsh,

1 I do want to first and again extend our condolences for the loss
2 of your business partner and the crewmembers aboard the *Scandies*
3 *Rose*. I want to take a moment to recognize your efforts and your
4 work to put on the stability classes, to help coordinate those
5 with your colleagues and raise awareness within the community for
6 the concerns surrounding the vessel's stability.

7 THE WITNESS: Thank you (indiscernible).

8 CAPT CALLAGHAN: At this point, sir, we are complete with
9 your testimony. So you are now released as a witness at this
10 formal hearing. Thank you for your testimony and cooperation. If
11 I later determine that this Board needs additional information
12 from you, I will contact you through your counsel. If you have
13 any questions about this investigation, you may reach out to your
14 counsel, to Lieutenant McPhillips or Lieutenant Pels. Thank you
15 very much.

16 THE WITNESS: Thank you. Appreciate all the help you gave us
17 in getting the guys home.

18 CAPT CALLAGHAN: So at this time, let the record show it's
19 now 1549. I want to take a moment to thank all the witnesses for
20 their testimony today. Again, for the record, all exhibits that
21 have been presented today will be posted on the MBI website and on
22 livestream site later today. It is now 1550 on February 22nd.
23 The hearing will now adjourn for today and resume at 0800
24 tomorrow, February 23rd.

25 (Whereupon, at 3:50 p.m., the hearing was recessed.)

CERTIFICATE

This is to certify that the attached proceeding before the

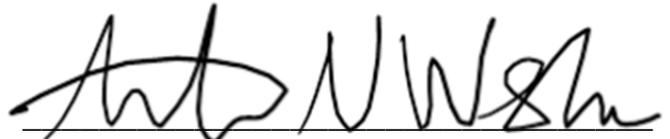
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: February 22, 2021

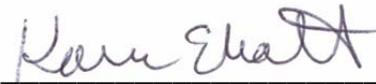
was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Autumn Weslow
Transcriber



David Martini
Transcriber



Karen Ehatt
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Tuesday,
February 23, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(7:59 a.m.)

1
2
3 CAPT CALLAGHAN: Okay, it is 0800 on February 23rd, 2021, and
4 this hearing is now in session. Good morning, ladies and
5 gentlemen. I'm Captain Greg Callaghan, United States Coast Guard,
6 Chief of Prevention for the 11th Coast Guard District. I'm the
7 chairman of the Coast Guard Marine Board of Investigation and the
8 presiding officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 masks while seated to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table and whenever approached by another person. I ask that
18 anyone who is unable to maintain social distancing, please keep
19 their masks on unless actively speaking into the microphones.

20 Due to the extensive technology used to support this hearing
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this board
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives on December 31, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crew members who
7 were lost at sea. I do note that many of you are watching this
8 hearing on livestream due to the COVID restrictions in place, and
9 we appreciate you being -- you joining us here today.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions, and recommendations to
12 the Commandant of the United States Coast Guard.

13 Other than myself, the members of this Board include
14 Commander Karen Denny and Lieutenant Commander Michael Comerford.
15 The legal counsel to this Board is Lieutenant Sharyl Pels. The
16 recorder is Lieutenant Ian McPhillips. Coast Guard technical
17 advisors to this board are Mr. Scott Giard and Mr. Keith Fawcett.
18 This Board's media liaison is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB *Scandies Rose* investigation, is here with us
22 along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witnesses and

1 respect their right to privacy.

2 The members of the press are welcome to attend virtually and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the testimony they have given after I have released them from
6 these proceedings. I ask that any such interviews be conducted
7 with full consideration of the COVID mitigation procedures that
8 the Marine Board has established.

9 The investigation will determine as closely as possible the
10 factors that contributed to the incident so that proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence that any act of misconduct,
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed or credentialed person contributed to
15 this casualty; and whether there is evidence that any Coast Guard
16 personnel or any representative or employee of any other
17 government agency or any other person caused or contributed to the
18 casualty.

19 The Marine Board planned this two-week hearing to examine all
20 events related to the loss of the *Scandies Rose* and five crew
21 members. The hearing will explore crew member duties and
22 qualifications, shore-side support operations, vessel stability,
23 weather factors, effects of icing, safety equipment, the
24 operations of the vessel from the past up to and including the
25 accident voyage, and survey imagery of the vessel in its final

1 resting place. The hearing will also include a review of industry
2 and regulatory safety programs as well as the Coast Guard's Search
3 and Rescue activities related to the response phase of the
4 accident after notification that the *Scandies Rose* was in
5 distress.

6 The Coast Guard has designated parties in interest to this
7 investigation. In Coast Guard marine casualty investigations, a
8 party in interest is an individual, organization, or other entity
9 that under the existing evidence or because of his or her position
10 may have been responsible for or contributed to the casualty. A
11 party in interest may also be an individual, organization, or
12 other entity having a direct interest in the investigation and
13 demonstrating the potential for contributing significantly to the
14 completeness of the investigation or otherwise enhancing the
15 safety of life and property at sea through participation as a
16 party in interest.

17 All parties in interest have a statutory right to employ
18 counsel to represent them, to cross-examine witnesses, and have
19 witnesses called on their behalf. Witnesses who are not
20 designated as parties in interest may be assisted by counsel for
21 the purpose of advising them concerning their rights. However,
22 such counsel are not permitted to examine or cross-examine other
23 witnesses or otherwise participate in the investigation. I will
24 now read the list of those organization and individuals whom I've
25 previously designated as parties in interest.

1 Scandies Rose Fishing Company, LLC, represented by counsel
2 who is appearing virtually today. Crew persons Mr. Dean Gribble
3 and Mr. Jon Lawler represented by counsel who is appearing
4 virtually today.

5 The Marine Board will place all witnesses under oath. When
6 testifying under oath, the witness is subject to the federal laws
7 and penalties for perjury for making false statements under Title
8 18 U.S.C. Section 1001. Penalties include a fine of up to
9 \$250,000 or imprisonment up to five years or both.

10 The sources of information to which this investigation will
11 inquire are many and varied. Since the date of the casualty, the
12 NTSB and Coast Guard have conducted substantial evidence
13 collection activities, and some of that previously collected
14 evidence will be considered during these hearings.

15 Should any person have or believe he or she has information
16 not brought forth but which might be of direct significance, that
17 person is urged to bring that information to my attention by
18 emailing uscg.scandiesrosembi@gmail.com. This email address will
19 be continually monitored.

20 Mr. Barnum will now say a few words on behalf on the NTSB.

21 MR. BARNUM: Thank you, Captain Callaghan. I am Bart Barnum,
22 Investigator in Charge for the National Transportation Safety
23 Board's investigation of this accident. The Safety Board is an
24 independent federal agency which under the Independent Safety
25 Board Act of 1974 is required to determine the cause or probable

1 cause of this accident, to issue a report of the facts,
2 conditions, and circumstances related to it, and make
3 recommendations for measures to prevent similar accidents.

4 The NTSB has joined this hearing to avoid duplicating the
5 development of facts. Nevertheless, I do wish to point out
6 this -- that this does not preclude the NTSB from developing
7 additional information separately from this proceeding if it
8 becomes necessary.

9 At the conclusion of this hearing, the NTSB will analyze the
10 facts of this accident and determine the probable cause
11 independent of the United States Coast Guard. At a future date, a
12 separate report of the NTSB's findings will be issued which will
13 include our official determination of the probable cause of this
14 accident. If appropriate, the Safety Board will issue
15 recommendations to correct safety problems discovered during this
16 investigation. These recommendations may be made in advance of
17 the report.

18 In addition to this, on behalf of the entire NTSB, I would
19 like to offer my deepest condolences to the families and those
20 affected by this tragic accident. Thank you.

21 CAPT CALLAGHAN: Thank you, Mr. Barnum.

22 Yesterday, we heard from two remaining owners of the *Scandies*
23 *Rose* and the vessel manager for Mattsen Management, the company
24 that managed the *Scandies Rose*. As discussed on the record
25 yesterday, I am admitting Coast Guard Exhibit 121 which was

1 presented by Mr. Dan Mattsen and contains the log books from the
2 vessel *Amatuli* from December 28th through 31st, 2019.

3 Today, all of our witnesses will be appearing virtually over
4 Zoom. I ask that viewers, again, be patient with any potential
5 technical difficulties in hearing from our witnesses and
6 broadcasting to you.

7 Our first witness today from the National Weather Service
8 will testify to the affects that the weather may have played in
9 this tragedy. Mr. Paul Suffern of the NTSB is a meteorologist,
10 and I have asked that he proceed first with the questioning,
11 followed by Lieutenant Commander Comerford from the Board.

12 I also note for the record that the Coast Guard reached out
13 to employees of the Windy.com weather application based out of the
14 Czech Republic to provide testimony at these proceedings, and they
15 chose not to participate.

16 The time is now 0810. We will take a -- this hearing will
17 take a recess, and we'll resume at 0830.

18 (Off the record at 8:10 a.m.)

19 (On the record at 8:31 a.m.)

20 CAPT CALLAGHAN: Okay, the time is 0831, and the hearing is
21 now back in session. We will now hear testimony from Ms. Noelle
22 Runyan from the National Weather Service.

23 Ms. Runyan, Lieutenant McPhillips will now administer your
24 oath and ask you some preliminary questions.

25 LT McPHILLIPS: Please stand and raise your right hand.

1 (Whereupon,

2 NOELLE RUNYAN

3 was called as a witness and, after being first duly sworn, was
4 examined and testified as follows:)

5 LT McPHILLIPS: Please be seated. Please state your full
6 name and spell your last.

7 THE WITNESS: Noelle Runyan, last name spelled R-u-n-y-a-n.

8 LT McPHILLIPS: Please identify counsel or representative, if
9 present, and have them state and spell their last name as well as
10 their firm or company relationship.

11 MR. JONES: Eli Jones for the Department of Commerce, Office
12 of the General Counsel.

13 LT McPHILLIPS: Please spell your last name.

14 MR. JONES: J-o-n-e-s.

15 LT McPHILLIPS: Ms. Runyan, please tell us what your current
16 employment and position.

17 THE WITNESS: I am a meteorologist in charge of the National
18 Weather Service Anchorage Forecast Office.

19 LT McPHILLIPS: What are your general responsibilities in
20 that job?

21 THE WITNESS: I am the office -- the staff supervisor and the
22 office manager.

23 LT McPHILLIPS: Can you basically tell us your relevant work
24 history?

25 THE WITNESS: My -- I have worked for the National Weather

1 Service since 1993, and I've worked in the -- I've been in --
2 excuse me -- in the Alaska region beginning in June of 2018.

3 LT McPHILLIPS: Can you briefly tell us your relevant work
4 history? Just so (indiscernible) repeat that. What is your
5 education related to your position?

6 THE WITNESS: I have a Bachelor of Science degree in
7 meteorology.

8 LT McPHILLIPS: Do you hold any professional licenses or
9 certificates related to your position?

10 THE WITNESS: No.

11 LT McPHILLIPS: If so, please explain.

12 THE WITNESS: No.

13 LT McPHILLIPS: Thank you. Captain Callaghan will now have
14 follow-up questions for you.

15 CAPT CALLAGHAN: Thank you, Ms. Runyan. At this time, I'm
16 going to turn it over to Mr. Paul Suffern from National
17 Transportation Safety Board to initiate the questioning.

18 Mr. Suffern?

19 MR. SUFFERN: Thank you, Captain.

20 EXAMINATION OF NOELLE RUNYAN

21 BY MR. SUFFERN:

22 Q. Good morning, Ms. Runyan.

23 A. Good morning.

24 Q. Appreciate your time this morning. If we could go ahead and
25 bring up Exhibit 027, Exhibit 027, and that should pop up on the

1 Zoom screen here as well. Well, as they're bringing up Exhibit
2 027, I'd like to ask you just some -- some general questions about
3 how the National Weather Service forecasts were made for marine
4 areas surrounding Kodiak.

5 So this Exhibit 027 just shows the National Weather Service
6 marine and land areas surrounding the Alaskan peninsula and
7 southwestern Alaska. So if you could please describe how National
8 Weather Service in general makes weather forecasts for this area.

9 A. In -- in general, we look at models and -- forecast model and
10 observational data for -- for this region. We use a variety of
11 tools. We have a computer system that brings all of this into one
12 system so we don't have to look in a lot of different areas. So
13 we have it all brought into one -- one -- well, actually it's
14 three screens, but one system.

15 We look at the model data, we interrogate various timeline,
16 timing sequences, and -- and just a variety of -- excuse me -- a
17 variety of the elements. Satellite data, radar data, surface
18 observations, upper air observations, all of -- all of this things
19 come together and we look at it through a time series. That's --
20 that's in general.

21 We -- we over time have developed a sort of feel or pattern
22 recognition. So when we see these types of patterns come
23 together, we then interrogate or look for -- in more detail for
24 the particular hazards that -- that we think may -- may occur.

25 Q. Okay. Thank you. Could you describe how the National

1 Weather Service in Alaska makes a freezing spray forecast
2 specifically for the Bering or Alaskan Peninsula?

3 A. For freezing spray, when we see indications of very high
4 winds, of high seas, we start to look a little bit -- a little bit
5 closer. We -- we have a number of tools that we can use. One
6 tool is more text-based. It's -- it's basically a script. So we
7 can take a look at the -- the -- the high end of -- of the winds.
8 If we're looking at a particular area, we wind what the highest
9 wind is and we find where the highest seas are, and we can plug
10 those values into this particular script along with the sea
11 surface temperature, and that script will generate a value for ice
12 accumulation rate.

13 Then when we get an idea that -- that -- that is something
14 that we are going to look for, when -- when we go to actually
15 create the forecast, we have another -- a computer system, a
16 graphical forecast editor that we can use to pull in the -- the --
17 the model data. We can then adjust it in there -- in that
18 graphical editor if we need to.

19 And once we get the area identified, and we go to generate
20 the forecast, we publish those -- that graphical representation of
21 the forecast. And then another script runs that will -- that --
22 that runs the -- that those values through -- through a formatter.
23 Then that then generates that -- the text that goes along with
24 that forecast. We use that same graphical forecast editor and
25 text for another script that will generate the text for any

1 warnings that might be given.

2 Q. Okay. Thank you, Ms. Runyan, that was very helpful. I
3 understand that there are different categories of -- of -- of
4 freezing spray. There's a freezing spray advisory and a heavy
5 freezing spray warning. Could you briefly describe how those are
6 different?

7 A. We -- it -- it's based on the rate of accumulation. Light
8 freezing -- just average freezing spray, light freezing spray is a
9 rate of about 0.3 inches per hour. Moderate is 0.3 to 0.8. Heavy
10 is 0.8 to 1.6. And Extreme is simply over 1.6. Light freezing
11 spray is, as I said, 0.3 inches per hour rate. We issue a heavy
12 freezing spray warning for anything point -- or for anything 0.3
13 to 0.8, so in that moderate level, and greater. So we have two
14 levels of -- two levels.

15 Q. Okay, thank you. And as you were describing earlier, you
16 were talking about the process that the National Weather Service
17 uses to make the freezing spray forecast and going through the --
18 the editing process. Are there any times that a National Weather
19 Service forecaster would, I guess, apply professional judgment?
20 They -- they think that the freezing spray conditions may be
21 higher or lower than what you were speaking about, the computer
22 model generated things?

23 A. Yes. Yes, yes. We spend a lot of time with pattern
24 recognition, a lot of time training on that. And -- and -- and
25 what I mean by that is when we see these weather patterns, we know

1 that there are some areas that react differently. Maybe -- maybe
2 it's heightened because it's been funneled through a narrow
3 channel such as between islands or things like that. So we know
4 that the winds can be more enhanced in those particular areas.

5 So we can take -- in -- in the graphical editor, we can take
6 those areas that we know tend to be higher and -- and -- and bump
7 those -- bump those values up to get something that's more
8 accurate based on our -- our -- our own experience and -- and --
9 and -- and maybe over time, we've -- we've received a lot of
10 feedback from people in that area that say we -- we're always
11 undergoing a forecast -- always underdoing a forecast. That --
12 and that would be something that they -- they might say. So we
13 would take that information and -- and -- and use that for our
14 forecasting in the future so that we know, yeah, things tend to be
15 higher than what the models are saying.

16 Q. Okay. So it sounds like you can -- as a forecaster, you can
17 make tweaks or adjustments based on information -- new information
18 that you may get in?

19 A. Yes.

20 Q. Okay. When a forecaster sees potential icing conditions, you
21 know, a day in advance, three days in advance, or, you know, five
22 days in advance, or things like that, how far in advance can the
23 warning or headline be issued by -- by the National Weather
24 Service?

25 A. I would say in general it's about three periods out. Each

1 period's about 12 hours. So it's roughly 36 hours. But if we
2 have a strong signal for -- for some extreme weather, we'll go out
3 as -- as many as five days in advance.

4 Q. Okay. And would that -- would that advance be in the text
5 forecast, or would that be in a discussion, or where -- where
6 could a mariner find that information?

7 A. That is specifically with any warning advisory that we may
8 issue. We will start talking about the various hazards and -- and
9 the weather conditions expected in our forecast discussions, could
10 even be in the extended. So that would be four to eight days out.

11 So if we're starting to see something four to eight days out,
12 we will start talking about it immediately in the extended portion
13 of -- of our forecast discussion. And some of that -- well, I
14 supposed for mariners, it's mainly in there. There may be some
15 indication in -- in a coastal waters forecast. But the closer to
16 that timeframe that we get, the more we talk about it continually
17 in our forecast discussion, and then in any statements or -- or --
18 or warnings, advisories. We do talk about strong storm systems in
19 social media. Those are -- so the discussion and the forecast,
20 any hazardous warnings and advisories in social media. Those --
21 those are the best ways.

22 Q. Okay, thank you. Have you, you know, in the two, two and a
23 half years that you've been there up in Alaska, have you received
24 any feedback from the mariner community as far as weather
25 forecast, and specifically, I guess, freezing spray forecasts,

1 trouble spots either in the Bering or along the peninsula?

2 A. Not that I'm aware of. I'm sure that we have. We -- we try
3 to get feedback from -- from Mariners as best we can. We'll --
4 we'll -- we'll set up meetings. We try to reach out to harbor
5 masters. If -- if we have a chance, we'll -- we'll go to expos,
6 or marine shows, boat shows, things like that and -- and try to
7 talk with people to try to get that feedback.

8 Q. Okay. Thank you. Related along the lines of the forecasting
9 you were speaking of earlier, what are some avenues that mariners
10 can get a National Weather Service forecast, I guess specifically
11 along the Alaskan peninsula or -- or near Kodiak Island?

12 A. So (indiscernible) of, or -- or maybe not to a distant the
13 area, there -- there -- there are a number of avenues. There is
14 web. There -- I suppose some of the ways that -- that -- that
15 many do are through NOAA weather radio. So, yeah, if people
16 are -- are considering going out in the next day or two, or -- or
17 that day, again, the forecast from -- from a -- web page or
18 weather radio, those are probably the two best -- best methods
19 from -- directly from the Weather Service.

20 Q. Okay. Thank you. If we could bring up Exhibit 077. Exhibit
21 077 please. And this will be a picture of the NOAA Weather radio
22 or NWR sites around Kodiak, Alaska. And as that's being brought
23 up, how often are the -- the National Weather Service forecasts
24 going out via NOAA weather radio, and how often are they updated?

25 A. Weather radio is a 24/7 service. So mariners can tune in at

1 any time to get that forecast. Forecasts are updated at least
2 twice a day, but can be updated more often when needed.

3 Q. Okay. And so when a -- when a forecast goes out, does that
4 automatically replace the older forecast, and how -- how -- how
5 long is that timeframe?

6 A. Yes. So anytime we make a forecast and we -- we hit send or
7 we publish that forecast, it immediately goes out through all our
8 destination methods. And for weather radio, it is a matter --
9 just a matter of -- of a few minutes. The cycle -- the cycle
10 is -- is -- is probably -- it can vary. I'll say it's generally
11 about five minutes long. So, at worst, I would say it would be
12 about five minutes.

13 Q. Okay. Thank you, Ms. Runyan. If we could bring up -- we can
14 take down Exhibit 77 and bring up Exhibit 55. And this exhibit
15 will be a web page made by the Ocean Prediction Center, a part of
16 NOAA, and it will provide experimental freezing spray graphics
17 using two different methods. Could you describe, I guess, the
18 background from which this website came, and -- and how long it's
19 been available?

20 A. This particular webpage has been around since 2014 I believe.
21 2000 -- yeah, 2014. There -- there are two algorithms, the
22 Modified Overland and the Stallabrass algorithm. I don't know
23 much about the Stallabrass other than that just that it's a
24 different algorithm, but it's along the same lines.

25 The Modified Overland algorithm was, I believe, developed by

1 a forecaster out of Alaska, but it -- it -- it has become
2 pretty -- pretty widely used and -- which is why now we're trying
3 to make it more -- more -- use it more. It -- it seems to have a
4 -- a good -- it seems to be -- it's good. Seems to be good.

5 So in trying to make better use of that and make it easier to
6 -- to see, we're trying to get everything to be graphical. So the
7 Ocean Predication Center has put together this webpage. The
8 algorithms indicate ice rate -- ice accumulation rates. And it's
9 -- it -- it -- it is -- I'm not sure if I'm answering your
10 question. It --

11 Q. Yeah, I'd like to just -- who is the -- yeah, I understand
12 the science behind it, it seems like it's developed there. But as
13 far as it being an experimental site, does the National Weather
14 Service or Ocean Prediction Center have a -- have a user base that
15 this is targeted at? Is this targeted at National Weather Service
16 forecasters for updating their guidance? Is this targeted for
17 mariners? Or is it just all of the above?

18 A. Yeah, it actually is all of the above. Although, it is a
19 public-facing webpage, so anyone has access to it. We -- when
20 they are talking about freezing spray, gales, things like that, we
21 -- we coordinate with the Ocean Predication Center so that
22 we're -- we're both on the same page, and all that -- that
23 information so we have access to it to help us in that
24 coordination. But because it's public-facing webpage, the
25 mariners -- mariners also have access to that.

1 Q. Okay. Thank you. Thank you very much. To your knowledge at
2 this point, have you received any feedback from the mariner
3 community about the website or -- or anything?

4 A. I -- I have not. I haven't heard. I do know that when this
5 was first developed, there was an effort. The National Weather
6 Service partnered with Environment Canada in an outreach effort,
7 and developed a flyer that was -- was distributed. I'm not sure
8 how or who all distributed it. It was -- it was via the web at
9 least.

10 And -- and I believe it was -- we also worked with the local
11 forecast offices to try to get it into the user's hands a little
12 more directly at least from the word that it's out there. And
13 that flyer had two methods to get feedback. One was a phone
14 number, and one was a web form that users could -- could use to
15 provide feedback. But I don't know how much we got.

16 Q. Okay. If we can bring up Exhibit 50 -- 054, 54, I believe
17 that's the flyer that you're speaking of. It has -- has a date
18 there around 2015 which is when you said that experimental site
19 there. So to your knowledge at this point, did that -- at that --
20 I believe if we can bring up now Exhibit 122, and that was a new
21 flyer between Environment Canada and the National Weather Service
22 in 2018 I believe. To your knowledge at this point, has there
23 been any feedback from the user community based on -- on this new
24 flyer from 2018?

25 A. I have not -- I haven't heard any.

1 Q. Okay. Thank you. Has there -- earlier you spoke about some
2 marine outreach programs. Of course, during non-COVID times of
3 more availability and being able to travel around, could you
4 please elaborate a little bit more on -- on how the Anchorage
5 office or Alaska region in particular would -- would do those?

6 A. When we find out about various expos, home shows, boat shows,
7 anything -- any type of event where we could possibly get some
8 sort of feedback -- Weather Service is always looking to improve
9 its products and services, and the best way to do that is to talk
10 with the people who use those products and services. So any
11 chance we get to do -- to get out and talk to people, we try to do
12 it at -- at least as -- as often as we can.

13 And it's -- it's -- those are -- those are great because we
14 can talk to -- to more of the actual users. Otherwise, we're able
15 to talk with, as I said, we've reached out a number of times to
16 harbor masters and -- and -- and tried to set up meetings and
17 discussions and things like that. Yeah.

18 Q. Okay. Thank you. To your knowledge, since you've been there
19 up in Alaska, has the -- the National Weather Service and United
20 States Coast Guard been able to collaborate on any marine
21 outreaches or flyers?

22 A. That's something that we also look -- look at doing. I don't
23 know in the last couple of years if we've been able to. Of
24 course, the last year has -- has been COVID, so that's really just
25 one year, and I wasn't -- I'm not aware of any in that particular

1 year. But I do know also that we are -- we talk to them when --
2 when -- whenever we can and -- and try to get feedback from them,
3 and offer our products and services. And we try to interact with
4 them as -- as -- as much as we can. So it -- it would be logical
5 then to -- to -- to work with them on various outreach efforts, I
6 just don't know of any in the last couple years.

7 Q. Okay. Thank you very much. As far as turning a little bit
8 back more towards the warning and -- and watch advisory, I
9 understand that when the National Weather Service does issue a
10 warning, watch, or advisory, whether it's marine or not, that that
11 warning goes through what's termed common alert protocol, or a
12 CAP, message is also provided. Can you kind of step me through
13 that particular process?

14 A. When -- it's -- it's changing a little bit from -- from when
15 it first began. We use -- since I started, we use a CAP version
16 1.1 quite a few years ago now, at least eight. And -- and -- and
17 I'm not sure how -- let me think about this for a little bit. So
18 when -- when we would issue a warning, we would send it out
19 through our standard means, standard method. FEMA would get that
20 message, and there was a system that would -- that would turn it
21 into CAP version 1.1 format.

22 But what we're going to in our -- and most of our -- our
23 warnings have gone to CAP version 1.2, and with that, we -- it --
24 that action of putting into the CAP format happens sooner through
25 CAP handler. And -- and turning -- so when we issue a warning, it

1 also -- as soon as we send it out, it basically runs through this
2 CAP handler where it is -- where the -- the -- the warning is then
3 -- what's the word -- created, generated into this -- put into
4 this digital format that anyone else can use, vendors can use, app
5 creators can use this digital format.

6 The actual process, obviously, it's probably clear I'm not
7 real clear on how that happens, just that it does. And it -- it's
8 in an effort to get our warning out in as many formats as we can
9 so that we can reach as many -- as -- as -- as many people as we
10 can. I hope I've answered your question.

11 Q. Oh, I think -- I think you established -- so it's basically a
12 message sent from a computer to another computer.

13 A. Yes.

14 Q. And -- and it's something that an app provider or -- or -- or
15 other website could -- could take from -- from the National
16 Weather Service and redistribute that?

17 A. Right. This -- it -- it -- it -- it's in a much shorter
18 format so that computers can parse out the appropriate information
19 more quickly than what it needed to do before when it was a
20 standard long text.

21 Q. Okay. Yeah, that -- that's helpful. And when I'm reading
22 through the -- the CAP messaging, I see there is categories for
23 urgency, or severity, or different things where things are listed
24 as minor, or moderate, or extreme as going through those
25 categories. Could you kind of step me through how those

1 categories are determined, which level, for example a tornado
2 warning will be this level, a heavy freezing spray would be this
3 level?

4 A. Those categories for urgency, severity, and certainty are --
5 are basically pre-determined based on what the warning is. And
6 those -- those categories, or those levels, we continue to refine
7 based on -- on user feedback, so -- that are pre-determined. If
8 we find out that it's not adequate, it'll update and change those
9 -- those levels of severity, certainty, urgency.

10 Q. Okay.

11 A. Now we'll -- their -- the Weather Service has service program
12 teams, and so each of those teams is focused on a particular
13 program area, severe, marine, public, winter. So those teams work
14 -- those teams focus on that particular program. And -- and --
15 instead of focusing on everything -- trying to focus on
16 everything, they can focus on one particular thing, and hopefully
17 have a better idea or better avenues of getting that feedback.

18 Q. Okay. Thank you. As far as -- you were mentioning earlier,
19 there is version 1.1 and version 1.2 of -- of CAP, are they
20 both -- are the CAP messages still both sent those -- via those
21 two versions at this point?

22 A. The marine -- so there -- there was a change, I can't really
23 describe well what -- what that change was, between version 1.1
24 and 1.2. But it -- it -- it involves -- so with version 1.2, we
25 rely heavily on VTEC coding which is -- which is a code in almost

1 all of our -- out advisories and warnings, watches, warnings and
2 advisories.

3 It -- however, in -- in Alaska waters, our zones are so
4 large, it is possible that we could have multiple and separate
5 storms in the same zone. Version 1.2 relies more heavily on the
6 zones. I don't think I'm very clear. It -- so with our marine
7 hazards, we could not go to 1.2 until we could figure out that
8 issue and how handle that issue of needing to -- to identify
9 multiple storms in a single zone since it was focused on one zone.

10 With 1.1, that constraint wasn't there. So for our marine
11 products, we are still at version 1.1 for the time being. We are
12 working with the developers though, and very soon -- very soon
13 they basically have found a way to -- to -- to compensate for
14 that. So very soon we'll be going to version 1.2 which
15 (indiscernible) a little more refinement to the CAP message.

16 Q. Okay, thank you. And just could you put a timeframe on very
17 soon? Are we talking about spring 2021, or summer 2021, or --

18 A. I -- I -- I think it could be in the next few months.

19 Q. Okay.

20 A. It's possible it's in the next few weeks.

21 Q. Okay. And I hear that the -- the National Weather Service is
22 working on something called I believe hazard simplification. How
23 will that interact with CAP and with that, would the forecasters
24 be able to change the categories of CAP? For example, this is a
25 heavy freezing spray, and it's, you know, happening in March, and

1 we've had, you know, a hundred heavy freezing spray-type events
2 already, but this -- but for example, a forecaster could
3 potentially edit the CAP version to -- to a higher severity in
4 October because this is the first heavy freezing spray and we want
5 to warn either the public or -- of the mariner community. Is that
6 part of this next initiative?

7 A. Not -- it's -- it's -- it's not part of this initiative, but
8 it is something that is being considered for the future. So right
9 now, if we -- these categories are pre-determined for the
10 particular hazards, advisory, or -- or -- or warning. With --
11 with hazard simplification, that is an attempt to make our
12 products and services less confusing.

13 A lot of people don't understand the difference between
14 our -- with our terminology on what's an advisory versus what's a
15 warning. What's a watch, you know, versus advisory. So that
16 hazard simplification is an effort to clarify our -- our -- our
17 products and services. The -- we have another program that is
18 being developed and -- and in stages called hazard services. And
19 hazard services eventually may have forecast -- will put the
20 capability into the forecaster's hands to adjust those -- those
21 levels of urgency, severity, and certainty.

22 Q. Okay. Thank you, that's -- that's very helpful. I believe I
23 have just one more question at this point, and it just goes back.
24 If we could bring up Exhibit 027 again, Exhibit 027. Again, this
25 is the forecast -- National Weather Service marine and land

1 forecast areas surrounding the accident site and west of Kodiak.
2 And about -- if you can describe, about how many heavy freezing
3 spray warnings are for that particular area for that timeframe?

4 A. Right. It -- it depends on the year. So that particular
5 zone, that area that's in purple that's most clearly -- most --
6 most -- most -- most centered in that -- in that ring is Marine
7 Zone 150, 1-5-0. And last year, which was a fairly cold year, in
8 December there were five times that a heavy freezing spray warning
9 headline was in the -- the forecast. So we had a warning out.

10 How we count those, it -- it -- it's based on that headline,
11 and if the headline is -- so that's how many times that headline
12 was in the forecast. However, we also tried to identify unique
13 events in an attempt to try to find the number of events that
14 actually occurred, a number of separate events. So there -- they
15 have been four out of those five that were unique events, although
16 there could be duplicates just based on how we -- how we counted
17 those. That was December.

18 In January of last year, the -- it jumped up to 48 times we
19 did headlines, possibly 43 with the caveat there could be some
20 duplicates in there of unique events. So January was the highest.
21 February, there were 28 headlines. And in March there were 33
22 headlines. As I said, those were -- that was a very cold year.
23 This year, in January, we had four. So last year we had roughly
24 45, and this year we had four. So it all depends on the year.

25 Q. Okay. Thank you, Ms. Runyan.

1 MR. SUFFERN: That's all the questions I have for right now.
2 I'll turn it back over to the Captain. Thank you.

3 THE WITNESS: Thank you.

4 CAPT CALLAGHAN: Thank you, Mr. Suffern. And I will now pass
5 it to Lieutenant Commander Michael Comerford for questions from
6 the Coast Guard.

7 BY LCDR COMERFORD

8 Q. Good morning, Ms. Runyan. Today, all of my questions are
9 going to be related to the work of the National Weather Service
10 and the realm of marine weather for Alaska, and how it relates to
11 the safety of commercial fishing vessels. Again, thank you for
12 being with us here today. We are going to ask you some questions,
13 and we'll take breaks if needed. If you need a break at any time,
14 please let us know and we can take a short break.

15 Now you were just talking about the number of advisories, or
16 the number of headlines for freezing spray events. And I just
17 wanted clarification, you had said the last year and you mentioned
18 December was I believe four or five, were you referring to
19 December of 2019 or December 2020?

20 A. '19.

21 Q. Okay.

22 A. So I was -- I was considering it a winter season, so it was
23 last winter season versus this winter season.

24 Q. Now with a person of your background, I would like to do a
25 little bit of a different exercise. I'd like to ask you to put

1 yourself on a boat operating in the area south of the Alaskan
2 Peninsula. From your experiences and try to put yourself in that
3 position, what weather sources would you think you would want to
4 seek out from the National Weather Service? And for each, just
5 provide a brief description of what type of information you would
6 see in those sources or reports, and how you'd expect to access
7 those sources on the vessel.

8 A. Okay. I would -- I would do some pre-planning before I
9 headed out. I would get on the computer, I would look at the
10 National Weather Service pages. I would look at the forecast page
11 from the Forecast Office. There is a -- a link at the bottom of
12 the main front page of -- of -- of the Weather Service site that
13 is specific for marine. So I would click on that -- that link and
14 look at the information there.

15 I would look at the Ocean Prediction Center, and then the
16 site that -- that was one of the exhibits. I would look at the
17 freezing spray forecast, but there is other information on there
18 as well. As -- if I had access to that information on the -- the
19 boat or the ship, I would look at it there as well.

20 I would look -- I would have a weather radio. I probably
21 would have it be playing in the background a little bit, or at
22 least have specific times that I -- I tuned in just to get kind of
23 the last minute forecast. At least then, that wouldn't require
24 the -- the bandwidth or the technology on the boat. I understand
25 that not -- not every -- not every vessel has the same technology

1 on board. So, yeah, those -- those are methods -- those are the
2 methods that I would use.

3 Q. All right. Now following that, I would -- I'm going to ask
4 you to take a look at a couple different text-based messages and
5 one graphical forecast product for the Alaskan waters in the days
6 leading up to the *Scandies Rose* incident. For each product, as
7 someone with your experience, I would like to ask you to describe
8 what you would hope a mariner would get out of the message.

9 So first, Lieutenant McPhillips, could you bring up Exhibit
10 029 and start at the page -- bottom of page one? If you need us
11 to zoom in at all, Ms. Runyan, please let us know, but this is the
12 synopsis for southwest Alaska including the waters south -- around
13 the Alaska Peninsula.

14 A. This -- this is for the other side of the Aleutian Islands.
15 If I was going to be on that side, I would look at that synopsis,
16 but if I was going to be near Kodiak, I would look at the next one
17 down that we just see the headline for.

18 Q. Yes. Mr. McPhillips, can you scroll down to the next?

19 A. Okay.

20 Q. And take your time reading it if you want, and once you've
21 gotten through internalizing, then you can -- when you're ready,
22 please share.

23 A. Right. So the first thing I would look at, I would notice
24 are the headlines. And there's one that's cut off, and I believe
25 it was a gale warning. So there's a gale warning and a heavy

1 freezing spray warning in effect for -- for Tuesday. That -- I
2 see heavy freezing spray warning for Tuesday night, I believe the
3 gale warning was also for that same time period.

4 So then I would scan down to look at the forecast, if I'm
5 planning on going out Tuesday, Tuesday night, if I'm planning on
6 going out Tuesday night, I would -- I would still look at the
7 Tuesday forecast just to see what kind of trend it -- it's
8 showing. So it -- it -- it's showing west winds 30 knots,
9 increasing in the afternoon. Gusts increasing, especially in the
10 bays and passes in the afternoon. Freezing spray to 17 feet.

11 And then when I look at Tuesday night, I see that conditions
12 are expected to be worse with improvement after -- with
13 improvement Wednesday night, or really Thursday through Friday.

14 Q. Now you've been there in the Alaskan region for about two --
15 a little over two -- almost three years now. That type of winds
16 and seas, is that typical for that time of year, or is that on the
17 higher end? Where would you --

18 A. That -- that's -- that's on the -- the higher end. It -- it
19 would be typical with a strong storm. Of course, it's not -- we
20 don't have strong storms every day. So, yeah, I -- I would say
21 it's -- it's -- it's high.

22 Q. Now the next message, Lieutenant McPhillips, could you bring
23 up Exhibit 030, the bottom of page two please? And when it comes
24 up, this is going to be the -- so this is the forecast for the
25 Shelikof Strait. But could you walk through the same exercise for

1 this message, please?

2 A. Okay. So this -- this product was issued at 3:30 on Monday,
3 3:30 afternoon -- 3:30 in the afternoon on Monday, the day before.
4 There was a gale warning in effect for Tuesday night, so it's --
5 it's in advance. So then I look for two -- if I'm planning on
6 going out Tuesday night, I'll look at Tuesday, saw that winds are
7 south 15 becoming 25. Seas increasing from three to six feet.
8 And then conditions worsening Tuesday night with -- with west
9 winds 35 knots, seas at nine feet, freezing spray.

10 Q. And, Lieutenant McPhillips, if you could just scroll up a
11 little bit to the previous message please? One -- when you look
12 at the two messages, the one from the morning of December 30th,
13 and the afternoon of December 30th, I noticed the freezing spray
14 notice is initiated on the afternoon forecast. Would this be
15 something as you're monitoring weather pop out at you or -- or be
16 prominent?

17 A. It -- it would be prominent. So the earlier forecast shows a
18 -- a -- a small craft advisory for tonight, but then the next
19 issuance introduces the heavy freezing spray warning. But if I
20 remember, I think it was shown there. And -- and I'm making sure
21 that I'm following along with the time periods that you're talking
22 about.

23 So earlier on -- 3:15 in the morning, Monday morning, we talk
24 about small craft advisory tonight. So that would be Monday
25 night. That would be first. So that's the one that is -- is --

1 is there. Then the next issuance, it -- it determined the need to
2 issue a warning for heavy freezing spray for the following night.
3 So then we added that next headline. So conditions were -- so I
4 would expect if I was hearing that and seeing that, that is an
5 indication that conditions are worsening.

6 Q. A little bit of a follow up to this one, in the previous
7 message for the waters south of the Alaskan peninsula, I -- I
8 recall the heavy weather -- or the heavy freezing alert being up
9 in this section with the gale warning. And in this message, the
10 freezing alert's down in the text product. Is -- is that the
11 threshold, is the heavy weather -- or the heavy freezing indicator
12 when it would go into the upper part of the message? Or is there
13 a threshold there that comes a sub-paragraph below the craft
14 advisory or the gale warning?

15 A. When we issue a warning or an advisory, that's when the
16 headline shows up. So we may identify freezing spray or heavy
17 freezing spray in the body of the -- of the text earlier. And
18 then when the warning or advisory is issued, that's when the
19 headline also shows up.

20 Q. All right, thank you. All right. And then the last one I'm
21 going to ask you to do this drill for, or this exercise.
22 Lieutenant McPhillips, could you bring up Exhibit 028, page one
23 please? And this one is going to be more graphical, and I'd like
24 you to focus on the -- because it covers a very broad area. But
25 up towards the middle -- just slightly off right center is the

1 Alaska area. For a mariner, what would you want them to get
2 generally from this type of graphical product?

3 A. When the lines come really close together and are really
4 packed, that is an indication of high winds. So when those lines
5 come together, we get high winds. It's a tightening of the
6 gradient.

7 Q. And is -- and is this is further substantiated with the
8 flags, how the flag indicators are displayed?

9 A. The wind bars, the -- the -- the -- the -- there's -- what I
10 see there -- the highest that I see there are with the -- the
11 triangle and that's 50, 50 knots. I can't tell if there's
12 actually 55 in there. It's -- it's pretty small. So my computer
13 just went black. It -- so we've got 45 to 50 knot winds along
14 with the where that gradient where those lines come -- come close
15 together.

16 Q. And then sort of helping me understand a little bit better,
17 yesterday we heard some testimony that they may monitor pressure
18 while they're on their way, and as they see the pressure raise,
19 they know, you know, things are going to be getting better. Could
20 you talk a little bit about, from your perspective, if that makes
21 sense, or how that would be a good indicator of improving
22 conditions?

23 A. It -- that does make sense. We have the stormier weather
24 near the low pressure system. And that is also where that --
25 those -- those isobars, those lines were -- were coming close

1 together. And then if you would follow that map farther to the
2 south where the high pressure is, you see the lines getting
3 farther apart, calming conditions.

4 Q. And then during the same testimony, we heard about mariners
5 calling, and forgive me, I'm using their terms, quote, "the Ice
6 Lady" to get updates on icing conditions while on the way or
7 before they leave the dock. Is this a familiar term to you, or --

8 A. It is, yeah.

9 Q. Could you talk a little bit about that?

10 A. We have -- we have a forecaster who -- who is the lead on the
11 ice desk, and I think a lot of people call her the Ice Lady. So
12 anyway. So, yes, mariners do reach out to -- to the forecasters
13 both on the regular -- the -- the public forecast desk, and -- and
14 on the ice desk, the Alaska's Sea Ice Program.

15 So we -- we do try to make ourselves accessible to -- to --
16 to -- to users of our -- of our products and services. So -- and
17 -- and on -- on the bottom of our marine statements, we -- we have
18 -- we -- especially when it's comes to headlines, advisories
19 and -- and warnings, we have a statement on the bottom that --
20 that -- that encourages people to give us feedback on conditions,
21 reports. Although, might (ph.) have those relayed to us.

22 Q. In your experience, have you received any feedback or know if
23 your office has received feedback?

24 A. I -- I know that -- I know that they have. There was a
25 recent event and -- and I know that we got feedback. So we do --

1 we do get some reports from mariners when -- when there's freezing
2 spray occurring.

3 Q. And just out of curiosity and if -- when you get reports on
4 the freezing spray back -- feedback from the mariner, is there any
5 validation done on the experimental algorithm that's being
6 produced, or -- even if it's not detailed, I'm just curious?

7 A. I -- it's -- it is -- it is a validation for the forecaster.
8 We do -- we have been not -- I don't know that we've gone through
9 an exercise of documenting directly those two things.

10 Q. Ms. Runyan, one other topic I was curious about was
11 collecting ship's weather data. We had brought up the exhibit
12 about the freezing spray observations. Are you familiar with any
13 other programs the National Weather Service has for collecting
14 ship's weather observations to help the weather forecast, and how
15 does that help?

16 A. There -- there is an effort, VOS, v-o-s, voluntary
17 observation -- I -- I guess I don't remember what it stands for.
18 But it's ship obs. So we -- there is a program that mariners can
19 sign up to do and that is to provide observations.

20 Generally that is observations every six hours. There are
21 times when it would be every two hours depending on -- on the
22 situation. But I think when -- when mariners have signed up for
23 that program, we do get other observations outside of those times
24 that are more specific to -- to freezing spray.

25 And we get -- it's not just for Alaska, it's -- it's all --

1 it's all over the globe I think, we do get them for the Alaska
2 waters. And we get -- we get a number, we'll say probably around
3 10 to 15 or so at any one synoptic hour. Synoptic is the every --
4 every six hours, zero, six, 18, Z, Zulu times.

5 Q. Now for these programs, is it any data is good data, or are
6 you looking for certain -- I mean from your perspective, is it --
7 are weather observations from a ship's captain valuable, or do you
8 have to have certain equipment to make these valuable input?

9 A. Any -- any information is valuable. We can -- we can make
10 use of anything. Of course, when we're talking ships and
11 mariners, wind and -- and seas are -- it's really what we're
12 looking for. But we would take anything.

13 Q. Lieutenant McPhillips, could you bring up Exhibit 121, page
14 13? What you'll see here is just a ship's log from a vessel. On
15 there, it notes some information about the weather. Northeast 25
16 increasing, some gusts information. So would this be valuable
17 information to include in -- for information fed back to National
18 Weather Service? Or is this -- I mean how would you rate this on
19 -- on a helpful scale?

20 A. It is -- it is helpful on a -- on a scale. I would say if
21 it's handwritten, it -- it's -- it's -- it is very good for
22 validating our forecast for our warnings -- watches and warnings.
23 We do make an attempt to -- to -- to verify those products. So
24 this is where we would get the most use out of this. If -- I
25 believe the -- the VOS thing, I think that's digital and we can

1 get them into our computer system. So that's easier to do, but
2 this is great for after the fact.

3 Q. Now shifting gears ever so slightly. A little while back
4 both of us were on an interview with a third-party app called
5 Windy App. Just from your recollections, could you describe what
6 the -- that company did? What -- like what their actual work was,
7 and how they got the weather to present to their end users?

8 A. As I recall, they use model data. They actually have -- so
9 users of this app can select which model to look at it. It is
10 straight model data. So there's no forecaster intervention. And
11 I believe they also pull in our -- the Weather Service advisories
12 and warnings.

13 Q. So there's always differences in how third-party apps present
14 the data, how National Weather Service presents the data. I'm --
15 I'm a little curious, are you aware of any efforts or initiatives
16 by the National Weather Service on the potential of incorporating
17 positive aspects of third-party sites into deliverable tools? In
18 other words, has the National Weather Service evaluated developing
19 dynamic weather tools with improved user interfaces?

20 A. Are you asking if we've considered making our own app? Or
21 are you asking if --

22 Q. Oh, no.

23 A. -- we would use somebody else's app in -- to incorporate into
24 our products and services?

25 Q. I'm actually more curious just if there's been work groups on

1 sort of comparing what these products are and what the future
2 goals of the National Weather Service are. I'm not getting into
3 specifics, but just if there's been work groups started on the
4 future deliverables by the National Weather Service with expanded
5 technology?

6 A. There is a group -- there is a group in the Weather Service
7 called the Emerging Tech Team. I have not been on that team, so
8 I'm -- I don't know. But -- but by the name, I would imagine
9 they're always looking at the future and -- and where we might
10 need to go.

11 Q. Thank you very much.

12 LCDR COMERFORD: Captain Callaghan, at this time, that's all
13 my questions.

14 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

15 I'll now turn over to PII. Mr. Stacey, do you have any
16 questions, sir?

17 MR. STACEY: No questions for us, thank you.

18 CAPT CALLAGHAN: Okay. Then I'll turn to Mr. Barcott.

19 MR. BARCOTT: No questions from us, Ms. Runyan. Thank you
20 very much for your time this morning.

21 CAPT CALLAGHAN: Okay. Back to NTSB. Any follow-on
22 questions from NTSB?

23 MR. SUFFERN: I have one follow-on question, Captain.

24 BY MR. SUFFERN:

25 Q. Ms. Runyan, just going back to the -- the text forecast that

1 was discussed earlier, and that talked about wind conditions
2 available, whether it was 25 knots or 30 knots, does that include
3 gust information, or is that just sustained winds?

4 A. That is the -- that is the -- the highest wind -- the highest
5 wind expected.

6 Q. Okay. So a -- a mariner if they see 25 knots, that would be
7 the highest wind that they could expect within their -- in that
8 area?

9 A. Yeah. I -- I -- I -- I believe it's sustained.

10 Q. Okay. So there could be potentially higher gusts within
11 that? I saw in one of the forecast zones it was specified out of
12 bays and passes, but at other times it could just be higher gusts
13 in that area?

14 A. Um-hum.

15 Q. All right. Thank you, Ms. Runyan.

16 MR. SUFFERN: That's all the questions I have, Captain.

17 CAPT CALLAGHAN: Thank you, Mr. Suffern.

18 Follow-on questions from Commander Karen Denny.

19 BY CDR DENNY:

20 Q. Good morning, and -- and thank you for presenting this
21 information. I did have two questions for clarification. When we
22 were talking about how there are products that you were at version
23 1.1 and the marine side had to stay at 1.1 when other products
24 went to 1.2, I just needed some clarification from you on were
25 there any -- by not switching to 1.2, was there any potential for

1 inaccuracies in the product?

2 A. There -- there was one difference, and that is between 1.1
3 and 1.2. That was in the severity of the freezing spray -- heavy
4 freezing spray warning. One being the -- 1.1 gave a severity of
5 moderate, and 1.2 would give a severity of severe in the CAP
6 message.

7 Q. So for my clarification, if -- so now it's still at 1.1, and
8 it'll switch to 1.2 in a few months. So -- okay, I'm just going
9 to drag out my notes, right

10 A. Yes. Yes.

11 Q. So what you're saying is, when it switches to 1.2, the -- the
12 readout or what it'll give is not both moderate and severe, it'll
13 just give the severe, is that right? Did I understand that
14 correctly?

15 A. Well, let me see if I can clarify. The -- the -- the CAP
16 message has a pre-defined level of severity for a heavy freezing
17 spray warning. And 1.1 has that severity set at moderate. 1.2
18 has that severity set at severe. That is in the CAP message
19 alone.

20 Q. Okay, understood. So then what would be the difference the
21 end user would see between, let's say, same weather like in
22 version 1.1 and 1.2, what would the end user see?

23 A. So the Weather Service, I think the difference would be most
24 noticeable in how that CAP message is displayed on various apps.
25 So if a particular warning was shaded one color for moderate and a

1 different color for severe, it would have two different colors.
2 That is -- that is -- is -- it's really how the vendor or the app,
3 how that developer chooses to show it.

4 For a little bit of clarification, I think that I would like
5 -- also like to make. When we issue a warning -- maybe it's not
6 clarification, maybe it's reiteration -- that when we issue a
7 warning, we issue a warning regardless of whether it is moderate,
8 severe, or extreme icing rate. All of those three categories are
9 lumped into a single warning.

10 Q. Okay. Thank you. That does clarify it for me. I appreciate
11 that. And then when you mentioned that you talked about the
12 hazard services separately, separate from the CAP, that -- that in
13 the future it will allow the forecaster to adjust the levels of
14 the three different categories that you mentioned.

15 A. It -- it may. It is being considered.

16 Q. Okay, thank you for that clarification. To -- to what
17 extreme -- I guess how much would it allow the forecaster to
18 adjust, and then does that reflect in the product that an end-user
19 would see, that it was adjusted?

20 A. So the idea behind that is, for example, if we issued a
21 winter storm warning, we might bump up the severity based on the
22 timing, and that's why this is only being considered. There are
23 lots of details that have to get worked out on -- on how this
24 could work.

25 But the idea is if this is the first heavy snow of the year

1 and it is going to occur at rush hour, it's going to cause a much
2 larger impact, a much bigger impact to the public than an equal
3 level storm at the end of the season when everybody's used to
4 driving on -- on the snow.

5 So we could bump up that -- that severity a little to
6 heighten the awareness of that particular event and -- and
7 hopefully urge people to use more caution. So that would be
8 the -- the reason. It -- it wouldn't likely to be to lower the
9 severity, but rather at certain times increase the severity.

10 Q. Okay. So if you apply that to the marine application side of
11 things, what would be some ways that a forecaster could -- could
12 reasonably use that discretion?

13 A. If -- if we had a resolution in our products that we could
14 identify those passes or bays that have increased impact from
15 certain value winds, we could bump up that severity level. I
16 don't see us ever lowering it for any reason. We would only bump
17 it up to raise the awareness for that hazard in -- in that
18 particular area, that strait, that gap.

19 Q. Thank you.

20 CDR DENNY: Captain, I have no further questions at this
21 time.

22 CAPT CALLAGHAN: Thank you, Commander Denny.

23 Thank you, Ms. Runyan.

24 BY CAPT CALLAGHAN:

25 Q. So I just have a quick follow-on here. So based on your time

1 in Alaska now, and your interaction with the industry regarding
2 some of your outreach effort, is the experimental freezing spray
3 website widely used?

4 A. I don't know. I don't know. I -- I -- I can infer that
5 since we haven't received any feedback on that, that they may not
6 know that it's out there.

7 Q. Okay, and I thank you for that. And so in -- along the same
8 lines, sort of are there increased opportunities to -- to raise
9 awareness for that website, and that -- that source of information
10 to the marine time industry?

11 A. I think -- so we have -- our forecast office has teams, and
12 we have a marine team. And that marine team would also have an
13 outreach team and impact decision support services team. And
14 these teams are working together to find -- to -- to -- to look
15 for ways, look for times, look for opportunities to interact with
16 our -- with the users of our -- users of our products and
17 services. So we continually do that.

18 And -- and it -- and one of the things that would be nice is
19 if mariners would reach out to us looking for information, or
20 telling us when there are gatherings. Maybe there's some -- some
21 user meeting or harbor master's meeting and they would like to
22 invite us to talk about what products and services that we offer
23 that we provide, and then we can explain in more detail about
24 those products and services. And -- and -- and that would include
25 not just what -- what we do in our office, but we also talk about

1 the products and services that are available through other
2 websites, like the Ocean Prediction Center.

3 Q. Okay. And so last thing here, I just want to get your sense
4 based on what we've discussed here today, is there anything else
5 with regards to the weather that this board should consider as
6 part of this investigation that we didn't go over here today?

7 A. Not that I can think of.

8 CAPT CALLAGHAN: Okay. Well, Miss -- Ms. Runyan, I -- I do
9 thank you for your time today. I thank you for your -- for this
10 testimony. And I want to take the opportunity to thank you for
11 the work that you do with the National Weather Service to provide
12 that valuable information to the public on a regular basis. So
13 thank you for that.

14 At this time, you are released as a witness at this formal
15 hearing. Thank you for your testimony and cooperation. If I
16 later determine that this board needs additional information from
17 you, I will contact you through your counsel. If you have any
18 questions about this investigation, you or your counsel may
19 contact the investigation recorder, Lieutenant Ian McPhillips.
20 Thank you, Ms. Runyan.

21 (Witness excused.)

22 CAPT CALLAGHAN: It is now 9:53, we'll -- we're going to take
23 a recess. Next scheduled witness was scheduled to start at 10:30.
24 We'll work to -- if the opportunity presents itself for that
25 witness to start early, we will make a public announcement and

1 resume earlier. At this time, we'll go into recess with a
2 scheduled time -- start time at -- I'm sorry, 10:45. We now are
3 in recess.

4 (Off the record at 9:53 a.m.)

5 (On the record at 10:17 a.m.)

6 CAPT CALLAGHAN: Okay, the time is 10:17, this hearing is now
7 back in session. We'll now hear testimony from Mr. Ed Ehler.

8 Mr. Ehler, Lieutenant McPhillips will now administer your
9 oath and ask some preliminary questions of you.

10 THE WITNESS: Okay.

11 LT McPHILLIPS: Please stand and raise your right hand.

12 (Whereupon,

13 EDWARD EHLER

14 was called as a witness and, after being first duly sworn, was
15 examined and testified as follows:)

16 LT McPHILLIPS: Please be seated. Please state your full
17 name and spell your last name.

18 THE WITNESS: Edward Arnie (ph.) Ehler, E-h-l-e-r.

19 LT McPHILLIPS: Please identify counsel or representative if
20 present, and have them state and spell their last name as well as
21 their firm or company relationship.

22 THE WITNESS: Just myself.

23 LT McPHILLIPS: Please tell us what is your current
24 employment and position?

25 THE WITNESS: I am employed by Lovrics SeaCraft, Inc. I am a

1 project manager.

2 LT McPHILLIPS: What are your general responsibilities in
3 that job?

4 THE WITNESS: I do all the -- the docking, pretty much
5 everything. I oversee the projects start to finish.

6 LT McPHILLIPS: Can you briefly tell your relevant work
7 history?

8 THE WITNESS: Well, I've been doing this for the last 30
9 years.

10 LT McPHILLIPS: What is your education related to your
11 position?

12 THE WITNESS: I'm a high school graduate.

13 LT McPHILLIPS: And do you hold any professional licenses or
14 certificates related to your position?

15 THE WITNESS: No.

16 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
17 have follow up questions for you.

18 CAPT CALLAGHAN: Mr. Ehler, thanks again for being with us
19 today. I'm going to now turn it over to Commander Karen Denny
20 from the Coast Guard to start questions, sir.

21 EXAMINATION OF EDWARD EHLER

22 BY CDR DENNY:

23 Q. Good morning, Mr. Ehler. Good to see you, and thanks again
24 for being here. If at any point we ask a question that you don't
25 understand or can't hear because of technical difficulties, just

1 stop us, let us know, and we'll repeat or rephrase the question.
2 We're going to take breaks throughout the hearing, but if you need
3 a break, just let us know.

4 Also, since we're using this virtual platform, we're going to
5 share exhibits virtually, so it'll show up on your screen. The
6 recorder, Lieutenant McPhillips, will put an exhibit that we talk
7 about. But if you need to -- if I ask you to point something out
8 and you need us to zoom in or focus on it, please just ask for
9 that to get zoomed in on and then we'll confirm that that's what
10 you want to show us, does that make sense?

11 A. Yep.

12 Q. Excellent. Thank you. In this testimony, we may ask you
13 about the invoice for the dry docking and repair work on the
14 *Scandies Rose* in 2019. And that is Coast Guard Exhibit 111.
15 We're also potentially -- oh, we'll -- we'll put it up, sir.
16 We'll put it up.

17 A. Just -- I -- I have it in front of me here.

18 Q. Okay, right on. We're also going to look -- look up some
19 other exhibits which we'll put up on your screen including the --
20 the Lovrics dry dock work list and some pictures of the *Scandies*
21 *Rose* to better understand it, okay?

22 Okay. So to follow up on Lieutenant McPhillips' questions of
23 you, could you talk us through your background as it relates to
24 being the project manager at Lovrics?

25 A. Okay. I started building boats from very young. I built a

1 big boat and went cruising through the Caribbean. Went to school
2 at Florida Institute of Technology to study underwater habitats.
3 I started doing diving. Found out I like to do diving more than I
4 did in school so I kept the diving issues going.

5 I've done a lot in my life. I have tug boats. I build
6 boats. I came up here to retire from Lovrics 10 -- 12 years ago.
7 Mr. Lovric had died and passed on, and the yard was kind of
8 dwindling. I kind of took it under my belt and here I am.

9 Q. So 10 years at Lovrics shipyard?

10 A. Well, since 2009.

11 Q. Understand. Okay. Lieutenant McPhillips, could you pull up
12 Exhibit 004, page five, and here we're going to see some photos of
13 the *Scandies Rose* when she was hauled out. So, Mr. Ehler, for --
14 for your benefit, this exhibit is the condition and valuation
15 survey done by a marine surveyor.

16 A. Okay.

17 Q. So can you see those -- those images well enough, or do you
18 need us to zoom in?

19 A. No, I think I can see them pretty well.

20 Q. Excellent. Could you -- could you explain, can you briefly
21 explain what we're looking at right here?

22 A. Okay. You're looking at the bottom of the boat sitting on a
23 railway. It's a rail system that's, you know, it goes on tracks
24 that goes down -- back into the water. In other words, we lower
25 the rail down there, the boat comes into it, and then we haul it

1 up on to the beach.

2 Q. Okay. And can you identify based on what you see here, can
3 you just confirm, is this the *Scandies Rose*?

4 A. This is the *Scandies Rose* and it's obviously been freshly
5 repainted, ready to go. It's probably pictures of it before it
6 went back in the water.

7 Q. Okay. Based on your -- the -- the background and these
8 images, can you verify that these photos were taken at Lovrics
9 shipyard and (indiscernible)?

10 A. Yes. Yes, I had to take a quick look here, but it's
11 definitely Lovrics.

12 Q. Okay. So, Mr. Ehler, had the *Scandies Rose* been hauled out
13 or any work done dock side at Lovrics in the past, before 2019 to
14 your -- to the best of your recollection?

15 A. I do not believe so. I think this was the first haul-out we
16 did.

17 Q. Okay.

18 A. It might have been state side for a while. I can look on my
19 computer to verify it because it would be in my records.

20 Q. Okay. So we'll -- we'll take a note on that, and we'll --
21 we'll verify that information with you on a side bar. So for the
22 2019 dock -- dry dock, how -- how did it come to pass that it came
23 to Lovrics? Did you -- did you bid on the job? How does that
24 work?

25 A. No. I've done other work for the owner of the boat. He has

1 other -- other vessels and we've been maintaining his vessels for
2 a few years prior to 2019. I think his first one we did was 2016
3 I believe.

4 Q. Okay. And -- and when -- since the *Scandies Rose* had
5 multiple owners, could you clarify for me which owner you're
6 talking about?

7 A. Dan Mattsen.

8 Q. Okay. Roger that. So how much in advance notice did you get
9 in terms of -- like as a head's up, we need to bring the boat in,
10 can you accommodate us? How did that happen? Can you briefly
11 walk me through it -- walk me through it?

12 A. I think she -- he has a port engineer who contacted me
13 probably within 60 days. I -- I had plenty of notice of when it
14 comes up. Typically, the shipyard, it takes a couple of months to
15 be -- get scheduled in.

16 Q. And there was nothing abnormal to the best of your
17 recollection in terms of the timing for the *Scandies Rose* needing
18 to get -- or the scheduling for that?

19 A. No.

20 Q. Okay. So you got -- you got ample notice?

21 A. Ample notice, and the (indiscernible).

22 Q. And then could you for our benefit, that port engineer, would
23 you mind telling me who that is?

24 A. Gelia Cooper.

25 Q. Gelia Cooper was acting as the port engineer. And she -- so

1 she contacted you about that? Understood. Okay. So was there --
2 did you at any point interact with any other person identifying
3 themselves as a port engineer on behalf of the *Scandies Rose*?

4 A. The skipper of the boat when it came in, there was some small
5 discussion, he had a wish list of what he would like to see done.
6 That was short. We didn't -- there wasn't very much communication
7 there, but most -- all my communication was through Gelia Cooper.

8 Q. Okay. And -- and again, when you said small wish list from
9 the owner, are we still talking about Dan Mattsen? Oh, you said
10 the skipper, I'm sorry. So who was that, sir?

11 A. The skipper. I cannot remember his name.

12 Q. Okay. All right.

13 A. I usually have contact with the skippers for a short period,
14 as, you know, they want off the boats, you know, they're --
15 they -- they park the boat and they want to get. So, you know,
16 they -- usually they communicate with the port captain, with
17 Gelia, you know, giving them a list of things that they feel that
18 they need to have looked at and this sort of thing, so --

19 Q. Did you --

20 (Simultaneous speaking.)

21 A. (Indiscernible) conversation.

22 Q. Understood. You had a brief conversation with the skipper.
23 Did you -- were you given anything in writing from the skipper as
24 far as a work list?

25 A. I believe I had a list to start off with which changed over

1 the period of time.

2 Q. And do you still have a copy of that list?

3 A. I do not. I looked and looked for it, I cannot find it.

4 Q. Okay. Lieutenant McPhillips, could you please pull up --

5 A. Generally, these lists -- go ahead. Generally, these lists
6 change dramatically throughout the whole project. This was a --
7 kind of a short, mostly paint work.

8 Q. Okay. Lieutenant McPhillips, could you please pull up Coast
9 Guard Exhibit 091 which is -- Mister -- Mr. Ehler, for your
10 benefit, that is Lovrics 2019 dry dock work list as of 13 May.

11 A. Okay.

12 Q. So, sir, I'm going to give you a minute to -- to just get
13 yourself familiarized with that. Let us know if you want us to
14 zoom in.

15 A. No, I can see it good.

16 Q. Okay. Does this list look familiar to you?

17 A. Yes. Yep.

18 Q. And do you recall who gave you that -- that list?

19 A. Gelia.

20 Q. Gelia gave you the list. Okay. Were there -- so that is a
21 one-page list, and -- and that's what you were given at the
22 beginning of the dry dock, is that correct?

23 A. Correct.

24 Q. Okay. So based on the list of this --

25 A. The best, you know, again, the list changes. This is her

1 format, and yes, it's -- I could not find this one. I usually
2 keep them stapled together. I, you know, it could have been a
3 little bit different when it first started off, but this is the
4 list that we went by, yes.

5 Q. Okay. No, that -- that's good. So in relation to this list
6 here, and we'll -- we'll leave that up for a little bit, did
7 Lovrics SeaCraft engage in the work meaning did your employees do
8 the work, or did contractors do the work?

9 A. No, we did the work on this list.

10 Q. Okay. So -- so Lovrics employees did it, all of this?

11 A. Ryan was a subcontractor for the boat, he used to work on the
12 boat.

13 Q. Okay.

14 A. And I believe that he billed it through Lovrics, I need to
15 verify that. No, we billed it through Lovrics, yes.

16 Q. Okay.

17 A. So this is -- he was acting as an employee.

18 Q. Okay. So then did you -- did you oversee all of these
19 projects for the work on the *Scandies Rose* in 2019?

20 A. Yes.

21 Q. Okay. Was -- so when you did that, how often did you go on
22 board the *Scandies Rose* in the dry dock, or at the dock?

23 A. I was on board at least twice a day.

24 Q. Okay. Was there any of the work that was not done by Lovrics
25 SeaCraft Incorporated employees that was outside of this work

1 list?

2 A. They do have some of their own vendors that come in, and I
3 can't say that I know. At the time -- I do not believe that they
4 had too many vendors on it, but there were, you know, they'd buy
5 and purchase and use other vendors which I, you know, they -- they
6 have a, you know, supply us with USL&H and -- and insurance, and I
7 don't have a record for any -- at this period of time.

8 Q. Okay. So for those outside vendors, and I'm just going to
9 ask you, to -- to best of your recollection, if you could think
10 back to that -- that timeframe when the *Scandies Rose* was dry
11 docked at your facility, or dock side at your facility, if you
12 could think back to any interactions that you had with outside
13 vendors that had to come in to do any kind of work on the *Scandies*
14 *Rose*? Do you recall any conversations or any specific vendors
15 that might have come to do any projects?

16 CDR DENNY: Oh, did we lose Mr. Ehler? I think we may have
17 lost Mr. Ehler.

18 CAPT CALLAGHAN: Yes, we did.

19 CDR DENNY: Okay.

20 CAPT CALLAGHAN: He's back.

21 CDR DENNY: Mr. Ehler, are you back with us?

22 CAPT CALLAGHAN: Sir, can you unmute yourself, pleas?

23 LT PELS: I believe he's (indiscernible).

24 THE WITNESS: I'm okay.

25 CDR DENNY: All right, we're back.

1 THE WITNESS: Okay now?

2 CDR DENNY: We got you, sir. Yes, we can hear you.

3 BY CDR DENNY:

4 Q. Okay, so where we were is I was asking you to -- to think
5 back if there were any outside vendors that -- to the best of your
6 recollection that worked on the *Scandies Rose*, and if you remember
7 any projects that they were doing that were outside the scope of
8 your work list.

9 A. The only one that I can think of is refrigeration as we do
10 not do refrigeration work here in the yard ourselves. And
11 generally, at least the style of boats have some refrigeration
12 maintenance to do. We don't -- we often --

13 CDR DENNY: I've lost him. Okay, Mr. Ehler, if you can hear
14 us, you are frozen. So we're going to look to -- we're going to
15 look to maybe shift you to the phone if you can hear me. Does
16 anybody else hear him?

17 LT PELS: I have him on the phone.

18 CDR DENNY: Okay.

19 LT PELS: (Indiscernible).

20 CDR DENNY: Okay. Okay, so for the benefit of the public, we
21 are having some technical difficulties and we're just going to
22 shift the witness over to a different platform so that we can
23 better hear him.

24 LT PELS: You're still muted on the computer. We're thinking
25 about moving you to a cell phone.

1 Mr. Fawcett, I believe we'll need this microphone turned on.

2 CDR DENNY: Mr. Ehler, can you hear us on the cell phone?

3 THE WITNESS: Okay, I can hear you on the cell phone. I
4 think I got you back on the screen also.

5 CDR DENNY: Let's just mute him on the phone, and then we'll
6 try this and -- otherwise, we'll shift it back. Okay.

7 Mr. Ehler, sorry for the technical difficulties, and thanks
8 for your patience.

9 BY CDR DENNY:

10 Q. So the last thing I heard you say was that a refrigeration
11 company was the only subcontractor that you recall as far as work
12 that needed to be done on the *Scandies Rose* while she was at your
13 facility?

14 A. Correct.

15 Q. Is that correct?

16 A. Correct.

17 Q. And so I do have a question with regards to that. How much
18 oversight did you have to do for those subcontractors?

19 A. Just safety to make sure that they were doing what they
20 needed to do.

21 CAPT CALLAGHAN: Sir, can you -- if you can hear us, we're
22 going to switch you over to the phone line. We're going to use
23 that as our primary from this point.

24 LT PELS: Yes, sir, this is Lieutenant Pels. We're going to
25 just go through cell phone now and not Zoom.

1 THE WITNESS: Okay.

2 LT PELS: If you will speak for a couple seconds to see if we
3 can pick you up on the cell phone on to our livestream system.

4 THE WITNESS: Okay. Mary had a little lamb, the lamb loved
5 lamb. Now is that working?

6 LT PELS: Hold on one second, I'll let you know.

7 THE WITNESS: Okay.

8 LT PELS: Okay.

9 CDR DENNY: Okay, Mr. Ehler, can you hear me?

10 THE WITNESS: I can hear you.

11 CDR DENNY: Excellent. Thank you, sir.

12 BY CDR DENNY:

13 Q. Okay, so -- so I understand that you just said safety in
14 terms of oversight for the outside contractors. What about other
15 oversight as far as making sure that the scope of work was
16 covered? Was there somebody else at the facility checking for
17 those things?

18 A. No, it was pretty much my responsibility.

19 Q. So if they did not meet the scope of work of whatever they
20 were subcontracted for, there was nobody overseeing that
21 physically, is that correct?

22 A. Not from -- not from the yard. Not from -- not from Lovrics.

23 Q. Right. So for my clarification, was there anybody from the
24 *Scandies Rose* that was overseeing the scope of work since you were
25 just --

1 A. That would have -- that would have been Gelia Cooper. And
2 there was another -- I'm trying to remember, Randy -- or they had
3 another, he was an outside contractor I believe that they -- they
4 hire for overseeing dry dock work and his name was -- it'll come
5 to me. Not Randy -- keep going on, the name will come up.

6 Q. Okay. Mr. Ehler, so I was actually going to try and share
7 the screen with you on some work from the condition and valuation
8 survey on Exhibit 004. Lieutenant McPhillips, could you go to
9 pages 43 and 44? Mr. Ehler --

10 MR. BARCOTT: Commander Denny, if I can interject for a
11 second, I don't -- I'm not sure about Mr. Stacey, but I'm unable
12 to hear Mr. Ehler on the telephone line through the Zoom
13 connection.

14 UNIDENTIFIED SPEAKER: Take a five minute recess?

15 THE WITNESS: I'm having a very difficult time hearing you.
16 (Simultaneous speaking.)

17 UNIDENTIFIED SPEAKER: Let's do that, about five minutes
18 maybe.

19 CAPT CALLAGHAN: We're going to -- we're going to take a five
20 minute recess at this point just to -- to work out some of the
21 technical difficulties. Please stand by. Five minute recess, it
22 is now 10:40.

23 THE WITNESS: Okay.

24 (Off the record at 10:40 a.m.)

25 (On the record at 10:45 a.m.)

1 CAPT CALLAGHAN: Okay, it is now 10:45 and we are -- the
2 hearing is back in session. Back to Commander Denny.

3 BY CDR DENNY:

4 Q. Okay, thanks, Mr. Ehler. So right now we have Exhibit 004
5 which is the condition and valuation survey done for the *Scandies*
6 *Rose* in 2019. We're on page 43. And I'm going to have Lieutenant
7 McPhillips slowly scroll through this as it is essentially a work
8 list. And I'd like for you to take a look at it and verify that
9 this was the work done in your shipyard. So go ahead and look at
10 that, and then tell us when you need us to scroll up.

11 UNIDENTIFIED SPEAKER: Oh, no, it appears his phone is gone.

12 BY CDR DENNY:

13 Q. Mr. Ehler, does all of that look familiar to you in terms of
14 what was done at Lovrics?

15 A. No. Not at the 2019.

16 Q. Okay. So let me rephrase.

17 (Simultaneous speaking.)

18 A. (Indiscernible).

19 Q. Okay, were the -- was the -- the vessel was hauled out like
20 we talked about, and was the hull cleaned and coated?

21 A. Yes.

22 Q. Were zinc anodes replaced?

23 A. Yes.

24 Q. Was a pinhole leak in the port aft fuel tank repaired?

25 A. Not to my records here, no.

1 Q. So, Mr. Ehler, like, if you look at the screen right now, we
2 have the work that was done at the shipyard. My apologies, what
3 we had on screen was for the previous 2000 -- the previous work.
4 So if you could look at paragraph 20 --

5 (Simultaneous speaking.)

6 A. (Indiscernible) okay.

7 Q. Yep, paragraph 20 where it says this was done during the 2019
8 shipyard period, does this -- does that jog your memory?

9 A. Can you just -- (indiscernible).

10 Q. Okay.

11 A. You know, this is more like the 2019, yes.

12 Q. Okay. So do you recall having fixed a pinhole leak in the
13 port aft fuel tank?

14 A. I don't recall. It might have -- it might have been very
15 quick one, but normally like that -- it's something -- I don't see
16 it in my records, so I have -- you know, my guys that might do
17 because they did not report it on the time cards, nor did I show
18 on -- on an invoice.

19 Q. Okay. So -- so based on your records, you do not know who
20 did that work?

21 A. I do not.

22 Q. Okay. How about a pinhole leak in the port water tank
23 repair? Do you -- do you have any record of that?

24 A. I have -- I have one with a crack in port stern. I do not.

25 Q. Okay. That is fine. Did you guys do the shaft packing

1 renewal?

2 A. Yes.

3 Q. And the rudder post packing renewal, did you guys do that for
4 the port packing gland?

5 (Simultaneous speaking.)

6 A. We did not do the -- we did not do the packing gland and the
7 rudder post. I believe the crew on the vessel did that.

8 Q. Okay. How about a hole in the port strut being welded? Did
9 your crew -- or did your -- did Lovrics employees do that?

10 A. We did that.

11 Q. The snag on a transducer being welded, did your employees do
12 that?

13 A. We did that.

14 Q. How about areas of wear on the deck were removed, the steel
15 deck below welded and repaired as necessary? Was that your -- was
16 that Lovrics shipyard employees?

17 A. That was not us.

18 Q. Let me just -- for the record, that was not your employees,
19 is that correct?

20 A. Correct. It was not our employees.

21 Q. Do you know who did that work?

22 A. Probably the crew.

23 Q. Is there any other work that you and I have not talked about
24 that you have on your paperwork?

25 A. No, I think -- no, I think we've pretty much covered it.

1 (Indiscernible) very little steel work. We did some
2 (indiscernible) on the PTO's hydraulics.

3 Q. Okay. Okay. So, Mr. Ehler, I'd like to shift the -- the
4 conversation a little bit to focusing on welding work for the
5 *Scandies Rose*.

6 A. Okay.

7 Q. You mentioned multiple times that you've said that you guys
8 have done -- you guys did very little welding work on that vessel.
9 We're aware of a project to replace wasted steel in an area around
10 the forward starboard chute, overboard chute. Were you involved
11 in any way or arranged for this welding work to be done?

12 A. No, I was not aware of it.

13 Q. Does the company named Aztec Welding, does that sound
14 familiar?

15 A. Does what?

16 Q. Aztec Welding.

17 A. Aztec Welding was a subcontractor that they used, but he was
18 not in our yard.

19 Q. Okay. Okay. So you said that you were on the vessel about
20 twice a day. For about how many days were you on the boat -- or
21 was *Scandies Rose* at dry dock?

22 A. It was mostly in dry dock. It was not, you know, it was at
23 the pier, right, we're maybe on the vessel maybe two or three
24 days. Pier-side work happened, let's see, it would be -- I
25 believe she was up in dry dock for approximately two weeks.

1 Q. Okay. So during that time, so then you were on the vessel
2 approximately twice a day. So if I could, you know, help you jog
3 your memory, there was another overboard chute on the starboard
4 side. The, you know, right side of the vessel, but it was back
5 aft. Did that chute get closed in your shipyard?

6 A. No. I got a picture of the boat here. Starboard side aft,
7 no, we did nothing around the works (indiscernible) steel work.

8 Q. Okay. Thank you. So I -- I do have some general questions
9 for you. When there's welding done on your premises, does that
10 require you to issue a hot work permit?

11 A. Yes, depending upon where it's at, but, generally, yes.

12 Q. And did the yard issue a hot work permit for the jobs that
13 you did do?

14 A. No.

15 Q. So you guys did some welding work, but did not do a hot work
16 permit, and tell me why please?

17 A. Because there is simply -- we're not in -- in a confined
18 space. The fire department here in (indiscernible) does not
19 require that unless it's more in -- in a confined, you know,
20 you're under the (indiscernible). Everything we did was like
21 we've done welding, a very small amount of welding work.

22 Q. And --

23 A. So we're not required to have a hot work permit.

24 Q. Understood. And then for any of the subcontracting work that
25 you did have to do, were any hot work permits required?

1 A. I believe we had a hot work permit in the -- within the yard,
2 no. No, nothing was ever issued in -- for -- for the yard.

3 Q. Thank you.

4 A. I would know.

5 Q. Okay. So did you make any recommendations for any work for
6 the *Scandies Rose* where a decision was made by the crew, or the
7 captain, or the owners where that work wasn't done?

8 A. Well, I know that they -- they asked me, you know, on -- on
9 the shipyard, so do I get asked lots of, you know, you know,
10 questions of what they should do. So I give advice and it's up to
11 the -- the owners or whoever to either follow the advice or not.
12 In other words, you know, I'm trying not to -- I'm looking for
13 work for some -- not like that. You know, they ask me a question,
14 I answer it to the best of my ability, and it's up to their
15 decision on what to do from there.

16 Q. I understand that. Did you make any recommendations to the
17 best of your recollection that -- that the owners or
18 representatives opted not to do that you can remember, and what
19 were those?

20 A. I think there was some issues with the PTO, (indiscernible)
21 PTO that to rebuild or not to rebuild, and they were having issues
22 with it over the years with that. I think I made some
23 recommendations to not do (indiscernible), do a much more
24 expensive (indiscernible). And I said do it this way, which I
25 think they did, but I can't be sure.

1 Again, these were not made -- we only took -- we inspected
2 the gears, and it was rebuilt and -- by an outside vendor. It was
3 taken out of the boat and (indiscernible). So other than that, I
4 really can't recall -- it's only the back and forth
5 (indiscernible), you know, what they should do, what they
6 shouldn't do. But, you know, I can only tell you that they, you
7 know, they're the ultimate ones to make the decision.

8 Q. Okay. That's fair. Thank you. Were you in any way involved
9 in arranging for a surveyor or participating in the survey in any
10 way?

11 A. No.

12 Q. Is there anything that I might not have covered that you
13 think might be important for us to know?

14 A. No. I -- I think what I can say about the -- the *Scandies*
15 *Rose*, I mean his other boats, he does maintain them I think
16 probably better so than most that I see in this yard.

17 Q. Okay. And I have one last question, and -- and then I'll
18 turn you back over to the chairman of the Board. In -- in
19 contracting of this dry dock, did you provide all of the
20 equipment, or was any of the replacement material, or any -- any
21 kind of stuff that you were contracted to either install onto the
22 vessel, was any of that provided by not your shipyard, meaning the
23 owner or somebody else?

24 A. No. On this particular, we supplied the paints, the zincs.
25 The general's and hydraulics, that was rebuilt I believe offsite,

1 that would have been provided elsewhere.

2 CAPT CALLAGHAN: That's okay if you can't find it right now,
3 sir. I think --

4 THE WITNESS: (Indiscernible) but I believe that would be the
5 only thing that was probably done outside of the ship, you know,
6 anything majorly done was probably the PTO.

7 CDR DENNY: Thank you so much.

8 Captain, I have no further questions.

9 CAPT CALLAGHAN: Thank you, Commander Denny.

10 Now, sir, I'm going to turn it over to the -- Mr. Barnum with
11 the National Transportation Safety Board.

12 Mr. Barnum?

13 MR. BARNUM: Thank you, Captain.

14 Thank you, Mr. Ehler, for taking time, speaking with us
15 today. Really appreciate it. I have a few questions for you. I
16 hope you have some answers.

17 Lieutenant McPhillips, could you bring up Coast Guard Exhibit
18 No. 90 please?

19 BY MR. BARNUM:

20 Q. So, Mr. Ehler, you had -- you had identified a -- a Lovrics
21 work list that was dated 5/13, the work that was completed on the
22 vessel, it was planned to be completed, the initial task, if you
23 will. You said it changed quite a bit. Did you ever see this
24 list that's presented here? So dated *Scandies Rose*, April 2019
25 shipyard worklist?

1 A. I'm only seeing your face on the screen. I don't see the
2 list. Oh, there we go.

3 Q. Okay.

4 A. (Indiscernible) it looks like.

5 Q. All right. Any luck, Mr. Ehler?

6 CDR DENNY: He's muted on his phone. You might want to tell
7 him he's --

8 MR. BARNUM: Mr. Ehler, it appears that you are muted on your
9 computer screen. I'm not able to hear you.

10 LT PELS: Mr. Ehler, can -- your -- your mic's on mute.
11 Mr. Ehler, can you try unmuting your phone?

12 CDR DENNY: Lieutenant Commander Comerford, do you have any
13 ability to unmute his phone?

14 LCDR COMERFORD: I don't know. Should I try?

15 CAPT CALLAGHAN: Can you unmute his computer?

16 LT. PELS: He can't hear.

17 THE WITNESS: Okay, just unmuted the computer, can you hear
18 me now?

19 MR. BARNUM: There you go. Yes, I can hear you fine. Thank
20 you, Mr. Ehler.

21 BY MR. BARNUM:

22 Q. Can you still see that document, the *Scandies Rose* 2019
23 shipyard work list?

24 A. I see it here, yes.

25 Q. Okay.

1 A. There's a possibility I saw as the master list of things to
2 do, but, you know, by the time it gets to me, it is pretty what we
3 did. And that smaller -- that other list that you showed me.

4 Q. Okay.

5 A. That master list, I was not involved in -- in -- in all
6 the -- all the work that was done. The only things that were done
7 in Seattle before it came up here.

8 Q. Okay. And then the second -- the second column there, it
9 says initial vendor thoughts, and I'm reading down through,
10 there's individuals' names, and then there's some abbreviations.
11 The letters S-Y, what would you say that would refer to?
12 Lieutenant, if you could scroll down to page two of this document
13 please.

14 A. (Indiscernible) that. That's -- that's when it would have
15 been. (Indiscernible) hydraulics, which is the hydraulic outfit,
16 and I'm not sure which one it would be (indiscernible)
17 configuration.

18 Q. Could it stand for shipyard?

19 A. Okay. So we looked at that.

20 Q. Okay. Possibly. Could you scroll down to page two please,
21 Lieutenant? Item -- let's see, 64. Mr. Ehler, can you see item
22 64? Maybe Lieutenant McPhillips could zoom in. Could you please
23 read that?

24 A. The regular starboard trash chute, and one (indiscernible)
25 starboard aft.

1 Q. Okay. And then with an S-Y-question mark. Was this -- was
2 this item -- this work list item ever discussed with you at your
3 facility?

4 A. No. Nope. (Indiscernible).

5 Q. No. Okay. So there is no quote given by you in -- in
6 discussion that, yeah, Lovrics completed that work?

7 A. No.

8 Q. Okay. Thank you. Some -- some general questions on -- on
9 the vessel. You had mentioned that this was the first year you
10 had seen the *Scandies Rose* in your shipyard. Do you know where
11 she would have went previously?

12 A. Well, probably (indiscernible) a yard in Seattle.

13 Q. Okay. Did you hear anybody -- any names?

14 A. No.

15 Q. Okay.

16 A. Other than Standard (indiscernible) shipyard every once in a
17 while. Union Bay.

18 Q. Yeah. Is that -- is that -- do you see that a lot, vessels,
19 you know, going to multiple different shipyards throughout the
20 years? Or is it typical that you see them returning to the same
21 one over -- year after year?

22 A. No, they may make the rounds, it depends on how busy each
23 yard is. So we only have so much time to do it. So we see -- we
24 don't always see the same vessels every year because of timing and
25 other projects (indiscernible).

1 Q. Okay. What was your professional opinion of the overall
2 condition of the *Scandies Rose*?

3 A. As I stated earlier, so what these boats are, I would say
4 they're a little bit above average both at least in
5 (indiscernible) but the upkeep is better than most.

6 Q. Okay. So the -- a boat in similar size, and construction,
7 and function as the *Scandies Rose* is somewhat above average?

8 A. Yes.

9 Q. Okay. And how about the management, you know, the owner, the
10 port engineer, you mentioned Gelia Cooper, how -- were they
11 attentive to the vessel compared to other vessel management?

12 A. (Indiscernible) yeah, that's the (indiscernible). So for a
13 vessel like this having a (indiscernible) -- having a designated
14 person is above normal. She's very attentive to the vessels and
15 to the crews.

16 Q. Understood. So Commander Denny touched on this, I wanted to
17 circle back to it. Aztec Welding, are you familiar with that
18 outfit?

19 A. Yes.

20 Q. Have they performed work at your yard previously on other
21 projects?

22 A. No, I don't allow them in the yard.

23 Q. Okay. Is there a reason for that?

24 A. I -- I don't approve, (indiscernible) list.

25 Q. Okay. So assuming -- assuming you mean the owner of the

1 company, so his reputation is -- is not one that you would like to
2 see at your yard.

3 A. Exactly.

4 Q. Where did you -- where did you form your opinion of him?

5 A. Over the last 25 years of working in the industry.

6 Q. Had he ever performed work for you in the past?

7 A. He's done some work down at Lovrics (indiscernible) Lovrics.

8 Q. Okay. Could you go into that work a little bit for us, you
9 know, was it welding work and how the job was performed?

10 A. Welding work.

11 Q. Okay.

12 A. (Indiscernible) about he -- his business ethics, he's -- he's
13 open about it, and just don't use him --

14 Q. Yeah.

15 A. -- in -- in a lot of years.

16 Q. So, you know, obviously there was an issue with his business
17 ethics there, you mentioned. How about the actual performance of
18 work? How were the welds?

19 A. He was an okay welder.

20 Q. The owner of the company there, the welder, is he complete --
21 is he conducting the welding, or did he have a crew?

22 A. (Indiscernible) who was conducting. He had no crew.

23 Q. Okay. In your experience when you conduct welding, or your
24 crew conducts welding on vessels within your shipyard, what is the
25 standard operating procedure as far as non-destructive testing

1 after the weld is completed?

2 A. Well, we're -- we're an ADS-approved yard, we follow U.S.
3 Coast Guard ADS (indiscernible) and -- and -- and welding.
4 Regardless of whether it's an ADS boat or not, we follow the same
5 procedures as it -- as it was being ADS inspected or Coast Guard
6 inspected.

7 Q. Do your welders carry any certification for that?

8 A. Yes.

9 Q. Okay. And do you perform any dye-penetrant testing or any
10 other non-destructive testing on the welds?

11 A. Yes, we do it all depending upon the circumstances and the
12 instructor who wants to see it, you know, (indiscernible), you
13 know, dye-pen works really well in certain instances or
14 (indiscernible) works better in other areas, you got vacuum boxes
15 (indiscernible) that imitate.

16 Q. Okay.

17 A. Again, (indiscernible).

18 Q. So understanding that certain welding projects that may be
19 minor such as a racket or whatnot might not require that
20 additional oversight. But a job the scale of, in this particular
21 instance, cutting out a weigh chute and re-welding it, potential
22 -- potential to have some -- for that application to experience
23 some -- some weather, some -- some water, would that be a job if
24 completed in your shipyard under your supervision to be --

25 A. We would -- yeah, yeah.

1 Q. -- to be -- to have some -- some non-destructive testing or
2 some -- some more -- some dye-penetrant testing on the welds?

3 A. (Indiscernible) with a dye-pen that particular
4 (indiscernible) a dye-pen will show up if you've got, especially
5 with, you know, hinges and stuff like (indiscernible) get a lot of
6 stress build up and (indiscernible) and with the dye-pen issue
7 (indiscernible).

8 Q. Okay.

9 A. We -- we -- we're (indiscernible) as we're -- as we're
10 welding.

11 Q. Okay. You're -- are you familiar with a product called
12 Splash Zone?

13 A. Yes.

14 Q. Is -- is that a -- something that you utilize within your
15 shipyard often?

16 A. It's an emergency repair medium, they use it a lot to be able
17 to -- you can put (indiscernible) on to it. But it's -- we don't
18 apply it in the -- in the -- we -- we -- we've taken that out and
19 put Splash -- Splash Zone is more of an emergency repair that's
20 carried on the vessels.

21 Q. Okay. Understood.

22 A. (Indiscernible) it's a repair medium.

23 Q. So, you know, for -- it's an underwater epoxy basically
24 that's used onboard vessels in an emergency.

25 A. Correct.

1 Q. Okay. Thank you. Would you ever recommend that to be used
2 in lieu of welding new material in -- in order to save money?

3 A. No. It -- it -- it's not a structural medium per say. I
4 mean it gets you home, but (indiscernible) yeah.

5 Q. Okay.

6 A. It's not something that's very structural.

7 Q. Great.

8 MR. BARNUM: Well, that's all the questions I have,
9 Mr. Ehler, so I really appreciate it. Thank you for your insight
10 there, and the cooperation with this investigation.

11 THE WITNESS: Okay.

12 CAPT CALLAGHAN: Thank you, Mr. Barnum.

13 Mr. Ehler, I'm going to now turn it over to attorney
14 Mr. Stacey.

15 Do you have any questions, sir?

16 MR. STACEY: Good morning, everyone, we -- we do not. Thank
17 you very much, Mr. Ehler.

18 CAPT CALLAGHAN: Thank you, Mr. Stacey.

19 Now turning over to Mr. Barcott, any questions from you,
20 Mr. Barcott?

21 MR. BARCOTT: Thank you, Captain.

22 Mr. Ehler, no questions for you at this time. Thank you very
23 much for your testimony this morning.

24 CAPT CALLAGHAN: Okay, thank you, Mr. Barcott.

25 Just one more, I'm going to go to Lieutenant Commander

1 Comerford for an addition follow-on question, sir.

2 LCDR COMERFORD: Good morning, Mr. Ehler, I would like to --

3 CAPT CALLAGHAN: You're on mute, Mike.

4 LCDR COMERFORD: I'm muted? Good morning, Mr. Ehler, I'd
5 like to just turn attention to a couple of exhibits real quick.

6 Lieutenant McPhillips, could you bring up Exhibit CG 119 and
7 go to page three at the bottom please?

8 BY LCDR COMERFORD:

9 Q. This is the condition and valuation survey from 2009. On the
10 very last line, line four under this paragraph, it reads "A crack
11 on port rudder shoe support was repaired while the vessel was in
12 dry dock in 2009." Do you recall if Lovrics did that dry dock in
13 2009 that is right around the time when you started?

14 A. We -- we did not.

15 Q. Okay. Thank you. And could you --

16 A. (Indiscernible) look on my computer, but I'm 99 percent
17 positive we did not do the dry docking at that time.

18 Q. Was that --

19 (Simultaneous speaking.)

20 A. (Indiscernible).

21 Q. Sorry, go ahead, sir.

22 A. I -- I -- I should probably double check on that, but I am
23 almost -- I'm 99.9 percent positive we did not dry -- dry dock it
24 at that time.

25 Q. All right. Lieutenant McPhillips, could you turn the

1 attention to CG 004? It'll be page 36 on the bottom. All right,
2 when it's coming up, sir, this is the 2019 condition and valuation
3 survey. And the comment number three mirrors the comment from the
4 2009 report, it says a crack on the port rudder shoe support was
5 repaired while in dry dock in 2019, summarizing, sorry. Do --
6 could you explain what the rudder shoe is in this comment? We can
7 bring up a picture if it would help explain it?

8 A. No, what it -- what -- there -- there's a bearing at the
9 bottom of shoe, the rudder (indiscernible) called the pinto
10 bearing.

11 Q. Mr. McPhillips, if you could go to page five, the bottom of
12 page five of this report. Okay. If you can go up a little bit,
13 Mr. McPhillips? All right, so zoom in on the photo in the center
14 so it's at the bottom of the rudder, or is it up at the -- the --
15 the joint of the heel?

16 A. (Indiscernible). Yeah, the heel. You got your marker on it
17 there, and then just below the propellers, and where the rudder
18 shaft down, that's where it is, the rudder shoes.

19 Q. And -- okay. Thank you. And if we could turn our attention
20 to -- sorry, one last question on that. Was there any discussion
21 with you on problems they were having with the rudder shoe?

22 A. Well, I believe they were. I have here that (indiscernible)
23 in my invoice, and you go to the number 10, we did (indiscernible)
24 patch in the port stern strut (indiscernible).

25 (Simultaneous speaking.)

1 Q. Mr. McPhillips, could you -- we'll put that up for you, sir.
2 Could you go to Exhibit 111, Lieutenant McPhillips, to page two
3 and zoom in on line number two -- 10, item number 10 please?
4 It'll be the second page. Is this the invoice you were talking
5 about, sir?

6 A. No, I still have the picture up.

7 Q. Well, you have it in front of you, sir, you can go ahead and
8 read and we can -- while we have it up, we can follow along.

9 A. Number 10 item, (indiscernible) dry dock.

10 LT PELS: Oh, we lost him, he went on mute.

11 LCDR COMERFORD: Okay. You're on mute, sir. You're -- one
12 second, sir. You are -- we're experiencing some technical
13 difficulty hearing you.

14 THE WITNESS: Okay, can you hear me now?

15 BY LCDR COMERFORD:

16 Q. Yes, we can, sir. So if you could read number 10 on your
17 side, or can you see the screen now?

18 A. I can see the screen.

19 Q. All right, is this is the invoice that you were reading from?

20 A. Correct.

21 Q. Okay. So number 10 was the -- referencing the issues on the
22 -- the rudder -- rudder shoe?

23 A. Right. But this was on the (indiscernible) which was -- the
24 section that goes up to the (indiscernible).

25 Q. Okay. If you scroll up, (indiscernible) just there, that's

1 good. On the top, the -- on the top of the list of items, it says
2 PO number, verbal Dan, and just -- is that Dan Mattsen you're
3 referring to?

4 A. Yes.

5 Q. Okay. And then on the first page of that invoice, it made
6 comment that zincs were -- I'm paraphrasing here, sorry, but it
7 mentions some work for the zincs, and install new owner supplied
8 zincs on line item seven.

9 A. Yes.

10 Q. And was that on -- was that -- do you recall if that was on
11 the outer hull or were there other places that zincs were
12 installed?

13 A. It was on the outer hull (indiscernible) so he would bring
14 his own zincs, but on this particular job, he didn't have enough,
15 so he needed some of our zincs. And so that's why you see on the
16 next line item, I have -- I supplied 14 of them. And this would
17 be on the outside of the boat, all on the outside.

18 (Indiscernible).

19 Q. Thank you for your time today, sir.

20 LCDR COMERFORD: Captain, that is all the questions I have.

21 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

22 BY CAPT CALLAGHAN:

23 Q. Mr. Ehler, I just have two follow-up questions for you. So
24 is Ocean Beauty a facility name that you are familiar with?

25 A. Yes.

1 Q. Okay. And just -- do you know if that's an area where Aztec
2 does any welding, sir?

3 A. I believe they do, yes.

4 Q. Thank you. All right. With regards to Aztec's reputation,
5 sir, how well would you say that reputation is known across the
6 industry?

7 A. Everybody gets to -- you know, you step on somebody's toe
8 once or twice, it gets around. He has a good reputation with some
9 and poorly with others. It's goes across the Board of
10 (indiscernible) professional. He started out in the back of his
11 car. He -- he cut corners (indiscernible). Like I said, I -- I
12 know nothing of him over the last 12 years. I have -- have no
13 contact with him.

14 Q. Okay, sir. And then in regards to pricing, would you -- how
15 would you compare pricing from Aztec to similar welding that you
16 would do there at Lovrics?

17 A. I -- I -- again, I have no contact with him. I don't know,
18 you know, we -- we're competitive, we're -- we're, you know, in
19 with everybody else. I don't know whether he's higher or lower.
20 He used to be always higher than most. When I -- when I used him
21 before, he was always at a premium expense.

22 Q. Okay. Thank you for that, sir. And so last question. So
23 would you -- would it be surprising to you based on your
24 experience with how Mr. Mattsen maintained his vessels that he
25 would use Aztec to do work on -- on his -- on the hull of his

1 vessels?

2 A. I -- I can see him using an independent because we can't --
3 you know, I don't travel. In other words, he has to bring the
4 boat to me. I don't go to the boat. So Aztec is one of those
5 individuals that do travel. So if your boat is somewhere else, he
6 would go to wherever the boat is to do the work. So I could see
7 Mattsen using him if he was the only one available.

8 Q. Okay. Thank you for that, sir.

9 CAPT CALLAGHAN: Sir, that's all the questioning we have for
10 you today. So at this point, you are now released as a witness at
11 this formal hearing. Thank you for your testimony and your
12 cooperation. If I later determine that this Board needs
13 additional information from you, I'll contact you through -- I'll
14 contact you through our legal representative. If you have any
15 questions about this investigation, you may contact our
16 investigation recorder, Lieutenant Ian McPhillips. Thank you very
17 much, sir.

18 THE WITNESS: All right, thank you.

19 (Witness excused.)

20 CAPT CALLAGHAN: It's now 1126. This hearing will now take a
21 recess, and we will reconvene at 1130.

22 (Off the record at 11:26 a.m.)

23 (On the record at 11:30 a.m.)

24 CAPT CALLAGHAN: Okay. It's now 1130. This hearing is back
25 in session. We will now hear testimony from Mr. Erling Jacobsen.

1 Mr. Jacobsen, Lieutenant McPhillips will now administer your
2 oath and ask some preliminary questions.

3 LT McPHILLIPS: Please stand and raise your right hand.
4 (Whereupon,

5 ERLING JACOBSEN

6 was called as a witness and, after being first duly sworn, was
7 examined and testified as follows:)

8 LT McPHILLIPS: You may be seated. Please state your full
9 name and spell your last name.

10 THE WITNESS: Erling Emmanuel Jacobsen, J-a-c-o-b-s-e-n.

11 LT McPHILLIPS: Please identify counsel or representative if
12 present, and have them state and spell their last name as well as
13 their firm or company relationship.

14 THE WITNESS: I don't have any counsel.

15 LT McPHILLIPS: Please tell us what is your current
16 employment and position.

17 THE WITNESS: I'm currently a marine surveyor and president
18 of my own company, Fisherman's Maritime Services. I'm also the
19 executive director of Inter-Cooperative Exchange which is a
20 cooperative crab fisherman. I'm also executive director of the
21 Bering Sea Arbitration organization.

22 LT McPHILLIPS: What are your general responsibilities in
23 those jobs?

24 THE WITNESS: We're a fisherman's maritime services, a -- and
25 I'm the only employee, so I assume all responsibilities. For the

1 Bering Sea Arbitration organization, I'm the executive director.
2 I oversee the activities of the organization. And same with
3 Inter-Cooperative Exchange.

4 LT McPHILLIPS: Can you briefly tell us our relevant work
5 history?

6 THE WITNESS: As -- so like my resume?

7 LT McPHILLIPS: A -- just a brief history, sir, yes, short --
8 in short resume.

9 THE WITNESS: Well, I've been involved in the fishing
10 industry all my life. And I've been a marine surveyor since 1995.
11 So that's the short of the applicable work history.

12 LT McPHILLIPS: Yes, sir. What was your education related to
13 your position?

14 THE WITNESS: My education related to my position, I guess
15 education is related to everything. I have a bachelor's degree in
16 zoology and a master's degree in -- in anatomy and physiology.

17 LT McPHILLIPS: Okay.

18 THE WITNESS: Doesn't really apply to this position, but my
19 education and relevance to this incident is my time in the fishing
20 industry.

21 LT McPHILLIPS: Do you have any professional licenses or
22 certificates related to your positions?

23 THE WITNESS: I -- yeah, I suppose I've been quite a few
24 classes. It should all be in my resume. Put everything in there.
25 You want me to pull it up?

1 LT McPHILLIPS: That's not needed, sir.

2 THE WITNESS: Okay.

3 LT McPHILLIPS: All right, thank you, sir. Captain Callaghan
4 will now have follow up questions for you.

5 THE WITNESS: Okay.

6 EXAMINATION OF ERLING JACOBSEN

7 BY CAPT CALLAGHAN:

8 Q. Good morning, Mr. Jacobsen.

9 A. Good morning.

10 Q. Thank you for being on live with us and attending the hearing
11 virtually today. If at any point we ask a question that you do
12 not understand or cannot hear because of technical difficulties,
13 please don't hesitate to say so or give us a -- a visual
14 indication virtually so -- so we can go ahead and repeat or
15 rephrase the question.

16 We will take breaks throughout the hearing, but if you need a
17 break, please let us know. We are currently scheduled for this
18 session to go -- run from 1130 to noon and take a -- a lunch break
19 and then resume again at 1300.

20 Using the Zoom platform, we have the ability to share
21 exhibits virtually, so the recorder, Lieutenant McPhillips, will
22 put any exhibit up on the monitor on your virtual desk top. If at
23 any point you need to point to something out on the exhibit,
24 Lieutenant McPhillips can highlight the area for the benefit of
25 the Board and the livestream audience.

1 Sir, all my questions today are set in the timeframe leading
2 up to and including the accident date of December 31st, 2019, with
3 some additional questions not related to the incident, but to the
4 cooperatives and the Bering Sea Arbitration organization.

5 So, sir, before we go further into questioning, I know we --
6 you briefly described your background, but can you go into your
7 background as a marine surveyor, how you got started, and how long
8 you've been a marine surveyor, sir?

9 A. Sure. So I -- I was operating a factory long liner in the
10 Bering Sea in the early 1990s, and I had some heart issues. And
11 so I thought I should probably pursue an occupation that did not
12 require me to be so far away from medical facilities.

13 And so -- and I had an experience a few years before with a
14 marine surveyor, and so I had thought about doing that
15 professionally. And so I took an online course, and started
16 surveying -- I started my company in 1995, I started surveying in
17 1993. And just a few boats, and I was still fishing, and then
18 I -- I left fishing in 1995 and started surveying full time. So,
19 been doing that since.

20 Q. Thank you, sir. So before I go into more questions on marine
21 -- the marine surveyor aspect, you talked about a lifetime in
22 commercial fishing before you moved over to being a surveyor. Can
23 you talk about -- give us a sense for what fisheries you fished
24 in, and what location, sir?

25 A. I had fished the west coast of the United States from British

1 Columbia, southeast Alaska down to California. I fished over in
2 Russia on crab boats. I've operated crab boats and trawlers, long
3 liners, factory long liners, factory trawler, factory crab boats.
4 I've been on a number of different crab boats, so -- in my career.
5 And so I had a pretty broad experience in a number of fisheries
6 all over the west coast of the United States and Russia.

7 Q. Okay, thank you for that, sir. So you mentioned taking some
8 courses, some online training program for becoming a marine
9 surveyor. Can you talk more about what that training was, what
10 kind of certification you obtained through that program?

11 A. I attended this one place called Master Marine Surveyor, and
12 this was from an online course. It was an introduction for marine
13 surveying. The primary credentials that I -- they honored my
14 experience.

15 Q. Okay. Is that -- is it a requirement to become a marine
16 surveyor to attend that -- that type of training?

17 A. No, it is not.

18 Q. Okay, thank you. And are you a member of any marine surveyor
19 professional associations?

20 A. I am a member of the United States Surveyors Association.

21 Q. Okay. What does a member in such an association provide for
22 you as a member?

23 A. They -- they provide the basis for conducting fishing vessel
24 safety examinations, that's why I retain my membership in that
25 organization. And -- and -- and they review safety inspections,

1 or safety exams. A surveyor needs to be a member of a class
2 society or a third-party organization, and the United States
3 Surveyors Associations is a qualified third-party organization.

4 Q. Okay. Okay. So in addition to the certificate and the
5 online training that you did, was there any on-the-job training or
6 any apprenticeships that you did with an experienced marine
7 surveyor?

8 A. No.

9 Q. And can you just briefly provide us -- so an overview of --
10 of the different services that you provide as a marine surveyor?

11 A. I do condition and valuation surveys. I've done shipyard
12 project surveying. Valuation, vessel valuations, expert witness
13 work, accident investigations. I do a bit of -- I work on
14 insurance claims, things of that nature.

15 Q. Okay. And to just clarify, you mentioned accident and
16 casualty investigations, had you been contacted previously or have
17 you -- to conduct any investigatory activity into the *Scandies*
18 *Rose* following the December 31st incident?

19 A. No, I have not.

20 Q. And so can -- can you give us -- talk about the extent
21 that -- that you would normally go through for a condition and
22 valuation survey?

23 A. I'm not sure what you mean by extent, but I can describe what
24 I do.

25 Q. Yes, sir. That -- that's -- that's what I was getting at.

1 A. Yeah. So I go onto a vessel. I usually like to see it when
2 it's hauled out after the bottom is cleaned. And so I usually do
3 my first examination there. I look at the bottom, and then after
4 it's painted and before it goes back in the water, you know? And
5 then concurrently or at some point in the process, I'm -- I'm top
6 side, and go through the vessel top to bottom, stern to stern.
7 And look at everything I can see, and if there are any places
8 where I could get in (indiscernible), and have a good look at the
9 vessel. And it might be done in one visit, it might be -- it
10 might require several visits. So, yes, so that's what I do.

11 Q. Okay. And is there any industry standards, or checklist, or
12 anything of this sort for conducting a condition and valuation
13 survey?

14 A. I suppose there's some industry -- there are industry
15 standards. There is -- there's no kind of -- there are surveyors
16 that use checklists. I'm not a checklist surveyor because I feel
17 that when a surveyor uses a checklist, he checks the things on his
18 list and that's the extent of it. And I want to take a more
19 holistic approach and see everything on the boat.

20 Q. Okay. So when you say, of course, there's an industry
21 standard, what form would that industry standard be in? Is it
22 through the association, or anything of that sort?

23 A. So the primary success of a surveyor in my opinion depends on
24 whether or not insurance companies find their reports acceptable.
25 And so the insurance companies really have the de facto say in

1 what's acceptable or not, and I don't send my reports to anybody
2 else for examination. A condition and valuation survey typically
3 would go to an insurance company or a bank. And so there are
4 standards of acceptance that those institutions have as well as
5 the boat owner probably has, his expectations and what's involved
6 in a survey and will either accept it or not.

7 Q. Okay. So along that -- along that -- those lines, who then
8 normally employ you to conduct the survey? Is it the boat
9 owner, the banks, or the insurance companies?

10 A. I've been employed by all three.

11 Q. And do you have anyone that works with you -- so do you have
12 anyone that -- that goes with you and assists you during your
13 surveys?

14 A. Not typically. I have had friends -- I know others that
15 (indiscernible) and so I've had assistants or associations.
16 They're training other surveyors so there have been five surveyors
17 in this area that I've trained.

18 Q. Okay. And then the method you used to record the survey as
19 you're going through and conducting the survey, what methods do
20 you use to -- to record that information?

21 A. I'm pretty old-fashioned. I have a little paper notebook and
22 -- and a pen, but I am working on software for automating the
23 surveys, at least I think so. Hopefully in the near future, it'll
24 be much easier to conduct surveys, at least for writing a report.
25 So -- but right now I'm just using pen and paper and camera and --

1 and that's about it. A few other tools in my box, but that's the
2 main thing.

3 Q. Okay. And then with -- if you're employed to -- to visit a
4 vessel subsequent times, do you maintain a database with surveys
5 to work off of, or is each one its own independent survey from the
6 start?

7 A. I never start from nothing anymore. I -- if I've surveyed a
8 vessel before, I use that survey as a template for the new survey.
9 If I haven't surveyed a vessel before, I will use the survey from
10 a similar vessel as a template for using report writing and cut
11 down on the hours of time spent in front of my computer screen.

12 Q. Okay, sir, I'm going to shift a little, and we're going to
13 just talk particularly about your work on the *Scandies Rose*, and
14 then any other work that you've done with Mattsen Management
15 Corporation or Company. How -- how long have you been performing
16 work for the Mattsen Management Company?

17 A. I believe I did the first survey, my first survey on the
18 *Scandies Rose* in 2001.

19 Q. And with regards to this -- the work you've done on the
20 *Scandies Rose*, sir, can you tell us what types of surveys you have
21 performed on the vessel?

22 A. I have done condition and valuation surveys, and I've done
23 some damage surveys related to engine damage on a couple of
24 different occasions.

25 Q. Do you happen to recall the timeframe that you were employed

1 to do the damage surveys?

2 A. 2015, and let's see, there was engine damage in 2015. Let's
3 see, oh, they lost a rudder. And then I've done a couple of
4 different engine surveys for them. Let's see. I don't recall
5 what year those were. I'd have to look them up.

6 Q. Okay. That's okay for now, sir. So at any point have you
7 been outside your capacity on the -- as a surveyor on the *Scandies*
8 *Rose*, have you -- had you ever been on the vessel before in any
9 other capacity?

10 A. Yes, I have.

11 Q. Was it as an employee?

12 A. No.

13 Q. Can you tell what capacity you were on board, sir?

14 A. I was tendering up in Bristol Bay. Tendering is a vessel
15 accepts fish from smaller vessels and delivers them -- or a
16 different vessels, and delivers them to a cannery. And so I was
17 running a boat called the *Jennifer Airy* (ph.) in -- at Bristol Bay
18 during the salmon fishery as a tender. And the *Scandies Rose* had
19 refrigeration problems. And so I went over to the *Scandies Rose*
20 and helped them with their refrigeration problems.

21 Q. Okay. Have you ever been -- as part of your surveys, have
22 you ever gotten underway on the *Scandies Rose*?

23 A. I don't recall being underway. I think I would say no, but
24 I'm not 100 percent certain. I just don't recall being underway
25 on the *Scandies Rose* at any time.

1 Q. Okay. And so now, in general, and your -- based on your
2 overall impression of the -- the *Scandies Rose* itself, how was the
3 maintenance of the *Scandies Rose* compared to other commercial
4 fishing vessels you've been on?

5 A. I would describe it as excellent. I surveyed the *Scandies*
6 *Rose* in 2001, 2003, 2005, 2007, '08, '09, '11, '12, '13, '14, '15,
7 let's see, I went on it '16, but I didn't do a full survey, '17,
8 and '19. And a damage survey in '15.

9 So it's the vessel I've surveyed the most out of any vessel
10 in my portfolio. They always requested that I come and do surveys
11 when they're in -- in shipyard, and they always took very good
12 care of the vessel, and I remember being impressed by the
13 attention to vessel safety and keeping the vessel maintained.

14 They had a lot of engine problems, and so they did have some
15 special needs in that department. There was some -- a couple of
16 auxiliary engines that had holes in their block. So I -- I wasn't
17 involved, I am not an engine mechanic, but I was involved in
18 documenting some of the issues they had related to their engines.
19 But they always addressed them, and tried to address everything as
20 -- as (indiscernible) on the vessel as soon as they could and in
21 the best way they could. But they just did a great job.

22 Q. Great. And so similarly along the same lines, how, you know,
23 in your overall impression, how -- how were the operators and the
24 crew compared to some of the other commercial vessels on which you
25 had -- had been -- been on board and visited?

1 A. So I think Gary was I think Captain. I had never worked with
2 him -- I've never worked with him, I've known him for many, many
3 years. I was not impressed by the crew one way or another. They
4 seemed like a typical crew and didn't have any particularly good
5 or bad impressions of -- of the crew.

6 I always thought highly of Gary. I thought he did a good job
7 on the *Scandies Rose* and was very attentive to making sure it was
8 a safe platform. So I can't think of any problems or issues with
9 the captain or the crew that I -- I would be aware of.

10 Q. So you said you had known Gary for quite a long time, in what
11 capacity had -- had you known him?

12 A. Well, I knew Gary and his dad for years. I mean we were --
13 we both grew up in the fishing industry. So just known him by
14 association.

15 Q. Okay. And last along the -- your overall impression. So can
16 you speak to your impression of the hull condition of the *Scandies*
17 *Rose* with regards to any, you know, the overall condition of the
18 hull itself?

19 A. Well, I thought the hull was in good condition. I -- I
20 haven't conducted an audio gauge on the boat for many years. I
21 don't audio gauging anymore. But (indiscernible) out of the years
22 I -- I did an audio gauge study of the hull, it was in pretty good
23 shape and -- and nothing visually since that time other than minor
24 cracks and things that are fairly common in all boats.

25 Q. As -- as a marine surveyor and someone that appears -- that

1 used to do audio gauging, is there a -- a guideline for how often
2 you would expect a hull to be gauged?

3 A. There are guidelines, but they -- I'm not aware of any that
4 are applicable to the *Scandies Rose* as far as being a requirement.

5 Q. Is -- is there a -- okay, outside of being a requirement, is
6 there an industry best practice that may not be a -- a requirement
7 for some?

8 A. I suppose you could say that there is an industry best
9 practice, but I wouldn't be able to tell you how many years that
10 would be. So, you know, other than it's not in any marine
11 surveyor's handbook that says how often a boat should be audio
12 gauged as far as I'm aware of. With the *Scandies Rose*, there's
13 requirements and guidelines for other types of vessels, but this
14 is an uninspected fishing vessel, and I am not aware of --

15 Q. So are you -- are you aware of the requirements for an
16 inspected fishing vessel that would be over 200 gross tons?

17 A. I am aware of them, yes.

18 Q. And can -- just for our benefit and education, can you just
19 tell us maybe expand what the hull gauging requirements for a
20 vessel over 200 gross tons?

21 A. As far as the --

22 Q. Frequency?

23 A. -- frequency. I'd have to look it up.

24 Q. But there is a -- an established frequency for how often it
25 would be conducted?

1 A. I didn't say that, but there could be.

2 Q. Okay. Sir, as a -- a matter of course as a marine surveyor,
3 do you normally review the stability of the vessel when you --
4 during -- during the time when you attend the vessel?

5 A. No, I'm not qualified to do that.

6 Q. Okay, sir, and you mentioned as part of your member to the
7 association, one of the benefits being it -- it was a requirement
8 to be a -- a third-party examiner, do you conduct any
9 examinations?

10 A. Yes, I do.

11 Q. Okay. And can you tell in a -- in a general sense how many
12 third-party examinations that -- that you have conducted?

13 A. Not off the top of my head, no. I've done quite a few.

14 Q. And -- and how long have you served in -- in that role, sir?

15 A. Oh, boy, since the mid-1990s.

16 Q. Okay. And then, sir, are you aware of any -- of other
17 surveyors that do both survey work and -- and act as third party
18 examiners?

19 A. Yes.

20 Q. Okay, sir. I -- I know it's -- it's now 1202, we had been
21 scheduled to stop at noon to take a -- a break for lunch. Are you
22 okay proceeding to -- to -- or taking a break now and then
23 proceeding as scheduled?

24 A. Sure. Yeah, I -- are there any questions that you're going
25 to ask that I might need to look up since a lot of these things go

1 back to the 90s and I'm 66 years old and have trouble remembering
2 back then?

3 Q. It shouldn't be, sir. So I -- I tried to use this time to
4 kind of set knowing that it was going to be a short piece --
5 shorter piece of time beforehand, I tried to just set some
6 background. And so my intent is to get into specifics on the
7 *Scandies Rose*, and particularly the survey evaluation report from
8 2019, sir, when -- when we come back from the break.

9 A. Sounds good.

10 CAPT CALLAGHAN: Okay. It is now 1203. This hearing will
11 take a recess and resume at 1300.

12 (Off the record at 12:03 p.m.)

13 (On the record at 1:00 p.m.)

14 CAPT CALLAGHAN: Okay, it's now 1300. This hearing is now
15 back in session. We'll continue a witness interview of Captain
16 Erling Jacobsen. Let's just go over -- Mr. Jacobsen, so thank you
17 for coming back after the break. Our schedule currently has us
18 going from 1300 until 1400, sir, and I'll try and do my best to
19 make the best of that time that you.

20 Okay, sir, I'm going to now kind of, as I mentioned earlier,
21 kind of switch over to the *Scandies Rose* in particular and
22 particularly the latest condition and valuation survey from 2019.

23 Lieutenant McPhillips, can you please pull up Coast Guard
24 Exhibit 004?

25 BY CAPT CALLAGHAN:

1 Q. This is the condition and valuation survey of the fishing
2 vessel *Scandies Rose* conducted by Fisherman's Maritime Services
3 with dates of inspection of April 27th, May 24th, June 1st, 5th
4 and 6th of 2019. Okay, are you able to see that, Mr. Jacobsen?

5 A. Yes.

6 Q. Sir, can you explain who hired you to perform the survey?

7 A. I was hired by *Scandies Rose*.

8 Q. And do you remember who, within the *Scandies Rose* fishing
9 company, hired you, in particular, sir?

10 A. No, I don't.

11 Q. Sir, how often -- you mentioned earlier that you had been on
12 the *Scandies Rose* quite often, almost on a yearly basis. So, in
13 that regard, are there any negative outcomes if the vessel -- for
14 the vessel owners if those surveys are not performed?

15 A. Each insurer will have its own requirements as to the
16 periodicity of the surveys, but the first negative outcome would
17 be that the vessel doesn't get insurance. Another negative
18 outcome might be that there are some financing opportunities that
19 might be missed without a current survey, or a financier might
20 want to renegotiate a loan or something like that if the current
21 survey is not performed.

22 Q. Okay. And as we pull this up, I kind of listed several days
23 over which it was indicated that this survey was performed. Is it
24 normal for you to conduct a survey like this, spanning several
25 days?

1 A. That's normal for me.

2 Q. And is there a purpose that you would normally scan it out
3 through the yard period?

4 A. My purpose is that I like to see the boat in its final
5 condition before it sails, but I also want to see repairs in
6 progress, and I want to see the boat when it's looking its worst.
7 And so, I'll go on the boat several times, typically. And
8 sometimes it's just a mere logistical issue as I am short on time
9 a lot of times, so I will have to leave the boat and do something
10 else and then come back later. So sometimes it's just scheduling
11 issues, I'll see a boat when I can. But mostly it's because I
12 like to see the boat at various stages of its shipyard progress
13 and get a good idea of how things are progressing on the boat.

14 Q. Okay. Over those several days that visited the *Scandies Rose*
15 during the survey period, was there any major -- any repairs that
16 you would consider major hull repairs or any other significant
17 repairs that you noted during that time?

18 A. I noted the repairs towards the end of my survey. I like to
19 kind of keep a running tally of all the significant repairs and
20 rebuilds that were done on a boat to -- that's in my survey
21 portfolio, so I have a fairly extensive history on the repairs and
22 additions to the *Scandies Rose*. It looks like starting on Page 38
23 in 2000 -- I think 2001 was, I believe, my first survey, but I
24 could have done an earlier one before I went to digital. But I
25 have things going back to 1998 on my repair list.

1 And then the latest one would have been the shipyard period
2 in 2019. So there's pretty typical things that I see being done
3 on a maintenance survey. Some leaks were fixed and cracks welded
4 up and rebuilding of machinery, things like that. But there was
5 not any extensive rebuilding of the hull, just repairs.

6 Q. Okay. Lieutenant McPhillips, could you please go to Page 4,
7 please? Now, at the top of the page, your report discusses --
8 mentions the pipe alleys. Do you recall the pipe alleys that were
9 outfitted on the *Scandies Rose*?

10 A. Do I recall what they look like?

11 Q. Yes.

12 A. Yes.

13 Q. And do you recall whether the bulkheads on either end of
14 those pipe alleys were watertight bulkheads?

15 A. Yeah, I'd have to look into that a little bit. I'm not sure.

16 Q. Okay. Go ahead and switch over -- Lieutenant McPhillips, can
17 you switch to Exhibit 112, please, particularly Page 9? It's a
18 series of text messages from Gary Cobban dated November 4th, 2019.
19 112, Lieutenant. So, while that's coming up, Mr. Jacobsen, for
20 those pipe alleys, were those areas of the vessel that you ever
21 entered during your survey?

22 A. Yes, I believe I've been into them several times.

23 Q. Sir, are you able to see those photos up on the screen now,
24 sir?

25 A. Yes.

1 Q. Are you familiar with that space that's represented in those
2 pictures, sir?

3 A. Well, I'm not entirely certain. I look at a lot of spaces.

4 Q. So, in this series of texts, Gary mentions that these are the
5 internal sides of the waste chutes. So would that be the pipe
6 alleys that you're referring to in your report?

7 A. I'm not exactly sure what this is referring to. It looks
8 like something in the lazarette. I'd have to review my pictures.
9 Sorry. I'm not sure where that is.

10 Q. So this would be the port and starboard void spaces that ran
11 along the sides of the tanks. Is that an area you would have
12 entered during the 2019 survey?

13 A. I don't think I went in there in 2019. I don't think it was
14 accessible for entry at the time I was on the boat, but I can
15 check my report. I don't have any notes on that specific area of
16 the boat. I don't recall going in there during that survey
17 because I don't go into spaces that haven't been gas-freed and
18 certified for entry.

19 Q. Okay. No, that's fair enough, sir. Sir, if you were to have
20 entered that space -- and so, for a reference purpose and using
21 your experience as marine surveyor, does any of that draw any
22 concern looking at the internal structure, if that's the internal
23 -- that bottom picture is the internal forward side of the waste
24 chute?

25 A. Well, I don't see anything from the picture.

1 Q. Would you be able zoom in, Lieutenant McPhillips, on the
2 bottom picture? So it appears that that is covered in Splash
3 Zone. Would that be normal a practice to cover that much steel in
4 Splash Zone?

5 A. Well, I don't know what that is. I certainly can't tell from
6 the picture. Looks like there's some kind of goo spread over
7 that.

8 Q. Okay, so if you did -- if you would've entered the space --
9 and not assuming you did. If you were to enter a space like that
10 on a vessel, would that be something that you would notate?

11 A. Certainly, yes.

12 Q. Okay, thank you, sir. Okay, Lieutenant McPhillips, can you
13 please go back to Exhibit 004, please? And if you can go to Page
14 13? And so, Mr. Jacobsen, the middle right picture shows an open
15 hatch in the -- there in the exhaust funnel. Is that -- do you
16 know what that hatch would be for?

17 A. For entry into the exhaust column.

18 Q. Do you know if that would normally be designed to be closed
19 and in place underway?

20 A. It would normally be closed underway, yes.

21 Q. And based on your experience, what would be the dangers or
22 the hazards if that were to not be in place when a vessel was
23 underway?

24 A. You might get some spray into the space, but I don't see
25 any --

1 Q. Would that cause any significant concern to you, as a vessel
2 operator, if an item like that was not in place?

3 A. It's a matter of housekeeping. It wouldn't cause any great
4 concern to me, but I would put it on if I saw that it was off.

5 Q. Okay, thank you, sir. Mr. McPhillips, if you can go to Page
6 18, please? So my interest on Page 18, sir, is in the two top
7 pictures that show both the port and starboard side of the
8 superstructure on the deck just below the stairs leading up to the
9 bridge deck. So your report mentions having engine room
10 ventilation trunks being located behind the ladder to the bridge.
11 Looking at those top two photos, can you identify where those en
12 engine room vents are located?

13 A. Looking at these pictures -- okay, I'm --

14 Q. Lieutenant McPhillips, would you be able to zoom in on the,
15 maybe say the upper right picture for reference, on the starboard
16 side there? Does that provide a better reference point for you,
17 sir?

18 A. Yeah, so I believe the vent is that screen behind the ladder.

19 Q. Okay, so in the picture here, what would appear to be more of
20 a brownish color behind the ladder there?

21 A. Right.

22 Q. Okay, thank you, sir. Lieutenant McPhillips, can you mover
23 over to Page 22, please? On this page, sir, the report mentions a
24 couple of the catch and release chutes, particularly port forward
25 of the crane and starboard aft. Were these the only bycatch

1 release chutes on the *Scandies Rose*?

2 A. I'm not seeing what you mean in those pictures, but I believe
3 it's --

4 Q. It's the text, sir.

5 A. Oh, hang on.

6 Q. It just talks about bycatch release chutes port forward of
7 the crane and starboard aft.

8 A. Okay.

9 Q. All right, so in referencing those chutes, were those the
10 only two chutes on board?

11 A. Those were the only ones that I saw during my survey.

12 Q. Okay, can we move to Page 44, please?

13 A. I think one of those chutes was removed from service, if I
14 remember correctly.

15 Q. In paragraph -- I believe it's Paragraph R. Yeah, Paragraph
16 R mentions the starboard trash chute was rebuilt and the starboard
17 forward chute was removed. Sir, do you know, if that is correct,
18 based on what you know now, was that a -- what you observed while
19 you were onboard?

20 A. Yeah, I believe so. I probably just neglected to update my
21 text above from the previous survey.

22 Q. And so, sir, were you -- it does appear that, as you said,
23 there might have been a little bit of a mistake between which one
24 was removed and which one was rebuilt at the time. Do you recall
25 if the forward chute by the pot table was the one that was rebuilt

1 and -- or if the starboard aft one was the one that was removed
2 and blanked off?

3 A. Yeah, I don't recall. I thought it was the aft one that was
4 rebuilt. All in all, I don't recall those. Been too long.

5 Q. Do you remember if that work was done before or after you had
6 visited the vessel, or was it work that you had witnessed being
7 done while you were -- during the survey?

8 A. I believe that was reported to me after I visited the vessel,
9 but I'm not certain on that.

10 Q. Okay, I'm going to switch to Page 36, please. Sir, in the
11 chart here on Page 36, indicates a stability letter and book dated
12 from 1988. At the time that you conducted the survey, was that
13 the last available information for the vessel stability?

14 A. That was the last that I'd found. I don't know if it was
15 updated since then, but that's -- I didn't see any other updates
16 on stability.

17 Q. So, during your visits to the vessel over those multiple
18 days, was it ever communicated to you that a stability test had
19 recently been done in April of 2019?

20 A. In April of 2019? I don't recall if there were other
21 stability tests done. If it was done, and I knew about it during
22 the survey, I would have included it in my report.

23 Q. Okay, fair enough. And I just was asking if it had been
24 communicated to you at -- during any of your visits.

25 A. I don't recall if it was or not. I would have made a note

1 and put it down if it had, so I assume not.

2 Q. Okay. Sir, just -- you had mentioned a couple other
3 affiliations as we started. And, Mr. McPhillips, you can pull
4 down the exhibits at your convenience, please. So you had
5 mentioned a couple other affiliations, particularly the
6 Inter-Cooperative Exchange co-op and the Bering Sea Arbitration
7 Organization. Can you talk to us a little about what the
8 Inter-Cooperative Exchange co-op and your role?

9 A. Sure. So I'm the executive director of Inter-Cooperative
10 Exchange. It's the largest cooperative of crab fishermen in the
11 Bering Sea. And I do price negotiations for the fishermen in my
12 co-op and keep track of crab markets and work on other issues that
13 come along affecting the crab fishery.

14 Q. And how long has that co-op been in place, sir?

15 A. The Inter-Cooperative Exchange in its present form was, I
16 believe, 2009, but it existed in a previous iteration since 2005.
17 But it was restructured in 2009, I believe.

18 Q. And so we heard yesterday a little bit, and to paraphrase a
19 little about the Inter-Cooperative Exchange, ultimately, is it
20 safe to say that, you know, the ultimate goal and the ultimate
21 function is to really to provide a mechanism to share quotas
22 between vessels?

23 A. That's one function of a cooperative.

24 Q. And what would you say another function is, sir?

25 A. Well, it depends on the nature of the co-op. It's a fairly

1 complex fisheries management system. So there are co-ops that are
2 formed under the Fishermen's Collective Marketing Act, and
3 Inter-Cooperative Exchange is one such co-op organized under the
4 Fishermen's Collective Marketing Act. And under that
5 organization, we have an exemption from anti-trust, which allows
6 us, under certain conditions, to share pricing information between
7 the members of the cooperative and to negotiate and arbitrate on
8 behalf of the cooperative.

9 Q. Okay, thank you for that information, sir. I do have another
10 question. Are you aware of or have you ever been involved with
11 the National Fishing Vessel Advisory Council?

12 A. No.

13 Q. Okay.

14 A. I'm aware of it. Was that part of your question?

15 Q. Yes.

16 A. You're talking about the new council that is -- was formed in
17 December of last year? I don't think it's actually been fully
18 formed yet. I think they're still deciding on how that's going to
19 look. So I requested -- I sent in an application to become a
20 member of that committee, but I haven't heard anything back.

21 Q. Okay. And then can you talk to us about the Bering Sea
22 Arbitration's [sic] Organization?

23 A. The Bering Sea Arbitration Organization is an organization
24 that is required under the fisheries management program that we're
25 under called the crab rationalization, and so every harvester and

1 fishing Type A shares have to belong to an arbitration
2 organization, and processors processing Type A shares are required
3 to join a different arbitration organizations for processors. The
4 function of the arbitration organization is to hire arbitrators
5 and to hire a third-party market analyst and that they're a
6 non-binding price formula arbitrator and then any number of
7 contract arbitrators. So the function of the arbitration
8 organization is to hire the vendors that are required to execute
9 the program.

10 Q. Okay. Thank you, sir.

11 CAPT CALLAGHAN: Sir, I'm going to go ahead and I'm going to
12 pass some time to my partners at the National Transportation
13 Safety Board.

14 So pass it to Mr. Bart Barnum from NTSB for some further
15 questioning. Thank you.

16 MR. BARNUM: Thank you, Captain.

17 And thank you, Captain Jacobsen.

18 I'm getting a little bit of echo. Okay, that should have
19 cleared it up.

20 Yeah, thank you, sir, for taking the time today and speaking
21 with us, and also thank you for producing that stability -- excuse
22 me, the survey. I know I have never been on the vessel, so I
23 consulted that quite a bit to try to learn some more about the
24 *Scandies Rose*, so thank you.

25 THE WITNESS: You're welcome.

1 BY MR. BARNUM:

2 Q. One follow-up on that survey from Captain Callaghan. Who was
3 supplying you with the maintenance items that are listed year to
4 year on that valuation survey?

5 A. For this particular survey, I believe it was given to me by
6 Gelia, but I don't think she was the originator of the document.
7 I think it was -- I think Jamie, the port engineer, was involved
8 and probably Dan (indiscernible).

9 Q. Okay. So is it safe to say that you were being provided with
10 a list and you're including that in the survey, or are they items
11 that you have seen while you're onboard?

12 A. I'm not able to see all of the things that are in the list
13 that they provide, but I can -- I generally try to look at the
14 things that I am provided with. I think this list was provided
15 after my survey report was -- my work on the boat was completed,
16 and so it was kind of done after the fact. So, normally, I see
17 what I can on the boat, and if there's anything that I missed, I
18 fill it in later with comments either during the -- before, during
19 or after the survey report is generated.

20 Q. Okay. You mentioned earlier that the *Scandies Rose* was in
21 very good condition overall. How would you rate the hull, the --
22 underneath the water line?

23 A. I think it was one of the best hulls that Bender ever built.
24 I'm aware that the original owners of the *Scandies Rose* were very
25 vigilant in the shipyard and were there all the time, watching and

1 making sure everything was done right. So I have seen the hull a
2 lot. I've been very impressed over the years by the workmanship
3 involved, and a lot of the other work that comes out of some of
4 the shipyards in the south part of the United States is done
5 fairly cheaply with an eye for a limited service life of the
6 vessel. The *Scandies Rose* was not part of that mold. It was
7 built to last a long time, and the quality of the workmanship, I
8 found, was very good.

9 Q. Okay. I know included in your -- the 2019 condition valuation
10 survey, there was several references to hull gauging. You talked
11 about that earlier with Captain Callaghan. And then you mentioned
12 that you stopped doing it. Why was that?

13 A. I was on my back in a puddle of water, audio gauging a hull
14 that was three inches from my nose, and I just decided I'm just
15 too old for this kind of stuff. So my audio gauge started having
16 problems, and I just decided not to get it repaired and not to buy
17 a new one. I helped another surveyor get started in the audio
18 gauging part of it.

19 Q. Okay. How -- what other methods would you have in your
20 toolbox, if you would, to judge the thickness of the material of
21 the hull, other than an audio gauge?

22 A. I don't know of any other than visual. I don't have any
23 other methods to evaluate the thickness. I can just see the
24 condition on the outside and on the inside where it's visible.

25 Q. Okay. At the beginning of our discussion today, you said

1 that you like to see the vessel once the bottom is stripped and
2 then once it's painted as well. When the bottom of a vessel's
3 stripped, could you elaborate on that? What method is used to
4 strip the bottom of the hull?

5 A. Well, typically it's just done with a pressure washer. If
6 there's some sandblasting done, I like to see it after the paint
7 is off and before they start to paint it, because either after
8 sandblasting or after pressure washing is the easiest time to find
9 cracks. It's really hard to find a crack after the hull has been
10 painted.

11 Q. Is that typically what you've seen are cracks, or is it
12 corrosion? What do you more frequently see?

13 A. I see all kinds of things, but I don't know if I see one
14 more. I see a lot of cracks. Corrosion is certainly more common
15 than cracks, but I pride myself on finding cracks. I'm always
16 happy if I find a crack because there's one I didn't miss. It's
17 easy to miss cracks.

18 Q. Sure. In particular with the *Scandies Rose*, the years prior
19 to the accident, when you would inspect the vessel, the hull, the
20 bottom, would they take it take it down to bare metal each dry
21 dock, or was it just a pressure washing? How did they treat the
22 hull?

23 A. Well, I indicated in my report if there were sandblasting
24 involved, so I see that it was sandblasted in 2003 and probably
25 some subsequent -- there's periods as well that -- you don't want

1 to sandblast your hull too much, otherwise you thin the metal out,
2 so -- every time you sandblast, you lose a little bit of thickness
3 in your steel, so I wouldn't advise overly sandblasting. And
4 there's some new techniques of high pressure water that can remove
5 paint, and some shipyards do that. I don't recall if the *Scandies*
6 *Rose* ever did that water blast or not, but typically it's just a
7 pressure wash and recoating. But I would have recorded it in my
8 additions and repairs.

9 Q. Right. Yeah, I'm just trying to get to the bottom here. I
10 mean, in your professional opinion, I mean, if you're not audio
11 gauging a hull, and there is, over the years, periods of
12 sandblasting, of stripping the bottom, is there any other
13 indications to judge the thickness of that metal?

14 A. Just visual. Or cut a hole in it, but that's kind of
15 extreme.

16 Q. Yeah. Okay. All right, I had a couple of questions on the
17 survey itself, so could you please bring up that Exhibit, Exhibit
18 4, Lieutenant? Page 3. I'd asked Mr. Mattsen the same question
19 yesterday. He was not intimate of knowledge around these
20 modifications in 1988 and 1995. He wasn't certain. Do you have
21 any background information on those two modifications listed on
22 Page 3?

23 A. On Page 3, let's see. So which -- oh, I see. Under -- on
24 the list there, modification 1988 and 1955.

25 Q. Yes, sir.

1 A. Yeah, no, I don't know. I wasn't -- didn't start surveying
2 the *Scandies Rose* until much later. I know they had a new
3 refrigeration system put in at some time because they had a lot of
4 problems with the older refrigeration system.

5 Q. Okay. So if you --- these modifications, these were told to
6 you by whom? I mean, if you didn't start until -- inspecting the
7 vessel till after?

8 A. Yeah, I don't recall what the source of that was. It could
9 have come out of the stability book.

10 Q. Okay. We've been talking a lot about the waste chutes and
11 the voids. You mentioned that you've been in them several times
12 throughout the years. Did you notice any bilge alarms in those
13 voids?

14 A. Oh, boy. I don't recall. Let me check. I don't see any in
15 my text right off, so I would say that I didn't see them, if they
16 were there.

17 Q. Okay. Lieutenant McPhillips, bring that exhibit back up,
18 please, Exhibit 4, Page 31. Captain Jacobsen, a couple questions
19 on the tank volumes onboard the vessel. Can you see the exhibit?

20 A. Yes.

21 Q. So here we have listed in the center of the page the fuel
22 tanks and their capacities. Where'd you obtain this information
23 to be included here?

24 A. I get that information off of the stability book -- out of
25 the stability book. So on, let's see, looks like Page 35 -- no, I

1 didn't put it in this report, but normally I make a notation that
2 the dimensions and capacities are taken from other documents. I
3 don't do any measurements of tanks or calculations of tanks.
4 That's done by the naval architect, and so that's where I got that
5 information.

6 Q. Okay. And that was from the 1988 stability report?

7 A. I believe so.

8 Q. Okay. Lieutenant McPhillips, could you please bring up that
9 report? I'm trying to find the exhibit number. Right off the bat
10 if anybody -- 035, thank you. And I know you've probably seen a
11 lot of these, but does this stability report look familiar to you?

12 A. Well, yeah, like you said, I see a lot of them, so it does
13 look like one of them -- one of the many that I see.

14 Q. Okay. All right.

15 MR. BARNUM: Okay, that's all the questions I have for you
16 right now, Captain Jacobsen. Thank you.

17 I'll turn it back to Captain Callaghan.

18 CAPT CALLAGHAN: Thank you, Mr. Barnum.

19 At this time, I'd like to turn to Mr. Stacey for any
20 questions from parties in interest.

21 MR. STACEY: Good morning, Captain and Captain Jacobsen.
22 Good to see you, even if it is remotely. We have no questions for
23 you, Mr. Jacobsen.

24 THE WITNESS: Well, thank you.

25 MR. STACEY: Thank you.

1 CAPT CALLAGHAN: Thank you, Mr. Stacey.

2 And now to Mr. Barcott for questions, sir.

3 MR. BARCOTT: Good afternoon, Captain Jacobsen. Mike Barcott
4 for *Scandies Rose*. No, I don't have any questions. Thank you
5 very much.

6 CAPT CALLAGHAN: Thank you, sir. I do have a couple
7 follow-on questions from Coast Guard members. I'm going to pass
8 it to Commander Karen Denny for some questions.

9 CDR DENNY: Thank you, Captain.

10 BY CDR DENNY:

11 Q. Captain Jacobsen, thank you. So you've mentioned a couple
12 times that you've done quite a lot of surveys and you have a long
13 history with that profession. So about how many vessels do you
14 survey a year, give or take?

15 A. Well, let me see. I probably do -- I don't know, four or
16 five --

17 Q. Over 100?

18 A. Four or five a month, maybe, just guessing.

19 Q. Okay, that's fair. And do you ever do sea trials or get
20 underway with any of those vessels?

21 A. I have. It's not my regular practice.

22 Q. What would be the purpose of doing that?

23 A. Just because that -- they happen to be doing sea trials when
24 I was on the boat doing my survey. I did a survey of one boat
25 last year where I was on the boat. The day I had to survey the

1 vessel was the day of their sea trial, so I rode along and did a
2 sea trial with them.

3 Q. And what kind of benefit -- as a surveyor, what kind of
4 benefit would you get from being able to get underway and do a sea
5 trial? How does that help you in understanding the vessel for the
6 survey purposes?

7 A. It doesn't help me a lot. If it's a sunny day, I just like
8 the -- I like the trip. If it's raining and miserable, then I
9 don't.

10 Q. So it doesn't serve a purpose in terms of like verifying that
11 the equipment is running, the engines are working in proper order
12 in terms of the condition of the vessel?

13 A. Yeah, it could. So I don't start engines or anything like
14 that, and, of course, with my surveying, I'm not a diesel
15 mechanic.

16 Q. Sure.

17 A. So I don't feel the need to sea trials on boats I survey.

18 Q. Okay. And I'm just trying to make sure that I understand,
19 you know, when we go into condition of the vessel, that you're
20 serving that condition, how deeply do you go into it? Like, yes,
21 there's an engine sitting there, but does it run? Is that
22 something that you verify? But I'm hearing you say the answer is
23 no.

24 A. So the terminology that's typically used, at least in my
25 surveys, is that it's in serviceable condition. That's different

1 from running condition. It means that it can be repaired and
2 serviced to be in running condition with not a great deal of
3 effort, so -- I don't verify each piece of equipment on the boat
4 to make sure that they work. I mean, that's -- I don't see that
5 as part of my job unless I'm specially requested to do that.

6 Q. Okay. So you've noted for us that -- you ran through the
7 years that you surveyed the *Scandies Rose*. Did you ever conduct
8 surveys on the vessel before it became the *Scandies Rose*, with its
9 prior ownership?

10 A. When it was the *Enterprise*? No.

11 Q. Um-hum.

12 A. I only conducted surveys when it was the *Scandies Rose*.

13 Q. Okay. So, to the best of your recollection, were you ever
14 made aware of any -- were you ever made aware of the starboard
15 forward chute area having any kind of metal wastage? To the best
16 of your recollection, did anybody ever make you aware of that?

17 A. No, not that I recall.

18 Q. How about any kind of failing welds anywhere on the boat?

19 A. I don't recall any failing welds.

20 Q. So in no time in the history of you surveying did you get any
21 feedback from either the owners, the captains, any of the crew
22 that was there at the time to indicate to you like, hey, can you
23 take a closer look at something here?

24 A. I can't answer definitively that that never happened. I just
25 don't recall it -- today that it ever happened.

1 Q. Okay. I have a question with regards to a comment that you
2 made about the extent of your surveys. If a fishing vessel is
3 used for another purpose other than fishing -- for example, like
4 if it was being used as a chase boat or as a platform for filming
5 for television -- do you do -- have you ever done that, surveyed
6 it for -- surveyed a fishing vessel for the purposes other than
7 fishing?

8 A. Well, I'm not sure what that means. If it were to change
9 service to be like an inspected passenger vessel, I would
10 recommend a new survey.

11 Q. Can I offer clarification?

12 A. Sure.

13 Q. So, for example, if the vessel -- is there a difference in
14 terms of if a fishing vessel is being used as a chaser boat, have
15 you had to do surveys where -- for insurance purposes, for
16 example, where you have to do something different in your surveys
17 and you have to look at something different? And then my
18 follow-on question is, what would be that gap? What would be that
19 difference?

20 A. No, I never had any incident like that.

21 Q. Okay, so you've never had to do a survey for a vessel that
22 was being used for a different purpose than fishing, like if it
23 was a fishing vessel, you've never had that circumstance?

24 A. Well, I wouldn't say never. I don't recall that in the
25 context of the *Scandies Rose*. If you -- ever. So let's see --

1 Q. Well, I was just asking the question.

2 A. I do a lot of things. I've surveyed boats that were used as
3 chase boats. I wasn't asked to do anything different other than
4 what I would normally do.

5 Q. Okay. And that was actually what I was asking just to try
6 and find out about the difference. Not so much specific to the
7 *Scandies Rose* on that one.

8 A. Yeah.

9 Q. And just to make sure that I understood that answer, you did
10 not have to survey those vessels any differently? There wasn't
11 additional areas that you had to look at?

12 A. No, I can't even imagine what that would be.

13 Q. Okay.

14 A. But if -- I'd want to make sure that if I was doing a survey
15 at the time -- and I don't recall anybody ever asking me to survey
16 it specifically as a chase boat, or in addition to fishing also as
17 a chase boat. I'm usually not even informed what their contracts
18 are, whether it's going to be used as a chase, so -- and so using
19 the term chase boat in the context of the TV show and the boats
20 that follow around a boat that's being filmed for TV; is that what
21 you mean by chase boat?

22 Q. It is. It is.

23 A. All right.

24 Q. And is this --

25 A. I've surveyed vessels that have been used as chase boats, but

1 I don't recall ever being called up and asked to do a survey
2 specifically for its chase boat status.

3 Q. Okay. Have you ever been in a situation or employed to do
4 any kind of survey, not for the *Scandies Rose*, but any kind of
5 survey for operations that require more in-depth inspection, for
6 example -- than what you would have done normally on a fishing
7 vessel condition and valuation survey?

8 A. Yes.

9 Q. Can you elaborate on that, please?

10 A. Well, I've been hired to be a attending surveyor in various
11 shipyard projects where I was asked to be in the shipyard
12 witnessing welds, and so I've done that. That requires a lot more
13 in time and things that I -- the detail of the inspection. So
14 I've been asked to do that several times. They're that kind of
15 detail that go into certain damage surveys and things like that
16 that I would perform, and also in the context of expert witness
17 work, sometimes I'm asked to look at particular things on the boat
18 and give a close analysis on like fire damage and things like
19 that. I've been asked to try to ascertain the cause of the fire,
20 and that required very particular analysis and forensic analysis
21 of certain items of equipment. So I've done a lot of things.

22 Q. So one of the things that you mentioned that, you know, there
23 are certain types of vessels that might require you to have a lot
24 more oversight in terms of like looking at the welding work and
25 overseeing those things. What type of vessels usually require

1 that level of oversight?

2 A. Usually the larger vessels, like for me, factory trawler,
3 vessels like that, processing ships. I'm just a regular surveyor.
4 There's a market for surveyors, and you meet the market, then -- I
5 can't stand 50 hours on a boat. That's just -- that's -- unless
6 I'm specially requested to do that. But the person that hires me
7 expects a certain rate and he gets the job according to that rate.
8 I can't be on the boat all the time unless I'm being paid to do
9 it. It just doesn't work out for me economically, so I have my
10 rates that are, I think, in line with most other surveyors, and I
11 put the time in that's paid for by those rates.

12 Q. Yes, sir. And so, for the *Scandies Rose*, you were never
13 contracted or employed to do more extensive oversight? And please
14 correct me if that's an incorrect statement for -- in the context
15 of the dry docks or docksides. Is that correct?

16 A. Really uncomfortable with words like never.

17 Q. Okay. I apologize for that. Let me take that back.

18 A. (Indiscernible). If I don't recall something, if they --
19 something, and they pull out, well, what about this in 1987?
20 Well, I -- you know, yeah, maybe, but I don't recall anything.

21 Q. That's fair.

22 A. I -- I'm -- they might have asked me to take a look someplace
23 or do something, but that's -- usually I just go onto the boat and
24 do my thing and look all around and make a general report.

25 Q. Okay. So let's take it back to 2019. Were you ever asked to

1 do any kind of additional oversight or review of that starboard
2 chute, starboard forward chute or the aft chute?

3 A. No, I don't recall anybody asking me to look at the chutes.

4 Q. Okay. I'd like to go to Page 39 of Exhibit 004. And, sir,
5 that is -- it's specifically under the section of work that you
6 detailed that was done in 2011. So Page 39, and if you could zoom
7 in on the section for 2011, so keep going down, please. It's
8 Subpart E, and it talks about the overboard chutes being rebuilt
9 with the new insert plates and overlays. Do you see that, sir?

10 A. Yes, I do.

11 Q. Fantastic. Do you happen to recall if you were asked to
12 oversee or provide extra oversight for that work where those
13 chutes were replaced, rebuilt and insert plates were renewed?

14 A. No, I don't recall one way or another, but it would be really
15 unusual for them to single out one place, like more than the
16 diamond plate installed on the fishing deck or the throttle
17 controls above it. There's --

18 Q. Okay.

19 A. I'm just assuming it's something that they did in the course
20 of their repair work. I recorded it.

21 Q. Okay. So then let me ask you a slightly different question.
22 Is it normal to have to replace metal end chutes often based on
23 your experience with surveying quite a lot of commercial fishing
24 vessels? Is that normal to have to replace that often? Is that
25 yearly? What is the rate based on your experience that you've

1 seen those kinds of areas have to get replaced?

2 A. Oh, boy. Very rarely. It depends, of course, on what the
3 thickness of the metal was, what the type of metal was. If it's
4 stainless steel that's half-an-inch thick, it's going to last
5 probably longer than the boat, but if it's thinner steel and not
6 stainless, then it won't last as long. But I don't really have a
7 time period of about when people have to replace their chutes.
8 It's not one of the things that is critical equipment on the boat.

9 Q. Sure. I guess I'm trying to get at the rate of wastage and
10 why that might happen based on your experience in the industry and
11 having had extensive experience in the fishing industry, and then,
12 you know, your experience as a surveyor, if that was common, if
13 that's something that you saw as like a recurring thing,
14 especially on a vessel that you've had a long history with.

15 CDR DENNY: I think that is actually my last question for
16 you, sir. Thank you very much for your time.

17 THE WITNESS: All right, thank you.

18 CAPT CALLAGHAN: Sir, I know we've got you (indiscernible),
19 but if you're okay, I'd like to pass it to Lieutenant Commander
20 Mike Comerford just for one follow-on question, sir, and then I
21 think we'll be able to wrap it up for you.

22 THE WITNESS: Okay.

23 BY LCDR COMERFORD:

24 Q. All right, good afternoon. Sir, I'd like to first bring up
25 Exhibit 5. I'm going to share it on my screen here. Earlier, you

1 were discussing the tankages. Does this diagram or capacity plan
2 look familiar to you?

3 A. I might have seen it before, but it's not something that I
4 recall vividly in my mind. I see a lot of these, so --

5 Q. Okay. Captain --

6 (Simultaneous speaking.)

7 A. (Indiscernible) sure, why not, but --

8 Q. Okay, Captain. So I'm pulling up Exhibit 4 on the left of
9 your tank plans, and I'm just going through it and reviewing how
10 it compares. So, in the fuel tanks for what your table is, the
11 two that seem to be drawing my attention is the Tanks Number 3,
12 port and starboard. They're -- on the diagram, they're scratched
13 out. One time, they were 73/90 on the port and 52/30 on the
14 starboard, and then they're flipped. In your report, you have
15 73/90, so Exhibit 4, Page 31, we have your report listing the port
16 as 73/90 and 52/30 on the starboard. And my question to you is,
17 do you recall how you resolved which tank was which in your final
18 report with that difference?

19 A. Yeah. Well, so if you look at stability reports of the same
20 boat, you'll find a lot of different capacities. I try to use the
21 latest documents that I have. Like I said earlier, I don't
22 measure tanks myself. I use other documents. And so I can't say
23 whether I pulled this from this capacity plan or somewhere else,
24 but whatever it is, the next naval architect will come around and
25 put something different down for capacities because it's -- they,

1 I guess, have their unique ways of measuring things.

2 Or I'm not sure how that works, but I've written a lot of
3 these survey reports, and I've found a lot of variations in
4 capacities, depending on which architect does it or even an
5 architect if it's a second or third time but come out with
6 different numbers. So might have been switching tanks or
7 something. I just copy off the reports that I get and the papers
8 that I find on the boat. So that's, I think, a question better
9 suited for a naval architect.

10 Q. Thank you, Mr. Jacobsen.

11 LCDR COMERFORD: Captain, that's all the questions I have.

12 CAPT CALLAGHAN: Thank you.

13 I did have one more question from Mr. Barnum with the NTSB.

14 MR. BARNUM: Thank you, Captain.

15 Captain Jacobsen, I know we're up against some -- a hard time
16 here, but I did have one follow-up for you along the same lines as
17 Commander Comerford on the tank volumes.

18 Lieutenant McPhillips, can you bring up Exhibit 36, Page 17,
19 please?

20 BY MR. BARNUM:

21 Q. Captain Jacobsen, can you see this?

22 A. Yes, I can.

23 Q. Okay. This comes out of the *Scandies Rose* 2019 Stability
24 Report, and we've already established that you indicated that you
25 hadn't seen this document, but are you familiar with this type of

1 sounding table?

2 A. Yes.

3 Q. Okay. And, for the benefit of the public, could you briefly
4 describe what kind of information was obtained from referencing
5 this stability table -- excuse me, sounding table?

6 A. Yeah. So the sounding table is, if you want to find out how
7 much fuel is in your tank, then you can look at a sight glass or
8 put a pole down into the tank and measure how many inches of fuel
9 are in the tank. So you look at this table, and if you have, for
10 example, one foot of fuel, it would hold -- that would constitute
11 62 gallons in the tank.

12 Q. Okay. So, in this particular -- this is the forward port
13 wing tank, diesel fuel tank for the *Scandies Rose*. The max
14 sounding, can you see what the max sounding and the volume of that
15 tank is like?

16 A. 28/35.

17 Q. Okay, 28/35 gallons. Can we bring up, Lieutenant McPhillips,
18 Exhibit 004, condition and valuation survey, please? Page 31.
19 So, Captain Jacobsen, could you read here for the record what you
20 have listed as the fuel tank on one port as for capacity?

21 A. Sure. Capacity 89/30.

22 Q. And, in the stability instructions, it indicated that same
23 tank was 28/35. Correct?

24 A. Yes. Assuming that's the same tank that they're talking
25 about.

1 Q. Could you elaborate on that a little? I mean, it was
2 clearly labeled the number one fuel tank port on both documents.
3 Is there any other explanation that you can give for the, I would
4 say, fairly large discrepancy in fuel volume?

5 A. Not that I can give. I think you'd have to refer to previous
6 stability reports and see what they have there. If there was a
7 modification that divided tanks or something like that, that could
8 account for it. Renumbering of tanks, conversion the tank for
9 another purpose -- could be a lot of reasons why, but I don't have
10 those reasons because I don't do stability reports.

11 Q. Okay. Thank you for that. Appreciate it.

12 MR. BARNUM: Thank you, Captain. I'm all done.

13 CAPT CALLAGHAN: Mr. Jacobsen, I want to -- on behalf of the
14 Board, I want to thank you for your time today, for your
15 testimony. Really appreciate what you've been able to provide for
16 us here and your flexibility to work with us in this virtual
17 environment and in this timeframe.

18 Sir, at this time, you are now released as a witness at this
19 formal hearing. Thank you for your testimony and cooperation. If
20 I later determine if this Board needs additional information from
21 you, I'll contact you through our legal advisor. If you have any
22 questions about this investigation, you may contact the
23 investigation recorder, Lieutenant Ian McPhillips. Thank you very
24 much, sir.

25 THE WITNESS: And thank you.

1 (Witness excused.)

2 CAPT CALLAGHAN: The time is now 1410. This hearing will
3 take a short recess, and we will resume at 1430.

4 (Off the record at 2:09 p.m.)

5 (On the record at 2:30 p.m.)

6 CAPT CALLAGHAN: Okay, the time is now 1430. This hearing is
7 now back in session, and we will now hear from Mr. Jordan Young.

8 Mr. Young, Lieutenant McPhillips will now administer your
9 oath and ask you some preliminary questions.

10 LT McPHILLIPS: Please stand and raise your right hand.

11 (Whereupon,

12 JORDAN YOUNG

13 was called as a witness and, after being first duly sworn, was
14 examined and testified as follows:)

15 LT McPHILLIPS: You may be seated. Please state your name
16 and spell the last.

17 THE WITNESS: Jordan Young, Y-o-u-n-g.

18 LT McPHILLIPS: Please identify counsel or representative if
19 present.

20 THE WITNESS: None.

21 LT McPHILLIPS: Please tell us, what is your current
22 employment and position?

23 THE WITNESS: I work for Highmark Marine Fabrication in
24 Kodiak, Alaska, as a welder and fitter.

25 LT McPHILLIPS: What are your general responsibilities in

1 that job?

2 THE WITNESS: Handling welding and fitting projects on steel,
3 a variety of metal boats for -- or not just boats but anything
4 metal related.

5 LT McPHILLIPS: Can you briefly tell us your relevant work
6 history?

7 THE WITNESS: I have worked for Highmark Marine Fabrication
8 since the beginning of 2018, the first -- actually, the first
9 month and as a welder shortly after getting out of welding school.
10 And I've remained an employee here ever since then.

11 LT McPHILLIPS: Okay. What is your education related to your
12 position?

13 THE WITNESS: I took a combination welding course, the first
14 portion being structural welding and then the second being pipe
15 welding.

16 LT McPHILLIPS: Do you hold any professional licenses or
17 certificates related to your position? Please explain if you do.

18 THE WITNESS: I have, I think, four welding certifications --
19 five. Two structural, one being a D-11, which is unlimited
20 thickness steel, and then I have a bridge certification, which is
21 similar in nature, just no power tools, and then I have two pipe
22 certifications, both of them being API -- to the code of API-1104,
23 just on different sizes of pipes, and then an aluminum
24 certification as well.

25 LT McPHILLIPS: Thank you. Captain Callaghan will now have a

1 follow-up question for you.

2 CAPT CALLAGHAN: Thank you, Mr. Young. On behalf of the
3 Board, we thank you for your time today. And at this time, I'm
4 going to turn it over to Commander Karen Denny, who's going to
5 move forward with the Coast Guard questions.

6 EXAMINATION OF JORDAN YOUNG

7 BY CDR DENNY:

8 Q. Good afternoon, sir. Thanks again for being here virtually
9 with us. If, at any point, we have -- if you have any questions
10 that you don't understand or you can't hear because of technical
11 difficulties, please don't hesitate to say so, and we'll either
12 rephrase or repeat the question. And we're going to talk for a
13 while, but if you need a break at any point, please let us know.

14 Using this platform, we're going to be able to share exhibits
15 and show you stuff on screen, so if at any point we pull something
16 up to look at and you want us to zoom in on something for a
17 particular point, please let the recorder, Lieutenant McPhillips,
18 know that, and he'll go ahead and focus on it for you, and you can
19 let us know when we've reached the spot you want to be at.

20 Any questions so far?

21 A. No, ma'am.

22 Q. Okay, thank you. So you gave us some information about your
23 experience as a welder, and if I understand you correctly, you
24 went right from welding school to work at Highmark Marine up in
25 Kodiak. Is that correct?

1 A. Yes.

2 Q. Okay. Can you talk about how you became a welder and what
3 kind of training it really took? You told us the certifications
4 that you have, but what did it take to become a welder? And I'd
5 like you to focus on the amount of time it took, what kind of
6 schools, and then the on-the-job training requirements.

7 A. Okay. I'll start out with schools, like I suppose I came in
8 with not having a lot of experience at all. And they start you
9 out just getting -- with book learning, mostly, just having an
10 understanding of what it is, what's happening in the process of
11 welding. And then, after a short period of that, you move right
12 into the shop and get hands-on experience with all the different
13 tools related to it, and then spent about four and a half months
14 specifically training for the (audio skip) which requires like
15 eight hours of -- eight hours a day of practicing on weld coupons,
16 specifically stick welding, which is what my certifications are.

17 And to reach (audio skip) to create a weld that's pure enough
18 to shoot with an x-ray and have them measure the -- any defects or
19 slag inclusions or anything and hold it to a code and then qualify
20 you to that. That was the first portion, was the structural
21 portion. And I got lot of experience with different types of
22 metals and whatnot, but that was the focus, was to pass that
23 structural certification.

24 And then the second part was the pipe welding course, which
25 was an equal amount of time, about four and a half, five months

1 practicing on a variety of different materials and sizes of pipe
2 and whatnot, different weld procedures, but mainly focusing on
3 getting towards the API-1104 -- or 1109. I'm pretty sure it's an
4 1104, but I can't recall. Or it's, sorry, section 9 -- 1104.
5 Anyways, and then also passing an x-ray for that as well. So just
6 a lot of hands-on, making that weld over and over for those eight
7 hours a day of those five months.

8 Q. Okay. And then so that schooling involved that on-the-job
9 training. And then is there some kind of apprenticeship that,
10 once you get that certification, you have to have a certain amount
11 of time or a number of hours before you can move up? How does
12 that work?

13 A. Right. So no, I didn't go to an apprenticeship. I just went
14 right to work down here at Highmark. And I forgot to mention that
15 my pipe certs are also in compliance with ABS. It doesn't make a
16 difference as far as procedure, just that it is a qualified
17 procedure, and they recognize it.

18 Anyways, so when I took that test going into what -- I think
19 I just spent the first year, I believe, only as a helper, just
20 grinding and fitting, not doing any actual welding myself so much,
21 just learning about the type of equipment that we work on and
22 whatnot. And then not until that second year did I actually begin
23 to get to work on and start welding on anything.

24 Q. So, to make sure that I understood what you're saying, so you
25 started in early 2018, I think you said February?

1 A. January.

2 Q. January. Okay, so you started in January of '18, and then
3 you worked for that first year in a position where you weren't
4 doing the welding itself, but you were in the yard the whole time,
5 helping, grinding, prepping. And then in -- so then a year later
6 in '19 is when you started doing welding work. Correct?

7 A. Right. I maybe did a couple of small projects, but nothing
8 critical.

9 Q. What defines critical?

10 A. As far as like on a piece of like operating machinery or
11 something that could become dangerous if it failed.

12 Q. Okay. Okay. So, Lieutenant McPhillips, please pull up
13 Exhibit -- Coast Guard Exhibit 112, and be ready to start on Page
14 1, please, and I'll ask you to scroll through 2, 3, and 6
15 subsequently. Mr. Young, these are photos of interior spaces on
16 board the *Scandies Rose* from 2019. Now, I want to -- I want you
17 to think back to that time, so it was around November the
18 timeframe of 2019. So do you recall seeing this?

19 A. I do, yes.

20 Q. You do. Can you walk me through that? Can you tell me, to
21 the best of your recollection -- and if you need to take a minute
22 to just kind of think through it, I really would like for you to
23 tell us as many details as you remember from when you got tasked
24 with that job to -- and walk us through what you saw and with as
25 many details as possible.

1 A. Do you want me to describe the whole thing or just what's in
2 the evidence?

3 Q. The whole thing would be good, and then we'll scroll down a
4 little later so that -- actually, Mr. McPhillips, could you please
5 scroll down to Page 2 just to refresh Mr. Young's memory? So
6 there's Page 2, just to refresh your memory. And Page 3, please?
7 Okay, and then down one more, please. Okay, so we'll leave it up
8 right here. And so if you could just walk me through, to the best
9 of your recollection, you getting assigned that job and coming
10 onboard. And if you need to ask Lieutenant McPhillips to move
11 those pictures around so that you can better explain that, please
12 do so.

13 A. Okay. Well, this is that starboard waste chute. That first
14 image is probably the first thing you see after you get down --
15 there's a hatch further down the void there. You can come down
16 through there and then see the bottom -- or the inside -- this is
17 looking at the underside of that chute from inside that void
18 there, all that green -- I'm not sure, I guess it's epoxy or some
19 Splash Zone that's -- they had put that on there to try and stop
20 the leaks that were coming through.

21 I remember they'd -- I'd been informed that the -- they had
22 had some issues with the material wastage, and they went to a
23 shipyard to have it repaired and that the repairs were failing.
24 What seemed evident was that they didn't try to -- they did a
25 doubler -- what's called a doubler, so they didn't replace the

1 wasted metal. They just put a patch over the top of it. And in
2 doing so, they didn't patch all the way up the inside of that wall
3 there, only partially. And from what I could tell between either
4 porous welds -- but what it looked like to me, when I cut all of
5 this apart, was that the -- in patching on the wasted metal, they
6 were trying to tie into it, and some of their undercut from when
7 they were welding, they were melting the base metal and adding
8 weld metal to it.

9 Basically, they had undercut, which means that you melt the
10 base metal, but you don't refill that crater that you created, and
11 there would -- that had occurred on material that already had been
12 wasted, so, in turn, along all their welds, there were a bunch of
13 pits that were leaking through. And I believe that's where the
14 leaks were coming from. And my job (audio skip) out all of the
15 compromised material and prep it down to good material and then
16 install all new material in the same design.

17 And the only change to that design being that -- do you mind
18 maybe going back to the second image? Might be able to explain
19 that. Yeah, right there. Thank you. Do you mind zooming in
20 towards the top there a little bit, if possible? Yeah. So
21 basically where it meets -- that's perfect, thank you -- where it
22 meets the ceiling in there, I think it might be partially covered
23 by a frame in that image, but where it meets the deck, that's
24 where they had stopped with the initial chute.

25 But when we cut it out, we just ran that plate higher to get

1 rid of that seam right there, because it went up another 15 inches
2 or so to the actual deck below there, being the false deck, which
3 is what you're seeing there as the ceiling. And then 15 inches
4 above is the actual deck that you walk on. So, basically, we just
5 tried to improve it by reducing or eliminating the seam there.
6 And that was the goal.

7 Q. Okay, thank you. So, Mr. Young, if you recall, I want you --
8 to the best of your recollection, could you see any daylight or
9 could you see like a full failure at any point in either the welds
10 or any area of the chute that would have possibly allowed water
11 in?

12 A. After I performed my repair?

13 Q. Before you performed any repair or cutting.

14 A. Right, no. The only -- I couldn't -- I don't recall ever
15 seeing any daylight. The only holes were like where you can see
16 the rust line of water draining in inside was the only evidence of
17 that.

18 Q. Did you at any point see any active water coming -- seeping
19 in, coming through?

20 A. No. Everything was above the water line at that time.

21 Q. Okay. All right. Lieutenant McPhillips, we can take that
22 down for now. And so, Mr. Young, from -- to the best of your
23 recollection, what was the condition of the interior spaces around
24 that area? How did the metal of the hull look to you?

25 A. Around that area, everything looked good as far as -- I mean,

1 with more experience now, seeing other boats and whatnot,
2 everything appeared to be in good condition. I didn't spend a
3 whole lot of time looking around. I was pretty focused on what I
4 was working on there, but nothing alarming that I noticed.

5 Q. Okay, so that area -- so, in your line of work, there's areas
6 on a vessel that are considered confined spaces. Was that area on
7 the *Scandies Rose* considered a confined space?

8 A. Yes, I believe so, technically. I'm trying to remember what
9 the technical definition of one is, but there were multiple means
10 of access to it. But it was a tight area. I don't know that it
11 technically fits a confined space, but it was definitely small.

12 Q. Do you recall if it required a marine chemist gas-free
13 certificate?

14 A. No, it did not.

15 Q. Okay. And before I move off the topic, you mentioned a few
16 minutes ago that you were told that they had had previous issues
17 before getting into Kodiak, and that's why you were called to do
18 the repair work. Do you recall who told you that?

19 A. My boss, Cooper Curtis. He was the one that lined me out on
20 everything there. And I can't remember who else was there on the
21 boat with me who, I guess, was looking after the boat or who
22 represented the customer. I want to say it was David Cobban.

23 Q. Okay. And did he happen to comment on the condition of that
24 area at all, in passing?

25 A. Just -- no, just confirmed what Cooper was explaining to me.

1 Q. Okay. Okay, just give me one second. Do you happen to
2 recall if -- you know, you mentioned the Splash Zone. It was kind
3 of that yellowish-green. Do you recall, from having either talked
4 to anyone, if the crew said that they put the Splash Zone up or if
5 they indicated that it was somebody else?

6 A. I believe -- I can't -- I don't know if they said they
7 themselves did it, but I think it was inferred that the crew of
8 the boat did it.

9 Q. Recently?

10 A. In response to -- or as a way of taking care of the issue. I
11 don't know how recently -- how long they'd been dealing with it,
12 but it didn't sound for -- I think maybe just in transit would be
13 my guess.

14 Q. Okay. I understand. So, from your professional opinion,
15 from having had several years of doing this, that was definitely
16 some kind of compound, maybe not brand name Splash Zone, but it
17 was some kind of compound; you were fairly confident in that? Is
18 that a fair statement?

19 A. Yes.

20 Q. Can you talk us through what you did to repair that area?
21 What did you do to make it seaworthy?

22 A. Just started by cutting along all the old weld seams to get
23 rid of the compromised material, which was obviously rusted,
24 removing all that. And then after everything is removed that you
25 don't want, I grind it clean just to ensure that I can -- I'm

1 looking at good raw steel there, grind the edge clean about an
2 inch back along all the surfaces I'm going to be tying to and make
3 sure that it's -- there's nothing that will cause a defect in the
4 weld that I put back into it.

5 And then I would pull my measurements or make templates, as I
6 did in this case, out of cardboard, to make sure that the
7 pieces -- figure out what size the pieces are going to be so that
8 I can lay them down on material and trace them out and cut them.
9 Took all those measurements and made my templates, cut all my
10 pieces, brought them down to the boat and fit and tacked them,
11 making sure that I wanted -- I didn't have to create any gaps in
12 this instance. Sometimes you have to do an open root, but all of
13 these were either an overlap, like creating a fillet weld, or
14 maybe in a couple instances, there was a corner to corner where
15 you'd just have the fillet weld there.

16 But, yeah, get everything tacked into place and fit just how
17 you want it, and then I welded it out and with -- did -- you do a
18 60/10 root and then prime the top of the bead off. It's a 60/10
19 hot pass and then a 70/18 fill-in cap, low hydrogen rod. And
20 then, after everything has been welded, you take in -- I took
21 in -- (indiscernible) all my slag off, looked at everything
22 multiple times to make sure that I got everything welded, and then
23 I did a dye pen test, which is where you take and you spray
24 penetrant all along the outside of all your seams, all your welds
25 with a red dye, give it a good -- I think it's 10, 10 or 15

1 minutes -- it says on the can; you just follow the instructions --
2 to seep into any cracks or any holes or porosity, anything that
3 there might -- any defects that could be in their welds. And then
4 you go on the inside and spray a white developer, and that pulls
5 the dye through and would show you many areas that were -- that
6 weren't passing or had a defect that needed to be repaired. Given
7 the nature of how everything was fit and whatnot, there is very
8 low chance of that happening, and it didn't have any leaks. And
9 then I cleaned up and got my tools out of there.

10 Q. Okay, so --

11 A. I'm sorry, I lost audio.

12 Q. No, it wasn't you. Operator error on my end; it was me.

13 A. Oh.

14 Q. So, Lieutenant McPhillips, if I could have you pull up
15 Exhibit 007, please. It's a consolidation of Highmark Marine
16 work. And if you could go to Page 3, please. Mr. Young, I'm
17 going to show you the picture that we have that's labeled Chute
18 Prior to Repair. Could you take a look at that, familiarize
19 yourself with it, and then could you confirm to the best of your
20 recollection if that is what you saw --

21 Q. That is --

22 A. -- when you got onboard?

23 A. Yes, ma'am. Sorry, didn't mean to interrupt you. I'm the
24 one that took that picture, yes.

25 Q. Okay, so you took that picture. Is that typical for you to

1 do before jobs?

2 A. Yes. Cooper wasn't able to be present throughout the entire
3 project. He left it to me. So taking pictures of my work is a
4 way of communicating my progress and what I'm finding and whatnot.
5 If there's -- I have any issues or questions, I can show him what
6 I'm talking about and then --

7 Q. Okay. Lieutenant McPhillips, if you could please scroll down
8 to Page 4? Now, Mr. Young, it's coming up, but -- so it's labeled
9 Chute After Repair. Is that, to the best of your recollection,
10 what the chute looked like after you conducted the entire repair
11 that you just described to us?

12 A. This is part of the way through it. I took this picture
13 because, after you put that -- the second deck on, a lot of this
14 would be covered, and I wanted to capture this in the image.
15 There's two pieces missing. One would be the back plate that
16 basically boxes in that chute there. You can see two plates
17 coming up off of the subdeck, the -- the first deck. And
18 basically there would be a piece of plate that comes across there,
19 which I later installed, and then the final piece of deck that I
20 had cut out.

21 Q. For the benefit of the public, Lieutenant McPhillips, could
22 you run your arrow, your mouse over it? And, Mr. Young, could you
23 just direct him to -- where you would put those other pieces of
24 metal, please?

25 A. Right. If you go towards the bottom, just in the middle

1 there where there's a light gray colored piece of metal that runs
2 horizontally. Not that -- if you just move down from there
3 towards the bottom of the picture. Right -- yes, right along
4 there in that area, that would close in that chute, and then
5 the -- and then just the deck goes around all of that.

6 Q. Okay. So you mentioned that, that, you know, you did your
7 measurements, you cut out the steel, and how much steel, to the
8 best of your recollection, did you have to cut out?

9 A. I can probably gauge it by what I had to put back in.

10 Q. Lieutenant McPhillips, can you actually scroll up to the
11 receipt part of the same exhibit? I think it's Page 1,
12 potentially 2. Mr. Young, I don't know if this -- oh, that's a
13 little small -- if this might help you?

14 A. Right. Yeah, no, that would probably give a square footage
15 of what I put back in, which would be a good -- I want to say --
16 it's definitely more than one 4x8 sheet. I want to say like
17 probably around 40 -- close to 40 square feet, would be my guess.

18 Q. Okay, and when -- oh, sorry. Go ahead, please.

19 A. Oh, I said, sorry, just, if not more. It's a little small
20 for me to read that. There we go. Thank you. See if I can find
21 -- I think we did half-inch steel plate for everything, so I'm
22 just looking for that item.

23 Q. Lieutenant, could you scroll down? I think it might be on
24 the next --

25 A. Yes. No, let's just --

1 Q. Maybe not. Okay. So do you --

2 A. I think it --

3 Q. Sorry, go ahead, Mr. Young.

4 A. Oh, sorry. I think it's listed there as possibly -- listed
5 there as 3/8 steel plate. I was mistaken. I thought it was
6 half-inch, but it looks like we used 3/8 there, and it looks like
7 66 square feet.

8 Q. Okay, thank you. So back to when you were cutting out the
9 wasted metal, the part that you had to completely replace. You
10 had explained to us earlier that you believe that the previous
11 repair had done a doubler plate on it. Did you happen to see
12 evidence of like a doubler? Did you see that physically?

13 A. Sorry, it's -- because you -- say that again. Did you say I
14 did the doubler or --

15 Q. Oh, no, no. I'm sorry. I said, when you cut out the wasted
16 metal, did you see evidence of the doubler?

17 A. Yes. Yes, that was part of it. There was probably -- that's
18 a -- sorry, that's a good point. There was probably more material
19 than that that I removed, just given the fact that there was two
20 pieces of plate instead of the one.

21 Q. And for the benefit of the public, Mr. McPhillips will you
22 please just go to Page 5 of that same exhibit that we were just
23 on? I just, I want to be able to show what Mr. Young has
24 described as far as the metal that he has had to replace. So,
25 Mr. Young, is that about what you were talking about, where you

1 had to cut out that amount of metal on both sides and then cut it?

2 And then can you tell us how you cut that?

3 A. I cut it out of the boat with a plasma cutter.

4 Q. And how did you cut the new steel to make sure that it fit
5 accurately?

6 A. Right. This actually kind of looked like image -- I think I
7 cut them out with our -- we have a water jet table, and I'm not
8 sure if I can -- and basically, you take and draw it out just like
9 that and -- on the computer and type in your measurements and get
10 it to your -- to the desired dimensions and then use the water jet
11 table. It's a computer-driven machine that cuts a variety of
12 materials, but we mostly use it for metal.

13 Q. Okay. So I just want to confirm, so it wasn't like you were
14 cutting by hand. There is some level of accuracy, and you were
15 using computer modeling to ensure the accuracy based on your
16 measurements that you took. Is that a correct statement?

17 A. Correct.

18 Q. Okay, thank you. And then, looking back at the work that you
19 did on the *Scandies Rose*, how was the condition of the rest of the
20 boat, not just the area around where you did the repair, but the
21 rest of the boat in terms of the structural steel or aluminum that
22 was used?

23 A. Everything looked -- it's a steel boat and everything -- I
24 mean, just in places where they get a lot of wear and tear,
25 obviously there's going to be some rust, but nothing -- like I

1 said, nothing alarming that I noticed.

2 Q. Okay. So the *Scandies Rose* is classed as an uninspected
3 fishing vessel. Have you done welding work on an inspected vessel
4 or vessel class by a classification society? Like you mentioned
5 ABS, the American Bureau of Shipping. Have you done work on those
6 types of vessels?

7 A. I've done some work on our cutters up here at the Coast Guard
8 base that we have here in Kodiak. Trying to think of other --

9 Q. Okay. Is there anything different in terms of like the level
10 of oversight or workmanship that's required for welding on
11 uninspected vessels and inspected vessels when it comes to welding
12 and repair of that nature?

13 A. Right. I think it depends on the -- where the work is being
14 done at on the vessel, whether or not it's below the waterline or
15 what the -- I guess what -- yeah, I guess the critical nature of
16 it or whether the nature is critical. They would -- there would
17 be different types of testing done I think. The only welding that
18 I've done on the Coast Guard cutters was just for some fuel tank
19 vents, so it wasn't -- I don't think -- just did a dye pen test,
20 but I think sometimes, if you're welding on like the hull or
21 something like that, they would have you do like a vacuum box or
22 something like that. But they didn't require that in those
23 incidences. And then, versus on the fishing vessel, there's -- as
24 a company or as a business, we just provide the same kind of
25 tests, which is the dye pen test, on our welds.

1 Q. Okay. So, you know, you had mentioned the dye pen test, the
2 non-destructive testing there via a dye penetrate. Did you do
3 this alone or was there somebody else with you?

4 A. There were a couple crew members there, and I was the only
5 one that performed the -- like they didn't assist me with it just
6 because I was the only one that knew how to, but they were
7 present, yes.

8 Q. Was there anybody else from Highmark Marine that was
9 assisting you either by running material or plugging in the
10 calculations into the computer, you know, to cut out the new
11 stuff? Was anybody else from Highmark Marine involved?

12 A. There was. There was a -- I guess you would call him an
13 apprentice, Hunter Smooty (ph.). He assisted me with running
14 materials and bringing tools to the boat and whatnot and welding
15 the top deck plate back in. I think he assisted me with that.
16 But as far as anything else, I don't believe so, and -- no.

17 Q. Okay. And did anybody tell you what specific types of welds
18 to do on that steel or what kind of welding rods to use?

19 A. The -- as far as the types of welding rods and the procedure,
20 like the order in which you use the different types, that's all in
21 accordance with our procedure that's been approved by ABS. And
22 then, as far as the types of welds, Cooper specified when he
23 explained to me how to fit the material and whatnot -- or the new
24 pieces in, he explained to do overlapping joints, that way I could
25 do a fillet weld on each side, which is a very strong type of

1 weld, so --

2 Q. Okay. So, as a welder, what's the difference when you do a
3 job on the *Scandies Rose* -- actually, I take that back. You've
4 already answered that you provide the same service to an inspected
5 vessel and a non-inspected vessel.

6 So I know that you said that you started welding for Highmark
7 Marine, and you started actually doing all the work in about
8 January of 2019. Did you do any work on the *Scandies Rose* before
9 the accident, aside from having to do this weld work in November?
10 Did you do any other work on the *Scandies*?

11 A. Not on the boat itself, but as far as like servicing like the
12 whole of the boat, just on their tender equipment, which was just
13 some aluminum chutes and whatnot, I think I had done. And then
14 maybe a couple of shop projects as far as like items that they
15 brought in, but not on the actual boat itself.

16 Q. Okay. As you worked, did anyone supervise you? I know you
17 mentioned Curtis Cooper a few times, but was anybody physically
18 present overseeing your work?

19 A. Not -- yeah, nobody was assigned to me specifically. there
20 was Cooper's second in command at Highmark, David Cox. I think he
21 stopped by to just check on me and see like how the project was
22 going. That was, I think, after I had cropped out all the old
23 material, but as far -- that was the only instance.

24 Q. Is that typical for a job that's given to Highmark Marine, or
25 do you have any quality assurance, standard operating procedures

1 for the company in terms of somebody else checking your work, like
2 your welds?

3 A. No, we -- I mean, usually, there's somebody, like a senior
4 employee or somebody that has a lot of experience will oversee
5 somebody that hasn't -- maybe doesn't have as much experience,
6 but -- which was David, in that case, checking on me, but I was --
7 gotten to the point where I could be -- I could perform projects
8 like that on my own. So, other than that, no.

9 Q. So did anybody from the Scandies Rose Fishing Company, like
10 either the owner or a representative of the -- or the port captain
11 or a port engineer, did they come over and inspect the work with
12 you present?

13 A. Other than the -- the crew members that were there to assist us
14 the entire time, David Cobban and -- I'm afraid I can't recall the
15 name of the other guy that was there. Yeah, I can't remember his
16 name. But they were -- they assisted with everything like helping
17 me set the metal in place and then everything short of welding and
18 prepping material.

19 Q. Okay. So let's shift a little bit to NDT, non-destructive
20 testing. You said that you did it and that you followed the
21 instructions on the can and that you waited the specified period
22 of time and then added the developer. Could you tell us, were
23 there any areas that you had to redo because the dye pen, you
24 know, indicated there was some kind of stress or crack?

25 A. No. Every -- it was kind of -- I'd done it a lot at that

1 point and knew how to create, I mean, a sound, pure weld. And
2 especially given the way that it was fit, there was very low
3 chance of leaks, and I didn't have any instances of that.

4 Q. Okay. And then, for that weld work that you had to do, did
5 you have to do some overhead work as well? And I just want to
6 make sure that I heard you correctly. Even though that's more
7 challenging, all of the welding came out satisfactory in terms of
8 the NDT testing?

9 A. Correct, yes. There -- yes, there was some overhead, there
10 was some vertical, but everything got multiple passes on each
11 side. So yes, everything came out.

12 Q. And you mentioned Hunter Smooty, the gentleman who was
13 apprenticing and was helping you run materials. Do you -- how do
14 you distinguish between welding rods? Like if he was to bring you
15 something, would you be able to just right away say, oh, wait,
16 that's the wrong rod?

17 A. Yes, they're -- they -- different colors, they look -- as far
18 as like the thick -- the flux coating on the outside is different.
19 They have markings on the backside. They come in different cans.
20 It would be very difficult -- yeah, there's no mistaking them.

21 Q. Okay, thank you. Do you happen to recall who disposed of the
22 steel that you had cropped out, the wasted steel? Did you and
23 Hunter remove it off the vessel, or what happened to that?

24 A. I think, generally, we leave that up to the customer, I
25 believe -- or, you know, given the instance where they were parked

1 at. And, in this case, I'm pretty sure we left it on the boat.
2 They said that they would remove it with the crane when they got
3 over to the dock to load gear, the pots.

4 Q. And from start to finish, from the time you got onboard and
5 took a look at it what you had to work to the time that you
6 finished up, about how many days went by? How long did that take
7 you?

8 A. I can't say for certain, but I want to say it was seven or
9 eight days, total. I think I may have jumped on to a different
10 project somewhere in between for a short period of time just to
11 help, but I believe it was about seven or eight days, yeah.

12 Q. Okay. Thank you so much.

13 CDR DENNY: Captain Callaghan, sir, I have no further
14 questions at this time.

15 Thanks, Mr. Young.

16 CAPT CALLAGHAN: Thank you, Commander Denny.

17 Mr. Young, I'm going to turn it over now to Mr. Bart Barnum
18 with the National Transportation Safety Board.

19 Mr. Barnum?

20 MR. BARNUM: Thank you, Captain.

21 Hello, Mr. Young. Nice to see you again, and thank you for
22 talking to us.

23 Commander -- sorry, Lieutenant McPhillips, could you bring up
24 Exhibit 112 again, please? And Page 4.

25 BY MR. BARNUM:

1 Q. So, obviously, this is a point of interest here, Mr. Young.

2 A. Um-hum.

3 Q. Can you see the screen now?

4 A. Yes.

5 Q. Okay. This is a starboard -- picture of the starboard
6 tunnel. Can you explain to us where you entered this tunnel and
7 the different access points?

8 A. So, if you're taking and you're looking through those
9 lightning holes at the very end, it looks like there's a light
10 down there, that would be where it connects to the engine room,
11 which was one -- it's a difficult means of access, mostly we just
12 ran power cords and whatnot through there, but that was one area.
13 The other opening would be to probably the 6 o'clock of whoever
14 was taking this picture, which went into the -- I think the --
15 below deck in the forepeak, I think it's a sealed off tank, and
16 then there was a hatch cover in there as well, which was another
17 place we had a ventilation fan in there. And then also the third
18 point was, if you went towards the engine room there, maybe -- I
19 think three or four of those frames -- if you crossed over three
20 or four of those, there was a hatch directly overhead, which went
21 up onto the deck.

22 Q. Okay. Was that hatch open during your repairs?

23 A. Yes, yeah. That was the primary means of access.

24 Q. Okay. So, as we look at this picture and looking aft there,
25 towards the engine room, you stated that you ran some cords and

1 you accessed through that direction. While transiting back and
2 forth between here and there, did you see any other locations
3 where, you know, recent welding may have occurred on the outboard
4 side of the vessel there?

5 A. No, not that I noticed.

6 Q. Okay. So you mentioned earlier, you mentioned doubler
7 plating installed. So the location of that doubler plating
8 installation, would it be safe to say that it was the triangular
9 piece, the greenish color shown here in this picture, was that one
10 of the doubler plates underneath that?

11 A. Yes, it was -- those plates covered a portion of it, maybe
12 half of the surface area.

13 Q. Okay. So here on the forward end, half of this surface area
14 on the side of the waste chute was a doubler plate. And then can
15 we scroll down, please, to Exhibit -- let's see. Actually, scroll
16 up, I'm sorry. Page 2. Here we are, looking forward, this would
17 be the aft side of the waste chute. How much of this section here
18 was a doubler plate, Mr. Young?

19 A. Probably about the same. I'd say maybe a little bit more
20 than half. Yeah, probably up to -- I think, like I was saying, I
21 believe those leaks were coming from the undercut of their welds,
22 so I would say that probably stopped in height where that rust
23 mark begins. And then I think that was a seam right there where
24 those run down, but there was more moving inboard, a little bit
25 more material there.

1 Q. Did you have any indication when those doubler plates may
2 have been installed?

3 A. Nope. Other than they just mentioned that they did it in
4 Seattle before they came up here, but I don't know how much time
5 had passed since they did that.

6 Q. All right. Can you remind us who they were?

7 A. So the crew on board the *Scandies Rose*.

8 Q. Okay. So they had installed the doublers in Seattle before
9 coming up. And how about the epoxy over the forward and after
10 sides of this waste chute; did you have any indication of when
11 exactly that was installed?

12 A. No, the -- they -- I believe it was after the repair was done
13 -- and, sorry, just to clarify, not the crew installed the
14 doublers, but they had it done by a welding service there. And
15 then I believe the epoxy or that Splash Zone that they put it on
16 there to repair the leaks that were coming in after that repair
17 had done -- had been been done.

18 Q. Okay. So I understand you -- from what you understood from
19 the crew is that they had installed doubler plates on that waste
20 chute, forward and aft side, in Seattle before coming north, and
21 then they installed the epoxy over that in-between?

22 A. Correct.

23 Q. Thank you. Just one final question regarding the pipe
24 tunnel, the void itself. While working in there, did you see any
25 sort of bilge float or level indication if water were to enter

1 that space?

2 A. I did not notice one. I don't think I ever went through --
3 like I went from the engine room to that point and then through
4 that overhead hatch into that point, but I don't think I -- I
5 myself ever went from this point towards the forward peak, so I
6 couldn't speak for that area. But where I was, no.

7 Q. Okay. And, sorry, one more question. Other than those two
8 doublers and the epoxy, was there any other modifications to that
9 waste chute that you could notice?

10 A. No.

11 Q. No. All right.

12 MR. BARNUM: Thank you, Mr. Young. Appreciate it. No
13 further questions.

14 CAPT CALLAGHAN: Thank you, Mr. Barnum.

15 Mr. Young, I'm now going to pass it over to Mr. Stacey, one
16 of the parties in interest for this hearing.

17 MR. STACEY: Good afternoon, Mr. Young. Thank you very much
18 for your testimony. We have no questions for you. Thank you,
19 sir.

20 CAPT CALLAGHAN: Thank you, Mr. Stacey.

21 Now I'm going to turn it over to Mr. Barcott, another party
22 in interest for the hearing.

23 MR. BARCOTT: Thank you, Captain. I just have a few
24 questions of Mr. Young.

25 Mr. Young, I represent *Scandies Rose*. Mike Barcott. Nice to

1 meet you in person.

2 BY MR. BARCOTT:

3 Q. Could you generally describe the quality of the work that you
4 did on the *Scandies Rose*?

5 A. Like I described in my schooling, I spent the bulk of that
6 time practicing for an x-ray level weld, to be able to create an
7 x-ray level weld, so that's what I'm familiar with doing is
8 looking for defects and either repairing them or building a
9 technique to not have those in the first place. And I practice
10 that same quality throughout all the work that I do, I try to hold
11 to an x-ray level quality of weld.

12 Q. And you described some work you've done for the Coast Guard
13 in Kodiak. Was this work you did on the *Scandies Rose* to the same
14 quality as what you did on the Coast Guard vessel?

15 A. Yes.

16 Q. You mentioned that you were ABS certified. Could you explain
17 what that means, please?

18 A. As far as I know -- I probably should -- I probably don't
19 know as much about this as I should, but from -- as it's been
20 explained to me, there's the American Bureau of Shipping, I
21 believe is what that acronym stands for, and they have their codes
22 as far as vessels go. I don't -- and I don't think that they
23 create the procedures themselves. I think like this -- the
24 procedure that I'm qualified to is one that Cooper created and
25 presented to them and then they had to approve, so --

1 Q. Thank you. When you finished your job on the *Scandies Rose*,
2 packed up your tools and left the boat, was there any bad steel in
3 the area of the chute?

4 A. No, I wouldn't have been able to weld to it and create a
5 passing weld if there was any bad steel in that area. I would
6 have had a -- it would have caused a defect in my weld.

7 Q. When you packed up your tools and left the boat, were there
8 any bad welds in the area of that chute when you left?

9 A. No.

10 Q. Thank you.

11 MR. BARCOTT: Those are all the questions I have. Thank you.
12 Thank you very much, Mr. Young.

13 Thank you, Captain.

14 CAPT CALLAGHAN: Thank you, Mr. Barcott.

15 And I do have a couple follow-on questions from Coast Guard
16 for -- from Lieutenant Commander Michael Comerford.

17 Lieutenant Comerford?

18 LCDR COMERFORD: Good afternoon, Mr. Young. I'd like to bring
19 up Exhibit 004, Page 22. And if you can scroll down to the bottom
20 further and really zoom in.

21 BY LCDR COMERFORD:

22 Q. All right, Mr. Young, this photo was taken at their dockside,
23 so there's a little bit of equipment in the way, but we've been
24 talking about down in the void space and the work you've done.
25 And bringing yourself back to that day, do you remember where that

1 hatch was from the deck down into that void? Could you indicate
2 it on this picture?

3 A. Yeah, I think so. I'm trying to -- I think this is looking
4 towards the bow of the boat, if I'm not mistaken, I think that
5 hatch would be -- it should be, I think, just underneath where
6 that person is taking the picture, or maybe just underneath that
7 yellow hose, I believe.

8 Q. So --

9 A. Maybe --

10 Q. So it's closer to the house or was it that area that's
11 indicated right now?

12 A. I don't think it was that. I can't -- it's a little
13 different just because there was a -- they were full of pots when
14 I was on there, but that looks like the regular -- that looks kind
15 of like a fish hold hatch, if I'm not mistaken, where it's got a
16 dogging system on the inside. The hatch that I was referring to
17 had a series of bolts going along the outside of it with a
18 neoprene gasket in between there -- it's how that's designed.

19 Q. All right. Lieutenant McPhillips, can you zoom back out and
20 scroll up -- I think it's two pages up? And, while he's scrolling
21 up, can you just talk me -- talk to me about the condition of that
22 hatch? You know, did you notice anything -- right there,
23 Mr. McPhillips, that's good. I think that's the best one we have
24 for right now. You know, just talk to me about the condition of
25 that hatch, and when we circle back around to it, maybe you can

1 indicate on the photos here if you know about the area you
2 entered.

3 A. Right. I think on that photo on the left-hand side, if you
4 look down in the right-hand corner, you should be able to -- I
5 think might be able to see it if you zoom in there. Maybe not.
6 Maybe -- I think I might know what the issue -- I believe it's
7 below the deck boards, so there's that subdeck, and I think the
8 deck boards might be covering is why we can't see it because I
9 recall the -- having pulled up the deck boards now to be able to
10 access it.

11 Q. Okay, thank you. And just -- do you recall the condition?
12 Was there any signs of wastage to the hatch or anything you recall
13 about the hatch when you were going in and out?

14 A. Right. No, nothing. Nothing alarming, no.

15 Q. All right. Just a generally good or reasonable condition for
16 the -- consistent with the rest of the vessel?

17 A. Correct.

18 LCDR COMERFORD: Captain Callaghan, that's all the questions
19 I have. Thank you.

20 CAPT CALLAGHAN: Thank you, Commander Comerford.

21 So just have a couple of follow-up questions for you, just to
22 close it out.

23 BY CAPT CALLAGHAN:

24 Q. So, in regards to the Splash Zone applied around that chute,
25 based on your experience, was that a normal amount of Splash Zone

1 to see for one repair?

2 A. I think it was a lot. I haven't really seen it used on that
3 scale before. I think, I mean, I've seen it used in a variety of
4 ways, but that's probably the most I've seen, I think.

5 Q. Okay. Yeah, and so, while you were onboard, we focused a lot
6 the repairs, was your work onboard limited only to that forward
7 chute?

8 A. At that time, yes. Other than what I had been asked about
9 before, just that like tender gear and whatnot. But at the time,
10 yes.

11 Q. Sure. Did you see any -- when you were in down in that void,
12 did you see any other areas that had similar concerns?

13 A. No, I did not notice anything.

14 Q. Okay, thank you. So, Mr. Young, is there anything for the
15 benefit of the Marine Board that you think that we may not have
16 covered with you today, that you think would be of value to this
17 investigation?

18 A. No, nothing that I can come up with.

19 Q. Okay. Is there any additional information that you would
20 like to add or any recommendations that you think you have?

21 A. I don't.

22 Q. Okay.

23 CAPT CALLAGHAN: Well, sir, I'd like to thank you for
24 appearing here with us today, for your testimony and for bearing
25 with us with our virtual environment. So appreciate your time.

1 You are now released as a witness at this formal hearing. Thank
2 you for your testimony and cooperation.

3 If I later determine that this Board needs additional
4 information from you, I'll contact you directly, through our --
5 through one of the Board members. If you have any questions about
6 this investigation, you may contact the investigation recorder,
7 Lieutenant Ian McPhillips. Thank you very much, sir.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 CAPT CALLAGHAN: Okay, the time is currently 1533. This
11 hearing will now take a recess, scheduled to reconvene at -- with
12 the next witness at 1600.

13 (Off the record at 3:32 p.m.)

14 (On the record at 4:01 p.m.)

15 CAPT CALLAGHAN: Okay, the time is now 4:02. This hearing is
16 back in session. We have Mr. Kerry Walsh.

17 Mr. Walsh, Lieutenant McPhillips will now administer your
18 oath and ask you some preliminary questions.

19 (Whereupon

20 KERRY WALSH

21 was called as a witness and, after being first duly sworn, was
22 examined and testified as follows:)

23 LT McPHILLIPS: Please be seated. Please state your full
24 name and spell your last name.

25 THE WITNESS: Kerry Verne (ph.) Walsh, W-a-l-s-h.

1 LT McPHILLIPS: Please identify counsel or representative if
2 present.

3 THE WITNESS: None.

4 LT McPHILLIPS: Please tell us, what is your current
5 employment and position?

6 THE WITNESS: I work for Global Diving and Salvage as a
7 project manager and a salvage master.

8 LT McPHILLIPS: What are your general responsibilities in
9 that job?

10 THE WITNESS: It varies. I help with managing larger
11 projects. The more unique ones seem to come my way -- I'm getting
12 a long echo here. I don't know if there's something I can do
13 about it.

14 CAPT CALLAGHAN: Sir, are you playing --

15 THE WITNESS: I'm hearing you give me the oath.

16 CAPT CALLAGHAN: Are you playing the livestream locally?

17 THE WITNESS: Oh, maybe. Let me turn that off. Yeah, that
18 might be it.

19 CAPT CALLAGHAN: That's it.

20 THE WITNESS: Good call. Perfect, thank you.

21 So my job is managing Coast Guard projects predominantly
22 these days. Hurricane response, one-off things like *Scandies*, or
23 other projects that require a presence of the command post,
24 typically, these days.

25 LT McPHILLIPS: Can you briefly tell us your relevant work

1 history?

2 THE WITNESS: Briefly, I was in the Coast Guard '72 to '80 as
3 an ET and an EMT. And I got hired on a ship called the *Salvage*
4 *Chief* the day I got out of the Coast Guard. And I worked onboard
5 the *Salvage Chief* and in the office at Fred Divine Diving and
6 Salvage until '96. That's when I took a turn and went to work for
7 an automation company as a service engineer doing shipboard
8 automation until 2009, when I joined Global. And I've been doing
9 that since.

10 LT McPHILLIPS: What is your education related to your
11 position?

12 THE WITNESS: Just on-the-job training. There's really no
13 training ground for it.

14 LT McPHILLIPS: Do you hold any professional licenses or
15 certificates related to your position?

16 THE WITNESS: No, none other than the normal training
17 certificates that we have to have.

18 LT McPHILLIPS: Thank you. Captain Callaghan will now have
19 some follow-up questions for you.

20 CAPT CALLAGHAN: Thank you, Mr. Walsh. I'm now going to turn
21 it over to Commander Mike Comerford to ask a series of questions
22 from the Coast Guard.

23 Commander Comerford?

24 BY LCDR COMERFORD:

25 Q. Good afternoon, Mr. Walsh. All my questions today are going

1 to be related to the survey conducted by Global Diving and Salvage
2 in the realm of the safety of commercial fishing vessel
3 operations.

4 Thank you for being on the line with us and attending this
5 hearing virtually today. If at any point we ask you a question
6 that you do not understand or cannot hear because of technical
7 difficulties, please do not hesitate to say so and we will repeat
8 or rephrase the question. We will take breaks as needed
9 throughout the hearing, but if you need a break, please let us
10 know.

11 Using this Zoom platform, we have the ability to share
12 exhibits virtually. The recorder, Lieutenant McPhillips, will put
13 any exhibits up on a monitor on your virtual desktop. If, at any
14 point, you need to point something out on the exhibit, Lieutenant
15 McPhillips will highlight the area for benefit of the Board and
16 our livestream audience. When we look at these exhibits, please
17 take your time to refresh your memory or acquaint yourself with
18 the information as necessary.

19 As a note to the families, friends, and fellow fishermen, we
20 will be talking with Mr. Walsh about the wreckage site of the
21 *Scandies Rose* on the sea floor and the observations of the survey
22 equipment he used to survey the site. We will talk about remarks
23 of two unidentified victims in that survey.

24 Mr. Walsh, we have you scheduled here until approximately
25 1715 local time.

1 First off, Mr. Walsh, I'd like to expand on your background
2 when it comes to the type of work you undertook related to the
3 *Scandies Rose*. Do you have any experience operating a commercial
4 fishing vessel?

5 A. No. No experience.

6 Q. Are you familiar with the waters in the general area of
7 Sutwik Island or south of the Alaskan Peninsula?

8 A. Over the years, I've been up there for different projects,
9 but never in the area of Sutwik Island.

10 Q. Could you describe general areas you've worked in before?

11 A. The Aleutians, north of the peninsula, south of the
12 peninsula, Chignik, King Cove, Kodiak, Port Lions on Kodiak
13 Island, up in Cook Inlet. I mean, pretty much coastal waters
14 and --

15 Q. In your other projects and the *Scandies Rose* projects, do you
16 -- could you describe what you recall from the general currents in
17 the areas, maybe Chignik area to the (indiscernible)?

18 A. In terms of what, the water currents that we were
19 experiencing on site?

20 Q. Yes.

21 A. Well, it depends on where we're talking about. You know,
22 some of the places I worked were in protected bays where currents
23 weren't an issue. Out in the open waters of Sutwik, they were
24 definitely an issue.

25 Q. Could you please talk about how you got the job to do an

1 underwater examination of the wreckage of the *Scandies Rose*?

2 A. I think our Anchorage office was in contact with Mr. Barcott
3 after the accident, and I think that, within the management in our
4 Anchorage office, they reached out to our casualty group, which
5 I'm part of, and I was assigned the operation to go up and put the
6 plan together and pick up the project for the casualty group.

7 Q. All right. Could you expand on that? What was the scope of
8 your work for that job?

9 A. For that job? I came to Kodiak on January 30th, I believe,
10 and Mr. Barcott contracted us. And when we had that contract, I
11 went out to Kodiak and I got on board the *Endurance*, the boat that
12 we were going to use for the platform. And I moved onboard the
13 boat and the captain of the *Endurance*, Captain McPherson, and I
14 watched the weather every day looking at the weather forecast in
15 the area of Sutwik, looking for a weather window to come across.

16 And in the meantime, we contracted with eTrac to do the
17 hydrographic work, and we mobilized our ROV out to Kodiak in
18 preparation to put it all on the boat as soon since we saw the
19 weather window coming. And then my job was to make the decision
20 when we were going to sail, looking at the weather. And we did
21 that -- I think we decided that we were going to go on the 5th,
22 and we mobilized all the equipment onboard and took off and went
23 out to conduct the work.

24 Q. Lieutenant McPhillips, could you please bring up Coast Guard
25 Exhibit CG-008, Page 4, please? All right, Mr. Walsh, I would

1 just like to take an opportunity for -- to hear from you. Could
2 you describe the vessel and the specialized equipment that you
3 used to conduct this survey? The first page starts with the
4 vessel, and you can scroll down to subsequent photos as necessary.

5 A. Sure. So the boat in the photo is the *Endurance*. It's a
6 207-foot ice class boat that is owned by Paradigm Marine. She's
7 solid, she's seaworthy, she can take the conditions that we were
8 expecting to deal with out in February, out in the area of Sutwik.
9 We needed to outfit it to do hydrographic work and to deploy an
10 ROV. I think you can scroll down, there might be the photos of
11 the hydrographic pole that we had to install -- well, capable with
12 the ROV.

13 So the ROV that we put on is a Global Diving asset. That's a
14 Falcon ROV, it's an inspection class. It's a very handy device
15 because it's lightweight, you know, a couple of guys can wrestle
16 it over the rail. We rigged it up with about 150 feet of free
17 tether connected to a 500-pound clump weight, and the clump weight
18 was lowered over the side, ultimately, and down to the depth that
19 we needed it be at near the wreck, and that gave the operator
20 about 150 feet of free tether to fly around with to do the survey.

21 But, in order to do that, we needed to be able to navigate,
22 so scroll down a little bit more. This is the ROV station. This
23 is where our operator is able to see the camera. That's the
24 screen to the right that he's working with. The screen to the
25 left is a sector scanning sonar that's mounted on the ROV. And

1 he's recording on the laptop that is down under his hand. So he's
2 operating a sector scanning sonar, and he's operating the camera,
3 and in his lap, he has the controls to control the thrusters for
4 the ROV.

5 Off to the left, and not in any photo, is another computer
6 with a fellow from eTrac who is providing navigation information,
7 positioning information for where the *Endurance* is on the surface,
8 where the clump weight is down below the surface in terms of
9 relative position to the surface, and how deep it is. And then
10 he's also got a pinger on the ROV itself, so when we're in
11 operation, he's able to give the information to the ROV operator
12 where the *Endurance* is above him, where the clump weight is
13 relative to the wreck, and where he is relative to the wreck. So
14 it's kind of a 3-dimensional exercise.

15 Keep scrolling. So this is the navigation system, so to do
16 the subsea navigation, we needed to rig a hydrographic pole that
17 we had fabricated in Kodiak. And this pole is able to be swung
18 up, as the picture on the left shows, and technicians are able to
19 change out the instrumentation that's on the end of the pole. In
20 this picture, this is the multi-beam sonar that we're going to use
21 for the very first phase of the project. Once the instrumentation
22 is onboard, it's swung into position and bolted up to the hull in
23 a vertical position so that the end of the hydrographic pole
24 extends below the hull of the *Endurance*.

25 In order to change the instrumentation, we need to lift it

1 back up into the other position to go into the second phase of
2 actually navigating ROV. On top of the nav pole is an inertial
3 system that monitors the motion of the pole and sends a signal to
4 help calibrate and dampen out any vibration issues, the heave of
5 the vessel, the roll, the pitch, all that information is fed back
6 to the computer system.

7 You want to keep scrolling. And stop me if you've got
8 questions about any of this stuff.

9 So that's the surface positioning system. This is the -- I
10 was always intrigued by the POS MV, and that's just the Position
11 Marine Vessel is what that means. But it's two systems that
12 measure the roll, the pitch, and motion of the vessel, feeding
13 that information back so that all of the random motions of a
14 vessel are taken for -- accounted for as much as possible in the
15 processing of the multi-beam in the navigation systems.

16 So the device down below is sound velocity. The sound
17 velocity is an instrument that's mounted next to the multi-beam
18 when we do the sonar, and what that does is it takes constant
19 measurements of the time it takes for sound to go from the sensor
20 to the seafloor and back, and it calibrates that against the sound
21 that's being emitted by the multi-beam sonar and corrects the
22 timing. So, again, it's a calibration device that makes the
23 signal from the multi-beam more accurate.

24 After the multi-beam is done, we pull the pole up, and we
25 take off the multi-beam sonar head, and we put this device with

1 the red head on it. And that's the HiPAP precision positioning
2 transducer. This device communicates with pingers, and that's the
3 yellow device that's right below it. And the transponders are
4 mounted to the clump weight, they're mounted to the ROV, and
5 there's one on the boat itself. And those transponders are
6 communicating to the HiPAP system to tell the navigator where the
7 ship is -- where our ship is on the surface, where the clump
8 weight is down below the surface in terms of position and depth,
9 and same thing with the ROV, where the ROV is in terms of position
10 and depth.

11 One thing to keep in mind as we talk about this is that the
12 *Endurance* is not at -- not going to be at anchor for any of these
13 operations. She's going to be live boating, and that means that
14 in the currents on the surface, she's going to be having to
15 maneuver and maintain the clump weight in a position that's
16 suitable for the survey. And if you've seen the videos and you've
17 listened, you hear those directions being given to the captain,
18 you know, in terms of moving mere feet sometimes. And it's pretty
19 impressive how he was able to stay on position with the conditions
20 we had. Keep scrolling.

21 Q. Real quick on there, you mentioned working with the captain.
22 Have you worked with this vessel and captain before?

23 A. You know, I've never been on that boat before, or with that
24 crew, actually, personally, but Global has. We've used Paradigm
25 Marine in a variety of ways for different salvage operations out

1 of Kodiak and in other areas around Alaska.

2 Q. And one other very small question, you fabricated the
3 hydrographic pole. Do you have your own welders, or did you
4 contract a welder in Kodiak?

5 A. That was done by Highmark Welding Fabrication in Kodiak.

6 Q. What was the -- how would you rate their quality?

7 A. Superb. They did a great job. I mean, considering it's a
8 engineered on the spot sort of device, they did a great job,
9 actually, putting that thing on.

10 Okay, now we're out on site. You know, the -- to get to
11 where we're going to look, we got a variety of coordinates. We
12 got some from the Coast Guard, we got some from a vessel that went
13 by and thought they looked at it with depth sounder, and we got
14 AIS data from the Alaska network. And with that, we knew where we
15 were heading and gave us the basic search area. But when we
16 arrived on site, it was pretty obvious where it was because there
17 was a big ribbon of diesel extending down current that, you know,
18 pointed right where the wreck was. So we were able to find it
19 very quickly and conduct the multi-beam.

20 Q. And can you remind me, what was the date at this point?

21 A. I want to say this is the 10th.

22 Q. All right. So that's a -- if it sank on New Year's Eve,
23 we're talking about plus or minus 40 days. Is it, in your
24 experience, common to have a small sheen lasting that long?

25 A. Well, you know, I mean, that's a variable, right, how much

1 fuel they had on board and how it's leaking. You know, we didn't
2 see, in our surveys, any visible plumes of oil coming out of the
3 wreck, you know, so at the surface, when we went to the -- where
4 you can look and -- down into the water and see the oil coming up,
5 it looked like small bubbles of diesel that were not visible to us
6 on bottom. So, you know, it could be dribbling for -- I don't
7 know, as long as it's got fuel. I don't know.

8 Q. All right. Thank you. I'll turn it back to you to continue.

9 A. Okay. So the multi-beam sonar survey, as I say in the report
10 here, it's attached. We can talk about it when we get down to
11 that document, probably be the best thing. You want to do that?
12 Yeah, if you just scroll down to where eTrac's report's attached.

13 Q. Are you -- and you're looking for the --

14 A. Keep going.

15 Q. -- multi-beam sounding report?

16 A. Right, yeah, let's go there.

17 Q. So, the (indiscernible) would be down --

18 A. Yeah, at the bottom. Just keep going. Okay, and go up a
19 little bit. Okay, so -- yeah, I think we can talk about it here.
20 So, when we went over the wreck with the multi-beam, we were
21 seeing -- first of all, let me back up a little bit. A multi-beam
22 sonar survey develops a thing called a point cloud. It takes a
23 lot of pings of the sea floor and it receives those as return
24 signals that are just stored in what's called a point cloud. And
25 that point cloud needs to be processed. That requires some pretty

1 serious computing power, power that we did not have available out
2 on the *Endurance*. To process it, to even get the images that
3 we're looking at right now, required that we had to have that
4 information back to shore and that -- it required, even then,
5 three days of processing to get the information that you're seeing
6 on the screen right now.

7 So what we had on site was a lot less informative. We could
8 see the outline of the boat. We could see where the bow was and
9 the stern was, and we could see the general debris pile on the
10 sonar images that we had available to us on site. That makes
11 sense? So I didn't -- we didn't see these images until after the
12 report came back to us several days after we were back to shore.
13 So what we're looking at here is -- the red area is the vessel
14 itself. It's marked bow-stern. North is due up on the picture.
15 These guys are subsea navigators. I think they just use latitude
16 and longitude in their head to figure out directions, and it's
17 been pointed out to me that there should be a compass rose on
18 there, and I agree. But that's how she set -- laying with the
19 bottom of the ship pointed north.

20 The debris field, if we go down a little further, we can see
21 some elevations. Scroll down. Or -- okay. Yeah, you can keep
22 going -- oh, let's look at this one. The potential debris field,
23 we never saw this information. There was no indication of that in
24 the unprocessed multi-beam data that we had on site, so we never
25 went to that area to look at it. This is information that was

1 developed after we got the report back.

2 But the suspicion that if (audio distortion) debris on the
3 way to her resting spot. Judging by the fact that there's not a
4 lot of other debris around, that could be the case, although, in
5 the ROV survey, we did find a great big boulder right off the bow
6 of the boat. So it could be rocks as well. We just don't know.
7 We never got a chance to look at that while we were out with the
8 ROV.

9 Q. So, while we're here, Mr. Walsh, you mentioned you were
10 provided AIS data. You were very -- you were able to readily
11 identify it with a sheen. The stern positions noted here in this
12 report, in that bottom left table, do you -- could you talk about
13 how that position relates to the AIS information you were given?

14 A. You know, I never compared it, to be honest with you. Once
15 we found it, you know, the positioning data that we were given was
16 no longer relevant to us. So I personally have never compared
17 that, that information. It'd be an interesting question though.

18 Q. Yeah, one second. I'm going to pull up something real quick.
19 All right, so while we have that table up, I'd like to just read
20 the last AIS position that we had. We had it at approximately
21 56.49 degrees north and 157.01 west. Just comparing the position,
22 is it -- could you give us a general idea how close that is?

23 A. No, I'm not -- yeah, I'm not that guy.

24 Q. Thank you. That's fair. Thank you. But I'll turn the
25 mic -- the floor back to you, and you can continue what you were

1 just talking about.

2 A. Okay. Scroll down a little bit. There's a graphic with
3 elevations that -- this is a graphic that just shows the water
4 depths that were measured around -- yeah, this is the one that's
5 got the depth lines on it. This gives a three-dimensional
6 component to it. You can see the sea floor at 165, and I think
7 the shallowest depth that we measured was 141 in a location. But,
8 you know, just more sonar data.

9 Now, you know, in a perfect world, we'd have a lot more
10 clarity in the multi-beam, but the issue with trying to get a
11 complete like snapshot almost image view of this particular wreck,
12 there were several factors. Number one, we were live-boating with
13 a boat rolling on the sea. Number two is that there was a
14 vibration in the hydrographic pole that was caused just because we
15 had to maneuver with the engines, so the pole vibrated a little
16 bit, which caused some interference. And then there was all the
17 crab pot buoys and lines that were suspended above the wreck that
18 gave information that needed to be filtered out. So that's -- you
19 know, if you've seen clearer multi-beam images, that's the reason
20 for this one not being so clear. But it gives us the information
21 that we need to know where she is and how she's laying and what
22 the water depths are.

23 Q I'm sorry if you already said it, could you talk to what the
24 approximate average water depth was?

25 A. It was 165 feet to the bottom, all around the wreck, and the

1 shallowest we saw, as I recall, was 141 feet at a particular point
2 on the wreck. I'm not sure. I don't think it's indicated in this
3 image. But that would be, you know, up on the hull, the port
4 side, at some point, probably up in the bow area. Any questions
5 about the multi-beam survey?

6 Q. I think you answered all the questions I had about the multi-
7 beam.

8 A. Okay.

9 Q. Right before we go into the next part, just a general
10 question. Were you provided any photos of the *Scandies Rose* or
11 information about the *Scandies Rose* before you -- or when you took
12 the contract to help when you were on site?

13 A. You know, the only photos we had were the ones that are
14 generally available online, and I don't recall getting anything
15 specific. We didn't have drawings of the vessel or anything like
16 that. We knew what she looked like and we weren't planning on
17 going in her, you know, we were going to just do an external
18 survey. So the images that we had and that we used were just
19 basically online photos that were available to everybody.

20 I don't know, maybe -- is Mr. Barcott on? He could maybe
21 recall if he sent us anything to the office, that was not net
22 specific.

23 MR. BARCOTT: I can't recall.

24 THE WITNESS: Okay.

25 MR. BARCOTT: All right. Sorry, Kerry.

1 THE WITNESS: Yeah, me neither. Again, it might have been
2 with you and (indiscernible), but -- yeah, I think it was just
3 online images.

4 BY LCDR COMERFORD:

5 Q. All right. Now, there was extensive video footage taken at
6 the survey. Can you tell us, ballpark, how many hours that the
7 ROV was on-scene taking videos?

8 A. Well, you know, the first ROV -- when we went back out the
9 next day after the multi-beam, we knew we had weather coming, but
10 we wanted to get a dive in and see what the general conditions
11 were. So we put the ROV in and we -- I'm going to call it
12 sneaking up on the wreck. We didn't know what we were dealing
13 with in terms of entanglement hazards, so there was a lot of
14 maneuvering, and at one point, we found the stern of the boat,
15 which is the cover photo in our report is that -- that's the first
16 image of seeing the *Scandies*.

17 We did a brief look-about. We determined the entanglement
18 hazards. We got a handle on how much current there was on bottom,
19 which was significant. We had a device that was on the side
20 called an acoustic current Doppler profiler that actually takes an
21 indication from top to bottom of the currents at various depths,
22 and we were seeing currents between like half a knot to two knots
23 using the ADCP [sic]. But on bottom, those same currents, when
24 they impacted the wreck, were flowing around it like an airplane
25 wing and creating, you know, random and high velocity currents

1 that really impacted the ability of the ROV to maneuver.

2 So we aborted pretty quickly after doing the initial dive.
3 We pulled everything back, we secured the decks for weather, and
4 we went up into Sutwik Island, got in the lee and jogged through
5 the night while we encountered pretty heavy weather that night.
6 And the next day we went back out and did the actual, full survey,
7 way better prepared, knowing what we were going to be looking at
8 and where she was and how she lay. And that would be -- I think,
9 the first dive from launch to end was about an hour and a half,
10 and I want to say the second dive was somewhere in the vicinity of
11 two hours. I'd have to go back and look.

12 Q. So, when you're jogging underneath Sutwik there, you said
13 heavy weather. Could you give a perspective of that weather
14 on-scene?

15 A. You know, I would say it was probably similar to what the
16 *Scandies* encountered the night she sank, but we were in the lee.
17 That's just anecdotally from the captain making a comment that, if
18 we were out in the same location, we would be in heavier weather.
19 We were seeing, I'm guessing, where we were, probably seas 10 to
20 15, heavy winds and snow and freezing spray for that night that we
21 laid in the lee.

22 Q. Any -- was there any ice accumulation on deck while you were
23 in the lee?

24 A. Yeah.

25 Q. I know (indiscernible) protected, but --

1 A. Yeah, we built ice on the railings and on the decks that
2 night, yes.

3 Q. Could you go a little bit more in depth about that? Do you
4 recall about how much or where -- what type of --

5 A. I want to say on the bow railings there was maybe an inch or
6 so or -- you know, I'm not that sure. I didn't pay much attention
7 to it. I just knew it was there, wasn't going to impact us for
8 what we were doing. And -- but we definitely, we definitely got
9 ice on the boat, even in the lee of that island.

10 Q. And I understand it's rough, but an inch -- roughly an inch.
11 You said that was just over the one night?

12 A. Yeah.

13 Q. So no ice when you started into the lee. By the end of the
14 night, one inch?

15 A. Ish.

16 Q. Ish?

17 A. Yeah. Yeah. Yep. And we can confirm that offline with the
18 captain. He probably remembers.

19 Q. So far, you've described some current -- I think you
20 described it as like airplane wing turbulence around the currents,
21 the entanglements. Were there other challenges you had with the
22 ROV for the survey?

23 A. The current -- the two main challenges with the ROV were,
24 number one, current, and number two, the entanglements. And the
25 current -- you know, the ROV has a thrusting forward power with a

1 speed of somewhere in the vicinity of three knots, and there were
2 times when the ROV operator could not make headway against the
3 current. And then, when I talk about an airplane wing, it's maybe
4 misleading, but when the current hits the ship and has to come
5 over the top of it, it seems to gain velocity.

6 And it's -- so you could be away from the wreck and have
7 manageable currents, but as soon as you try to get up on top of
8 the hull, all of a sudden, you're in heavier currents. And we
9 timed our dives with the ROV for the exchange from flood to ebb
10 and to be down there during that maximum period of calmness that
11 we should expect, but we never saw that. It was -- there was
12 always current, always variable as it went from flooding to ebb.

13 Q. Perhaps two questions to set the stage for going through the
14 photos you provided in the reports. The timestamps that are on
15 the photos, would those be -- should those be considered accurate?

16 A. Yeah, I think so. The ROV computer, the time was set with
17 that, and it's -- whether it's accurate to universal time, I don't
18 know, but it's accurate to what's in the video.

19 Q. Okay. And then, in general, did you observe any penetrations
20 of the hull or your team observe any penetrations of the hull that
21 might be there that were not part of the vessel's design, such as
22 weld seams that split open, holes, cracks, or anything like that?

23 A. The only thing that was abnormal, in that respect, was the
24 condition of the doors on the front of the house and back of the
25 house. The forward door at the main deck level was imploded, like

1 it had been pushed in, and the starboard door on the aft deck was
2 blown open and it was blown right off its dogs. You know, that
3 was unusual. It would take a naval architecture or some marine
4 engineers to figure out why, but when we looked at that, we saw an
5 imploded front door and a, you know, exploded aft door. And the
6 fact that she came down on her stern, we assumed something maybe
7 like a water hammer effect when the boat hit bottom.

8 Q. Okay. And maybe we'll have a chance here to see that.
9 Lieutenant McPhillips, could you bring up Exhibit 008 and turn to
10 Page 9? And when it comes up, we'll -- one second while I --
11 loads up. So what I'd like to do is just walk through the figures
12 here real quick. And this first image is of the *Scandies Rose*.
13 Could you just describe any -- overview of it, any takeaways?

14 A. You know, this is the first image when we came upon the
15 wreck. We were searching. The navigator was giving direction to
16 the ROV. ROV was giving direction to the *Endurance* on where to
17 move. We came closer and closer to it. We started picking up the
18 shadow of the stern on the scanning sonar on the ROV, and then she
19 resolved into this image, which is, you know, the first thing that
20 we saw. In this picture, what we saw when we got a little bit
21 closer is the damage to the railing and the stern that indicated
22 to us that it came down onto the bottom, stern first, and impacted
23 the bottom before she rolled forward -- pitched forward. But
24 there was no other real abnormalities here.

25 Q. All right. Lieutenant McPhillips, can you go to the next

1 page, please?

2 A. Yeah, this is just an image that was taken -- I believe this
3 is up on the house, and it's just crab pots -- or crab floats that
4 were tied off on the top of the house and on railings around the
5 accommodation. And it's just an indication of the kelt (ph.)
6 force that extended forward on the boat. When she went down, a
7 lot of crab floats came out of the buoys -- or came out of the
8 crab pots and were just suspended above it. A life ring came out
9 of its rack and was up like within 40 feet of the surface.

10 The picture below is the aft door starboard side that, in the
11 video, is actually moving with the current. You can see it kind
12 of flopping in the current. So the window's gone, obviously,
13 broken -- the door's broken, and that bottom dog is -- even though
14 it's in the open position, it's just -- the door is swinging
15 freely.

16 Q. I'm actually going to have Lieutenant McPhillips raise just a
17 screenshot of Exhibit 009, the ROV footage at minute -- it's going
18 to be the first dive footage, minute 2026. And we're not going to
19 play the video. I just want to bring up the screenshot from a
20 different angle of the aft section and give you a minute to just
21 take a look at that. And after you've had a moment, I'm going to
22 bring up a photo of the *Scandies Rose* after its last dry dock.

23 A. Okay.

24 Q. All right. Lieutenant McPhillips, could you bring up Exhibit
25 004, Page 18? And this is from the -- this was a condition and

1 valuation survey done after dry dock. If you could focus,
2 Lieutenant McPhillips, up on the top two photos.

3 A. Um-hum.

4 Q. And when he gets those in, if you could just make any
5 observations from your memory of the video or the screenshot we
6 provided and what type of damage you saw in the area in general
7 terms.

8 A. Well, I think in the video footage, especially on dive two,
9 it's more obvious. The railings are broken at the stern. There's
10 hull damage at the stern on the starboard corner. That's really,
11 I think, the only damage from these photos and the video that we
12 took that I would say is evident at the stern.

13 Q. From the signs of damage -- the rail, the door, and I believe
14 I saw the rain -- well, we saw some damage there. Would you think
15 there's -- would it be consistent with any type of orientation at
16 impact on the sea floor?

17 A. We -- when we looked at her, we -- and, again, we're not
18 going -- you know, we're just down there doing our video, but to
19 us, it looked like it came down and landed on the stern corner,
20 starboard side, and impacted basically on the corner of the main
21 deck area and then fell forward and onto her starboard side. But
22 that's just based on the visual damage that you can see on the
23 starboard quarter compared to the relative undamaged port quarter.

24 Q. Do you recall any damage to the stacks?

25 A. You know, we didn't get -- I think there was some -- I'd have

1 to go back and look. Yeah, we didn't really focus on it. We were
2 up there for a while. It seemed like I remember some of the stack
3 piping appearing to be broken. But as far as the stack shroud,
4 the housing of it, I didn't really look at it that close. I'd
5 have to go back and look at the video.

6 Q. All right. Lieutenant McPhillips, could we go back to
7 Exhibit 008, the survey -- or the search and survey -- the Global
8 Diving report? And we'll go back to -- I think it's Figure 10 at
9 this point. So it'd be the next page. And I'll turn it back to
10 you, Mr. Walsh, to continue through the photos.

11 A. Okay. Up on the port railing, it's -- this is like on the
12 stack deck, on the port railing, we -- one of the things that we
13 were tasked with finding was this bracket, which is the EPIRB
14 bracket, obviously empty. And we just spent some time looking at
15 that. And that's what that is, the EPIRB bracket.

16 Q. Some emergency position indicating radio beacons have a small
17 diameter tether line attached to them.

18 A. We looked for that and didn't see it.

19 Q. Thank you.

20 A. Um-hum.

21 Q. You can -- let's go to Figure 11, Lieutenant McPhillips.

22 A. Yeah, this is the main deck forward door on the port side
23 imploded. I think that on the video there's probably some better
24 images as it -- as the ROV moves around. And you guys are -- your
25 pictures are kind of blocking the view of it, but -- yeah, she

1 just pushed in, you know. And that's -- again, that's when we
2 were talking, we figured maybe just from the boat hitting bottom
3 so violently that, you know, with the water impacts, just kind of
4 made a water hammer that blew that door in and blew the other one
5 out, but that may not be the case. I don't know. We were just
6 guessing.

7 Q. All right. Lieutenant McPhillips, we can go to Figure 12.
8 If there's anything important to note of these next photos, please
9 let us know.

10 A. This is the top of the debris, the debris field, off the main
11 deck. You know, it's pretty obvious, when she went over, a lot of
12 the crab pots were dislodged and are piled on top of each other,
13 limiting any ability to get alongside the starboard side of the
14 vessel.

15 Q. All right, and next.

16 A. That's the foremast laying on the seafloor.

17 Q. Continue on, Lieutenant McPhillips.

18 A. Pardon me?

19 Q. Just moving the next photo.

20 A. Okay. So this is -- one of the things that we were tasked
21 with was to try to get to the overboard chute and try to visualize
22 that if we could. We made two different trips to that location.
23 The second one would be at the very end of the survey portion of
24 video two where we went down and tried as best we could, given the
25 visibility, to document how close we could get to that area of

1 interest. And we referenced, as I recall, on the main deck, that
2 we were able to get just below the mooring bits on the starboard
3 side bow. And after that, the vessel was laying down hard on her
4 side, and it was laying on top of crushed crab pots, so we just
5 were not able to get close to it.

6 Q. All right, Mr. Walsh, so you mentioned that was one of the
7 items you'd been contracted. Could you identify the other items
8 that you were contracted to identify or target?

9 A. The two main things that we were to look for -- well, three,
10 was the area of interest here in the overboard chute, the EPIRB
11 bracket, and if we could see any of the victims through the
12 windows.

13 Q. And did that include --

14 A. Other than that, it was -- other than that, it was try to get
15 a complete survey of the vessel, as best as possible.

16 Q. And with regards to the victims, I apologize, but is that
17 just to identify potential -- or was there any further guidance
18 with regards to --

19 A. The guidance was to not make any attempts to touch or do
20 anything other than to visualize them. Those were the
21 instructions.

22 Q. All right, the next two pages we're going to -- are the
23 Figures 15 and 16 for the victims. We're going to skip over those
24 out of respect at this time. Some general questions, would you
25 consider the wreck salvageable?

1 A. Yes.

2 Q. And the debris field that you saw, would it be a hazard to
3 navigation?

4 A. The debris field? Not unless it was some really deep draft
5 vessel. But the thing -- I think the only thing that would
6 concern me, as far as navigation goes, is anybody coming through
7 maybe with a trawl, you know, coming through the area and snagging
8 up on the suspended ropes and stuff like that. But I don't think
9 that the wreck itself or the debris field's a hazard to
10 navigation.

11 Q. And based on your experiences, of course, in the salvage and
12 diving realm, and looking at the ROV footage and other equipment
13 you used, was there anything about the wreckage of the *Scandies*
14 *Rose* that was unique or different from other wrecks you have
15 observed?

16 A. Nope, nope. Just tragic. Yeah. It was nothing different or
17 unique about it. I mean, no obvious reason, no obvious sign of
18 why it went down, in our eyes, you know, that we could see.

19 Q. All right, thank you very much, Mr. Walsh.

20 LCDR COMERFORD: All right, Captain. At this time, that's
21 all the questions I have.

22 CAPT CALLAGHAN: Thank you, Commander Comerford.

23 Now, Mr. Walsh, I'm going to turn it over to National
24 Transportation Safety Board, Mr. Bart Barnum.

25 MR. BARNUM: Thank you, Captain Callaghan.

1 And thank you, Mr. Walsh, for your report, a thorough report
2 there and also providing the videos. They were very useful in our
3 investigation. I have no further questions for you, though, at
4 this time. Thank you.

5 THE WITNESS: You bet.

6 CAPT CALLAGHAN: Thank you, Mr. Barnum. Now I'll --

7 THE WITNESS: Captain, you're muted.

8 CAPT CALLAGHAN: -- turn it to Mr. Stacey for any questions.

9 Thank you, Mr. Barnum. I'll now turn it over to Mr. Stacey
10 for any questions from PI.

11 CDR DENNY: Captain, you're muted.

12 THE WITNESS: The captain's muted.

13 CAPT CALLAGHAN: Thank you, Mr. Barnum. I'm going to now
14 turn it over to Mr. Stacey for questions from the PII.

15 MR. STACEY: Good afternoon, Mr. Walsh. We haven't had a
16 chance to meet in person, so during COVID, this is the best we can
17 do, but it's very nice to meet you, at least, virtually.

18 THE WITNESS: Thank you.

19 BY MR. STACEY:

20 Q. Just a couple of very brief questions, sir. Did I hear you
21 correctly that based off of the ROV footage and the work that you
22 and Global did, that you concluded that *Scandies Rose* went down
23 stern first?

24 A. Yes, that's what it appeared to us, that she impacted on the
25 starboard border stern.

1 Q. And now, do you know at all, based off your work, how long
2 she took to sink?

3 A. No, no. No idea.

4 Q. Okay. All right, thank you.

5 MR. STACEY: That's all I have, Captain.

6 CAPT CALLAGHAN: Thank you, Mr. Stacey.

7 I'll now turn it over to Mr. Barcott for any questions.

8 MR. BARCOTT: Thank you very much, Captain.

9 Mr. Walsh, thank you, and thanks for your work in February.
10 It is very helpful to us all, so thank you very much. No
11 questions.

12 THE WITNESS: You're welcome.

13 CAPT CALLAGHAN: Okay, Mr. Walsh, I've got a couple of quick
14 questions from Commander Denny.

15 Commander Denny?

16 CDR DENNY: Thank you, Captain.

17 BY CDR DENNY:

18 Q. Good afternoon, Mr. Walsh. Just a few questions of
19 clarification. A while back, you mentioned that the *Endurance* was
20 jogging because you were experiencing some inclement weather and
21 that you specifically said that the *Endurance* was jogging in the
22 lee of Sutwik Island. So just to be clear, that was to protect
23 the vessel, that was to protect the *Endurance* because of the
24 inclement weather. Is that correct?

25 A. Absolutely right. Yes.

1 Q. And did jogging in the lee protect the *Endurance*?

2 A. Yes, it did.

3 Q. How close to Sutwik Island did you have to get to get that
4 protection?

5 A. You know, I wasn't navigating, but -- no, we were -- at a
6 couple points, I'm going to say we were a half mile off the
7 island. Enough to sight-see. It was kind of a beautiful day, in
8 a rough weather kind of way.

9 Q. So, sir, you also referenced that you were tasked with
10 looking for certain areas of interest, and I just want to make
11 sure, could you recap for me what you could access -- or what you
12 could not access of the tasks that you were asked to look at?
13 What could you not access or accomplish?

14 A. The one thing that we could not accomplish was looking at the
15 overboard chute in that area because of the way the vessel, lying
16 on her starboard side and she's laying on top of crushed crab
17 pots. So the boat is smashed down on that area with debris. We
18 just could not get to it to see it.

19 Q. Thank you, Mr. Walsh. So last question from me, do you know
20 why that was a particular area of interest? Why were you tasked
21 with looking at the starboard chute?

22 A. Well, before we left dock, I mean, it was obvious there was
23 questions about the fabrication work that had been going on prior
24 to the ship sailing and that that was a potential cause for her
25 potentially to have gone down if the repair had not been done

1 correctly or it failed. So we were -- our job was to look and see
2 what we could see and record it as much as we possibly could, and
3 we just couldn't get there.

4 Q. Okay. Thank you, sir. Appreciate it.

5 CDR DENNY: No further questions, Captain.

6 CAPT CALLAGHAN: I've got one more question from Lieutenant
7 Commander Comerford.

8 LCDR COMERFORD: Hi, Mr. Walsh. I'm going to have Lieutenant
9 McPhillips bring up the second day of ROV footage around minute
10 10, 10:01. And go ahead and hit play real quick, Lieutenant
11 McPhillips.

12 BY LCDR COMERFORD:

13 Q. All right, Mr. Walsh, you see the stack there and everything.
14 You can pause, Lieutenant McPhillips, because I just want to show
15 the damage on the stack. Could you make a comment on that? And
16 we can back it up. We can back up the video if you want.

17 A. No. If I'm oriented correctly, I'm looking at the deck.
18 There's a manhole that's on the side of the stack housing. Is
19 that right?

20 Q. Yeah. And, Lieutenant McPhillips, are you able to back it up
21 a few seconds just to show the stack. Approximately there.
22 That's good. Pause.

23 A. Yeah, that would -- that damage would corroborate coming down
24 stern first, I think.

25 Q. And earlier, you said, you know, maybe starboard quarter

1 rolling to her starboard. Would that modify that in any way, or
2 is that still consistent with the starboard down or starboard
3 quarter --

4 A. You know, just based on my knowledge of -- from pictures and
5 if I was watching this live, in video, I would say that that
6 happened when she hit bottom and -- it probably happened when it
7 hit bottom, and then she rolled to starboard and forward and --
8 but that damage probably happened on impact. That would be my
9 guess. But, again, you know, I'm not an engineer.

10 Q. All right, that's all I have. Mr. Walsh, thank you very
11 much.

12 LCDR COMERFORD: Captain.

13 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

14 So just a couple quick follow-ups, Mr. Walsh.

15 BY CAPT CALLAGHAN:

16 Q. Lieutenant Commander Comerford mentioned, you know, out of
17 respect for the families and the victims, we moved over a couple
18 of the photos indicating where some of the victims were. But, to
19 clarify, can you just tell us where the victims were located?

20 A. The -- one for sure, we -- to get to the front of the
21 wheelhouse, the ROV driver did a pretty heroic drive through the
22 kelp forest of crab floats to get there. And when we got to the
23 wheelhouse windows, we could see in the wheelhouse window a
24 survival suit with a radio cord or satellite phone cord hanging
25 down over the top of them. And the suit appeared to have somebody

1 in it. But that was in the front of the wheelhouse windows. And
2 then the second one, I want to say, port side -- through the port
3 side wheelhouse windows and just a little further back, but the
4 same sort of image of a full survival suit.

5 Q. Okay. And so was that just two, then, that you had located
6 during the dive?

7 A. You know, I looked at the videos after we got back and after
8 I'd done the report, and I think they'd actually, down on that
9 deck where we looked at the stack damage and there's two windows
10 there, when we were looking through those windows, we were getting
11 a lot of reflection off the ROV lights, and we weren't able to
12 really see in any kind of detail interior to that space, but there
13 was also a survival suit in there. We couldn't see it with any
14 detail to call it, you know, maybe one that was just out of a bag.
15 But that's a potential.

16 Q. Thank you, sir, and I appreciate that clarification. Sir, I
17 do want to thank you for appearing here today, and just before we
18 close with you for the day, just want to ask, is there anything
19 else you'd like to share that you think would be of benefit to
20 this Marine Board for the purpose of this hearing?

21 A. No, I think -- I've been watching you guys, and what you're
22 doing is very, very thorough. And obviously, the schedule, you're
23 really covering your bases. No, I think you're doing a great job
24 with it. And I -- there's nothing, really, that I could add to
25 it.

1 Q. Thank you, sir.

2 CAPT CALLAGHAN: And, sir, again, I want to thank you for
3 your time, for your patience with appearing virtually here today.
4 At this point, you're now released as a witness in this formal
5 hearing. Thank you for your testimony and cooperation. If I
6 later determine that this Board needs additional information from
7 you, we will reach out and contact you. If you have any questions
8 about this investigation, you may contact the investigation
9 recorder, Lieutenant Ian McPhillips. Thank you very much, sir.

10 THE WITNESS: Thank you.

11 (Witness excused.)

12 CAPT CALLAGHAN: So, at this time, I'd like to thank all of
13 our witnesses today for their testimony. Again, for the record,
14 all exhibits presented today will be posted on the MBI website and
15 on the livestream site at a point later today.

16 Also to note, for the record, we do have some anticipated
17 schedule changes tomorrow. We do know our schedule originally
18 showed Mr. Bruce Culver appearing at 8:30 tomorrow. That has been
19 pushed, so we will post an addition -- an updated schedule as soon
20 as we can, and that'll be posted to the website and the livestream
21 site, as soon as we can get that updated. Further changes will
22 also be posted on the livestream site.

23 It is now 1703 on February 23rd. This hearing will now
24 adjourn for today and resume at 0800 tomorrow, February 24th.

25 (Whereupon, at 5:03 p.m., the hearing was recessed.)

CERTIFICATE

This is to certify that the attached proceeding before the

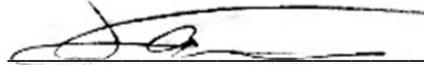
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: February 23, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Jami McNear
Transcriber



Kimberlee Kondrat
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Wednesday,
February 24, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder
LCDR MATTHEW PEKOSKE, Judge Advocate
JOSEPH STACEY, Esq.

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: It is 0800 on February 24, 2021, and this
4 hearing is now in session. Good morning, ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard, Chief of
6 Prevention for the 11th Coast Guard District. I'm the chairman of
7 this Coast Guard Marine Board of Investigation and presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 mask while seated to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table and whenever approached by another person. I ask that
18 anyone who is unable to maintain social distancing, please keep
19 their mask on unless actively speaking into the microphones.

20 Due to the extensive technology used to support this hearing
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives on December 31st, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crew members who
7 were lost at sea. I note that many of you are watching this
8 hearing on livestream due to the COVID restrictions in place, and
9 we appreciate you being here with us.

10 Upon completion of the investigation, this Marine Board will
11 submit its reported findings, conclusion, and recommendations to
12 the Commandant of the United States Coast Guard. Other than
13 myself, the members of this Board include Commander Karen Denny
14 and Lieutenant Commander Michael Comerford. The legal counsel to
15 this Board is Lieutenant Sharyl Pels. The recorder is Lieutenant
16 Ian McPhillips. Coast Guard technical advisors to this Board are
17 Mr. Scott Giard and Mr. Keith Fawcett. This Board's media liaison
18 is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB's *Scandies Rose* investigation is here with us,
22 along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witness and respect

1 their right to privacy.

2 The members of the press are welcome to attend virtually, and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the -- concerning the testimony they have given after I have
6 released them from these proceedings. I ask that any such
7 interviews be conducted with full consideration of the COVID
8 mitigation procedures that this Marine Board has established.

9 The investigation will determine as closely as possible the
10 factors that contributed to the incident so that proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence that any act of misconduct,
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed and credentialed person contributed to
15 the casualty; and whether there is evidence that any Coast Guard
16 personnel or any representative or employee of any other
17 government agency or any other person caused or contributed to the
18 casualty.

19 The Marine Board planned this two-week period to examine all
20 events relating to the loss of the *Scandies Rose* and five crew
21 members. The hearing will explore crew member duties and
22 qualifications, shore-side support operations, vessel stability,
23 weather factors, effects of icing, safety equipment, the
24 operations of the vessel from the past up to and including the
25 accident voyage, and survey imagery of the vessel in its final

1 resting place. The hearing will also include a review of industry
2 and regulatory safety programs, as well as the U.S. Coast Guard
3 Search and Rescue activities related to the response phase of the
4 accident after notification that the *Scandies Rose* was in
5 distress.

6 The Coast Guard has designated parties in interest to this
7 investigation. In Coast Guard marine casualty investigations, a
8 party in interest is an individual, organization, or other entity
9 that under the existing evidence or because of his or her position
10 may have been responsible for or contributed to the casualty. A
11 party in interest may also be an individual, organization, or
12 other entity having a direct interest in the investigation in
13 demonstrating the potential for contributing significantly to the
14 completeness of the investigation or otherwise enhancing the
15 safety of life and property at sea through participation as party
16 in interest.

17 All parties in interest have a statutory right to employee
18 counsel to represent them, to cross-examine witnesses, and have
19 witnesses called on their behalf. Witnesses who are not
20 designated as parties in interest may be assisted by counsel for
21 the purpose of advising them concerning their rights. However,
22 such counsel are not permitted to examine or cross-examine other
23 witnesses or otherwise participate in the investigation.

24 I will now read the list of those organizations and
25 individuals whom I've previously designated as parties in

1 interest. Scandies Rose Fishing Company LLC, represented by
2 counsel who are here in person today. Crew persons Mr. Dean
3 Gribble and Mr. Jon Lawyer -- Lawler represented by counsel who
4 are here in person today.

5 I have also decided that Mr. Bruce Culver, the Naval
6 Architect who created the stability instructions for the *Scandies*
7 *Rose*, meets the statutory definition of a party in interest to
8 this investigation. Yesterday, I designated him as the fourth
9 party in interest, joining the vessel owner and two surviving crew
10 members. To afford Mr. Culver time to exercise his rights as a
11 party in interest, I have postponed his testimony originally
12 scheduled for today until later in the hearing. We will update
13 the schedule, post it on livestream and Coast Guard media site
14 with his -- new testimony time as soon as possible.

15 The Marine Board will place all witnesses under oath. When
16 testifying under oath, a witness is subject to federal laws and
17 penalties for perjury for making false statements under Title 18
18 U.S.C. Section 1001. Penalties could include a fine of up to
19 \$250,000 or imprisonment of up to five years or both.

20 The sources of information to which this investigation will
21 inquire are many and varied. Since the date of the casualty, the
22 NTSB and Coast Guard have conducted substantial evidence
23 collection activities, and some of that previously collected
24 evidence will be considered during this hearing. Should any
25 person have or believe he or she has information not brought

1 forth, but which might be of -- direct significance, that person
2 is urged to bring that information to my attention by emailing
3 uscg.scandiesrosembi@gmail.com. This email address will be
4 continuously monitored.

5 Mr. Bart Barnum will now say a few words on behalf of the
6 NTSB.

7 MR. BARNUM: Thank you, Captain Callaghan.

8 I am Bart Barnum, Investigator in Charge for the National
9 Transportation Safety Board's investigation of this accident. The
10 Safety Board is an independent federal agency which under the
11 Independent Safety Board Act of 1974 is required to determine the
12 cause or probable cause of this accident, to issue a report of
13 facts, conditions, and circumstances relating to it, and make
14 recommendations for measures to prevent similar accidents.

15 The NTSB has joined the hearing to avoid duplicating the
16 development of facts. Nevertheless, I do wish to point out that
17 this does not preclude the NTSB from develop -- developing
18 additional information separately from this proceeding if that
19 becomes necessary. At the conclusion of this hearing, the NTSB
20 will analyze the facts of this accident and determine the probable
21 cause independent of the Coast Guard.

22 At a future date, a separate report of NTSB's findings will
23 be issued, which will include our official determination of the
24 probable cause of this accident. If appropriate, the Safety Board
25 will issue recommendations to correct safety problems discovered

1 during this investigation. These recommendations might become --
2 might come in advance of the report.

3 In addition, on behalf of the NTSB, I would like to offer my
4 deepest condolences for the families and those affected by this
5 tragic accident. Thank you.

6 CAPT CALLAGHAN: Thank you, Mr. Barnum.

7 Yesterday, we heard from a representative from the National
8 Weather Service and several industry personnel who had visited the
9 vessel before the accident. Mr. Kerry Walsh from Global Diving
10 walked us through his company's ROV expedition to locate the
11 wreckage of the vessel and survey the area.

12 Today, we will speak to several professional engineers
13 regarding vessel stability. This afternoon, we will hear from
14 Mr. John Lawler, one of the two survivors of the *Scandies Rose*
15 marine casualty, who will describe his firsthand account of the
16 incident.

17 At this time, this hearing will go into recess and resume at
18 0830.

19 (Off the record at 8:10 a.m.)

20 (On the record at 8:30 a.m.)

21 CAPT CALLAGHAN: Okay. The time is 0830. This hearing is
22 now back in session. We will now hear from Mr. Paul Zankich,
23 Mr. Bud Bronson, and Mr. Jonathan Parrott, all naval architects
24 and professional engineers.

25 Gentlemen, at this time, Lieutenant McPhillips will

1 administer your oath and ask each of you some preliminary
2 questions.

3 Lieutenant McPhillips?

4 LT McPHILLIPS: Gentlemen, please stand and raise your right
5 hand.

6 (Whereupon,

7 PAUL ZANKICH, BUD BRONSON, AND JONATHON PARROTT
8 were called as witnesses and, after being first duly sworn, were
9 examined and testified as follows:)

10 LT McPHILLIPS: Okay. You may be seated -- you may be
11 seated. I will be asking each of you questions about your
12 background, starting with Mr. Zankich.

13 Mr. Zankich, please state your full name and spell your last
14 name.

15 (No audible response).

16 LT McPHILLIPS: You're on mute, sir.

17 MR. ZANKICH: My name is Paul -- Luke Paul Zankich. Can you
18 hear me?

19 LT McPHILLIPS: Yes, sir. Can you please spell your last
20 name?

21 MR. ZANKICH: Z-a-n-k-i-c-h.

22 LT McPHILLIPS: Please identify counsel or representative if
23 present.

24 MR. ZANKICH: None.

25 LT McPHILLIPS: Please tell us what is your current

1 employment and position?

2 MR. ZANKICH: I am a naval architect/marine engineer at
3 Columbia-Sentinel Engineers in Seattle.

4 LT McPHILLIPS: What are your general responsibilities in
5 that job?

6 MR. ZANKICH: I do engineering calculations and go out to, to
7 job sites. Yesterday, I was out setting up for a stability test
8 Friday for the U.S. Coast Guard.

9 LT McPHILLIPS: Can you briefly tell us your relevant work
10 history?

11 MR. ZANKICH: What was that, sir?

12 LT McPHILLIPS: Briefly tell us your relevant work history.

13 MR. ZANKICH: I graduated University of Michigan in 1966 with
14 a BA -- or BE in naval architecture and marine engineering. I
15 went to work for the Boeing Company designing their hydrofoils for
16 six years. In '72, I went to Todd Shipyards as their chief naval
17 architect. In '78, I went to Marine Power Equipment Company as
18 the chief engineer. And in '86, I joined Columbia-Sentinel
19 Engineers as a partner in the company.

20 LT McPHILLIPS: What is your education related to your
21 position?

22 MR. ZANKICH: I think I said I have a Bachelor of Science of
23 Engineering in 1966 from Michigan.

24 LT McPHILLIPS: Do you hold any professional licenses or
25 certificates related to your position?

1 MR. ZANKICH: Yes, I have a professional engineer's license
2 from the State of Washington.

3 LT McPHILLIPS: Thank you, sir.

4 Mr. Bronson, please identify counsel or representative, if
5 present?

6 MR. BRONSON: None.

7 LT McPHILLIPS: Please state your full name and spell your
8 last name.

9 MR. BRONSON: Boston E. Bronson, B-r-o-n-s-o-n.

10 LT McPHILLIPS: Please tell us what is your current
11 employment and position.

12 MR. BRONSON: Naval architect in private practice where I go
13 under the company name of Bronson Marine. I do naval architecture
14 and marine engineering for various clients that I've had over the
15 years who still need my services on occasion.

16 LT McPHILLIPS: What are your general responsibilities in
17 that job?

18 MR. BRONSON: Pretty much anything in general naval
19 architecture and marine engineering. Currently, I'm assisting a
20 gentleman who has a 205-foot (indiscernible) in New Zealand,
21 essentially rebuilding it after a massive collision at sea.

22 LT McPHILLIPS: What is your education related to your
23 position?

24 MR. BRONSON: I have a Bachelor of Science from U.S. Naval
25 Academy 1961. During my time in the service, I went to U.S. Navy

1 Nuclear Power School, which is a one-year course in theoretical
2 and practical and nuclear engineering. In 1971, I went to the
3 University of Michigan, and I have a Master of Science in
4 Engineering and Naval Architecture and Marine Engineering from,
5 from that institute.

6 LT McPHILLIPS: Do you hold any professional licenses or
7 certificates related to your position?

8 MR. BRONSON: I'm a registered PE in the State of Washington
9 and have been for almost 50 years. And I used to have -- hold a
10 master's license, but I gave that up about ten years ago because
11 I've got -- can't stand up in the seaway anymore.

12 LT McPHILLIPS: Thank you, Mr. Bronson.

13 Mr. Parrott, please state your full name and spell your last
14 name.

15 MR. PARROTT: Jonathan Parrott. Last name is P-a-r-r-o-t-t.

16 LT McPHILLIPS: Please identify counsel or representative, if
17 present.

18 MR. PARROTT: None present.

19 LT McPHILLIPS: Please tell us, what is your current
20 employment and position?

21 MR. PARROTT: I'm senior naval architect at Crowley
22 Engineering Services. It used, it used to be called Jensen
23 Maritime.

24 LT McPHILLIPS: What are your general responsibilities in
25 that job?

1 MR. PARROTT: Currently, I do preliminary design, concept
2 design for various tugs, vessels, barges.

3 LT McPHILLIPS: Can you briefly tell us your relevant work
4 history?

5 MR. PARROTT: Joined Jensen Maritime in 1979 after graduating
6 school and been working with them for 42 years. I've done
7 everything from stability work to running the company as president
8 and now as a senior naval architect.

9 LT McPHILLIPS: What is your education related to your
10 position?

11 MR. PARROTT: Graduated in 1979 from Webb Institute of Naval
12 Architecture with a BSE in Naval Architecture and Marine
13 Engineering.

14 LT McPHILLIPS: Do you hold any professional licenses or
15 certificates related to your position?

16 MR. PARROTT: Yes, I have a PE license in, in the State of
17 Washington for Naval Architecture and Marine Engineering.

18 LT McPHILLIPS: Thank you, gentlemen. Captain Callaghan will
19 now have follow-up questions for you.

20 EXAMINATION OF PAUL ZANKICH, BUD BRONSON, AND JONATHON PARROTT

21 CAPT CALLAGHAN: Good morning, gentlemen, and thank you for
22 being with us this morning. If at any point we ask any questions
23 that you don't understand or cannot hear because of technical
24 difficulties, please don't hesitate to say so, and we'll repeat or
25 rephrase the question. As of right now, we have you scheduled to

1 run from -- 0830 until 10 a.m.

2 What we'll do is -- the way I'd like to try and do this is
3 really split it into two, two parts and maybe take a five minute
4 recess through the middle. We'll -- what we'll plan on doing is
5 we'll go around for at least one round of questions from myself,
6 National Transportation Safety Board, and then the parties in
7 interest. And then what we'd like to do is make it a discussion
8 panel to really gain as much as we can from you gentlemen and your
9 professional backgrounds.

10 So using the Zoom platform, we have the ability to share
11 exhibits virtually. The recorder, Lieutenant McPhillips, will
12 pull any necessary exhibits up on your virtual desktop. If at any
13 point you need to point something out on an exhibit, Lieutenant
14 McPhillips can highlight the area for the benefit of the Board and
15 the livestream audience. When we look at these exhibits, please
16 take your time to refresh your memory or acquaint yourself with
17 the information.

18 Given, given the, the virtual platform, it could -- we may
19 experience some difficulties, so I'll ask that you please be
20 patient with us. And then just, again, let us know if there's any
21 clarification that you need or if you're having any difficulty on
22 your end, and we can make some adjustments as necessary.

23 As we introduce exhibits, we'll give you time for it to pull
24 up on your screen and to review it before commenting.

25 So starting with Mr. Zankich, I know we got a basic

1 background from you, and so I wanted to try and get a little more
2 detail. Sir, can you please talk about your background,
3 particularly in detail relating to any work you've done relating
4 to commercial fishing vessels that work in the Pacific Northwest
5 or Alaskan waters?

6 MR. ZANKICH: Yes. I should start by saying, when I
7 graduated from Michigan, my final design project was a 100-foot
8 king crab fishing vessel that I presented to the class, and I
9 subsequently presented a student paper on that in the Pacific
10 North section of the -- Pacific Northwest section of the Society
11 of Naval Architecture Marine Engineer.

12 From that time forward, I dabbled in the fishing industry
13 until 1977, I guess, and started doing some stability work on
14 shrimp boats that were coming around from the Gulf to become king
15 crab boats in the Northwest and also worked on several king crab
16 vessel designs. My design was a house aft vessel, and most of the
17 northwest boats at that time were house forward vessels, and I
18 blatantly declared them to be unsafe because the captain could not
19 see the crew on deck while they were working on the crab pots.

20 From that time forward, I've done I would say maybe dozen and
21 a half, two dozen king crab stability tests on vessels and written
22 the current stability books and delivered it to the owners. Other
23 than that, we do at Columbia-Sentinel work on refurbishing
24 vessels, so we get called by shipyards to, to correct deficiency
25 on vessels, and many of them are king crab vessels.

1 CAPT CALLAGHAN: Thank you for that, sir. I have one follow
2 up with -- relating to the stability instructions that you've gone
3 on commercial fishing vessels. Can, can you tell us how recent
4 the last stability inspection you did on a commercial fishing
5 vessel?

6 MR. ZANKICH: It was within the last six months. We
7 sponsoned the vessel -- did the design of the sponson of the
8 vessel. And after the sponsoning, we did a stability test and
9 wrote -- rewrote the current stability book for that vessel.

10 CAPT CALLAGHAN: Okay. Thank you, sir.

11 Mr. Bronson, I want to pass the same question over to you,
12 sir, and ask you to talk about your background, particularly in
13 detail relating to work that you've done relating to commercial
14 fishing vessels working in the Pacific Northwest or Alaskan
15 waters.

16 MR. BRONSON: When I graduated from Michigan, I was hired by
17 Tacoma Boat Building company, which was located, obviously, in
18 Tacoma, and we did -- at that time, we did mainly vessels that
19 were in the tuna industry. So it wasn't until I left Tacoma Boat
20 in 1980 and opened my own office in Seattle that I started doing
21 my -- doing much work in, in the Pacific Northwest. I've done
22 stability work on several crabbers, longliners. My firm, Bronson
23 Marine -- well, Bronson and Windsor at the time, worked on a
24 340-foot factory trawler called *Arctic Storm*, which was the first
25 big factory trawler done in the -- in, in years in this area.

1 And I've done a lot of stability work and other odds and ends
2 for people up in the, in the North Pacific area until about 2000,
3 at which time Mr. Windsor and I decided he wanted to retire
4 because he was old. And I went to work for Martinac Shipbuilding
5 down in Tacoma. Again, I went back to doing general naval
6 architecture, and the fishing vessels we worked on, again, were,
7 were tuna sangers (ph.). But my time in -- from 1980 to 2000, I
8 was off and on out to Dutch Harbor and all sorts of areas out, out
9 west doing miscellaneous work for boats.

10 For a time period -- I think it was from about 1990 to 1995,
11 I taught the stability course for North Pacific fishing vessel
12 owners. It was a one week course for, for, for masters. Since,
13 since I quasi-retired from Martinac in 19 -- or in 2009 or '10,
14 all my previous clients in other areas found I was around and so I
15 -- I'm, I'm working off and on for different people doing odds and
16 end for them, like this one down at New Zealand. We're working on
17 this vessel that's been seriously damaged.

18 CAPT CALLAGHAN: And, and how recent would you say your work
19 is with -- on crab fishing vessel stability?

20 MR. BRONSON: Crab fishing stability, 1995 up to 2000 or
21 something like that. Once I went to work for, for Martinac, I've,
22 I've done nothing for crab -- crabbing vessels since that time.

23 CAPT CALLAGHAN: Thank you, Mr. Bronson.

24 So I'm going to shift over to you, Mr. Parrott, ask you to
25 talk about your background in detail, particularly relating to

1 work that you've done relating to commercial fishing vessels that
2 work in the Pacific Northwest or Alaskan waters.

3 MR. PARROTT: There -- yeah, Jensen was one of the prime
4 designers of fishing boats for the Pacific Northwest when I joined
5 them in 1979. They were -- at the tail -- when I joined, it was
6 at the tail end of the first series of, of crab boom -- building
7 boom for crab vessels, and we were just wrapping up a series of
8 117-foot crab vessels that were being built at Nichols Brothers.

9 For the first seven years that I worked for Jensen, being the
10 junior naval architect, I got to do a lot of the inclines and
11 stability write-ups for the boats, crabbers -- mostly crabbers and
12 then we switched over to trawlers. Since that time, we've grown,
13 I've gotten out of the stability work, but I still consult with
14 the stability group in, in the company.

15 CAPT CALLAGHAN: Okay. Sir, and, and how recent would you
16 say your work is stability related for crabbing vessels?

17 MR. PARROTT: Personally, I probably haven't done a stability
18 report in about 15 years. But we have ongoing stability work with
19 the, with the team and the company. Inclined a boat last week.
20 Currently working on a couple of other crabbers.

21 CAPT CALLAGHAN: Okay. The next is a series of questions I'm
22 going to ask and I'll ask that one of you answer. And so all of
23 you have mentioned being certified professional engineers, and so
24 I just want to ask background on that. So, when you initially got
25 your professional engineer certifications, can you tell us what

1 the requirements were -- are to, to earn that professional
2 engineering certification?

3 MR. ZANKICH: This is Mr. Zankich. I got my license in, I
4 think, 1969, and you had to have four years of college education
5 and four years of working under a professional engineer to get
6 your eight years, I think it was, qualification. Shortly
7 thereafter -- no, not shortly, but maybe ten years thereafter, I
8 worked and had a contract with the State of Washington to write
9 their PE exam for naval architecture and marine engineering. They
10 were the only state in the nation that offered that license, and
11 people would fly from around the United States to the State of
12 Washington to take the exam.

13 And that was a -- we'll call it a storybook problem rather
14 than the multiple guess that now the PE exam is. And when I was
15 the National Vice President of the Society of Naval Architecture,
16 representing the northwest, I instituted on the national level
17 with NCEES, the National Counsel of Engineering Examiners, or
18 whatever it is, and helped them make a national exam that is now
19 offered in all the states that the Board want to proffer it to.
20 And I still, every year or every two years, for Society of Naval
21 Architects, review the exam. And I've taken it several times
22 since. And regretfully, I probably wouldn't pass it now because
23 I've been out of school long enough and I've been channeled away
24 from some of the majors or minors that are in that exam. But I
25 know what's on that exam because I've been writing corrections for

1 it for many, many years.

2 CAPT CALLAGHAN: Thank you for that, sir. And so this goes
3 to talk to -- speak to your experience on the -- from the
4 certification side of it. And so all three of you being
5 certificated in the State of Washington, can you tell -- are there
6 specific requirements for Professional Engineering Certification
7 for the State of Washington?

8 MR. BRONSON: If I can answer it, they're pretty much the
9 same. Four years of, of graduate work and four years -- or four
10 years of college and four years of experience and cert --
11 recommendations by a couple of professional engineers that you're
12 qualified to take the exam. And then, now, everybody goes through
13 NCEES. That's an organization back on the East Coast that writes
14 all the professional engineers for all of professional engineering
15 societies: civil, naval architect, electrical, nuclear, all like
16 that.

17 As with Mr. Zankich, back in the, in the '80s and '90s, I
18 also helped occasionally to write questions for the exam and, and
19 he and I've both sat down and spent afternoons grading exams. Now
20 it's, it's still a written exam, but in -- the Society of Naval
21 Architects and Marine Engineers are in the process of, of
22 converting theirs to a computer generated exam. And I'm working
23 with the NCEES group in writing that -- the exam questions. And
24 the biggest problem we have is writing the reference -- the
25 electronics reference book for it.

1 CAPT CALLAGHAN: Sir, for the benefit of the public, can you,
2 can you tell us what the NCEES stands for?

3 MR. BRONSON: I think it's the National Society for
4 Engineering and Surveying. It covers all professional engineering
5 and, and surveyors.

6 CAPT CALLAGHAN: Thank you. And since -- so my next question
7 is in regards to maintaining your professional engineering
8 certification once you've obtained your initial certification.
9 What are the requirements to maintain that over time?

10 MR. ZANKICH: This is Mr. Zankich. Presently, there are no
11 requirements for follow-up education or certification in the State
12 of Washington.

13 CAPT CALLAGHAN: So I'm led to believe, then, that once you
14 have it, it's good for life?

15 MR. ZANKICH: Yes, as long as you pay your due.

16 CAPT CALLAGHAN: And can any of you recall what the, the
17 current dues are for the State of Washington?

18 MR. PARROTT: I believe they're like \$125 annually.

19 CAPT CALLAGHAN: Okay. Thank you. So, in regards to some of
20 the tools you use in your professional engineering and your naval
21 architecture work, is there a series of software that you
22 particularly use regarding stability?

23 MR. ZANKICH: This is -- this is Mr. Zankich. We use GHS,
24 General Hydrostatics. It used to be called BHS, Bill Plice (ph.)
25 (indiscernible) program for doing our calculations and such.

1 That's the, that's the one, one stability program we use.

2 CAPT CALLAGHAN: And are, are you aware over time, you know,
3 how it -- is, is that a continuously updated software?

4 MR. PARROTT: Yes, they're, they're continually updating and,
5 and adding features for analysis of stability.

6 CAPT CALLAGHAN: Thank you. Would you see -- so in, in your
7 professional opinion, would you see the -- you know, an importance
8 in maintaining that software up to date over time?

9 MR. BRONSON: Yes, it, it -- yes, this is Mr. Bronson. Yes,
10 and, and, and Bill Plice and the people at GHS have made continual
11 improvements. When it started off, it was SCEND and you had to,
12 to send them your raw data and they developed all your the
13 programs and sent you the results back. And eventually GHS was
14 developed, in which now we can enter the, the data and, and do the
15 calculations ourselves directly. It's -- it, it -- because of my
16 background in the Navy, I saw the old Navy computer program that
17 we, we used back in the '60s and '70s, and GHS is just hands down
18 better than, than that. It's exquisite.

19 CAPT CALLAGHAN: Do you think you could reliably enter
20 stability information and come up with a good stability analysis
21 using outdated software?

22 MR. ZANKICH: This is Paul Zankich. Yes, I think you could,
23 particularly in Bill Plice's program. There have been -- there,
24 there may have been very few changes to the basic formulas, things
25 for calculating KG or GM or things like that. There's lots of

1 subprograms in there now where you can make modifications. But
2 once you get the model made, that model hasn't changed in the way
3 it's made in many, many years. And if you're going to run
4 (indiscernible) under the righting arm curve or, or predict where
5 it's going to cross the curve, I don't think that has changed in
6 the program hardly any over the years.

7 CAPT CALLAGHAN: Okay. Thank you.

8 MR. PARROTT: This is Jonathan Parrott. We have, in the
9 past, discovered some bugs in the system, which we've gone back to
10 Bill Plice and his group and they've corrected and, and updated.
11 Whether these changes are major or minor, I don't know, but I
12 would say, if the program is -- hasn't been updated in ten years,
13 it's probably okay. Anything older than that, there may be some,
14 some minor computation issues in it.

15 MR. BRONSON: Oh, and this is Mr. Bronson. The -- GHS comes
16 out with periodic updates. You get a note from them that says,
17 here's your new version, load it.

18 CAPT CALLAGHAN: Is, is there a cost associated with the
19 update?

20 MR. BRONSON: Yeah. If, if you're the right age, no. If
21 you're the wrong age -- I'm -- I've been with them since about
22 1974. Eventually they said, Bud, you've paid us enough. We'll
23 just update your copy for free. But most people spend I think a
24 couple hundred dollars a year updating it.

25 CAPT CALLAGHAN: Okay. Okay, gentlemen, so, as naval

1 architects and I think, you know -- so one of the most serious
2 considerations in, in vessel design is the stability
3 characteristics of the vessel. So looking specifically to the
4 crabbing boats that operate on the Bering Sea, what would be the
5 characteristic that you would be looking for in designs in
6 general?

7 MR. PARROTT: This is Jonathan. We'd be looking at adequate
8 free board to, to keep the water off the deck in heavy weather.
9 Crew comfort, adequate working around the engine room, sufficient
10 capacity so that the apex (ph.) of the vessel is within reason.
11 And then adequate features for -- to, to maintain the safety of
12 the crew.

13 CAPT CALLAGHAN: Okay. So, gentlemen, I'd like to ask you, I
14 guess, to kind of walk us through the process, once you get the
15 call to come out and assess stability for a vessel. And let's use
16 a crabbing vessel as an example. Once you get that call, can you
17 walk us through the process to, to create that stability
18 instruction?

19 MR. ZANKICH: This is Mr. Zankich. It's very important to
20 gather as much information as you can about the vessel: the
21 vessel's shape, where the bulkheads are, where the decks are.
22 And, and you can then create a model of the vessel in GHS. But
23 sometimes drawings aren't available on vessels, and sometimes you
24 have to dry dock the vessel and scan the outside of the vessel to
25 get the shape so you can get a relatively accurate model of the

1 vessel.

2 We quite often have to go out and measure the interior of
3 vessels to make sure things haven't moved around over the years
4 since it was designed and built. We maintain a file here of, I
5 don't know, ten files -- ten (indiscernible) file cabinets of
6 drawings on vessels. And we can quite often find a sister vessel
7 to that vessel or that vessel's original drawings to help us
8 create the model. And therefore, once we have enough data on the
9 model, we can go to the vessel, do what's called a dead weight
10 survey, take the pre-boards on the vessel, we can determine how
11 much it displaces, and then we can do a stability test on the
12 vessel, moving weights on deck to determine where the vertical
13 center and the longitudinal center of gravity is.

14 Once we establish that, then we can go into the GHS Program
15 with that data and give it the standards that the Coast Guard has
16 for these vessels. And those standards have definitely changed
17 over the years for king crab vessels, so you have to get the
18 current standards in there, area under the curve and max righting
19 arm and all the limits in correctly. And then you can run it.
20 You can look at the profile, establish how much area there is for
21 windage, how much area there is for icing both vertical and
22 horizontal. You have to check the pre-board, as Jonathan said,
23 because that's one of the critical things. You have to look for
24 downflooding points on the vessel to see where, if the vessel
25 trims or lifts, if there's going to be any downflooding into

1 compartments in the vessel. And so it's quite a process to gather
2 the -- enough information on the vessel to proceed with a
3 stability evaluation.

4 Then you have to talk to the owner or the operator, what's he
5 going to do with the boat? Is he going to carry a tremendous load
6 of pots, and what kind of pots? Six by six, seven by seven, eight
7 by eight? Are they going to weigh 650, 750, 850, 950? How is he
8 going to stack them, vertically or horizontally? You have to talk
9 to him about what liquid loads he's going to have aboard. Is he
10 going to go out with all tanks full of fuel? Does he keep some of
11 the tanks full of fuel all the time and basically use them as
12 ballast? Is he going to go out with -- full of water? Is he
13 going to go out with his crab tanks full? Does he have one, two
14 or three crab tanks in there? Does the circulating water system
15 on those tanks come from different pumps, or do they have alarms
16 on them that say when they're not running?

17 It's quite a process to gather enough information to proceed
18 with the stability review on the vessel. And Bud and Jonathan may
19 have more to add to that.

20 MR. PARROTT: No, that pretty much covers it. The, the --
21 what usually happens is, is our team will go out the day before
22 the incline and visit with the vessel, make sure everything's
23 cleaned up, boat's in good shape for the incline. Most of the
24 boats we do now are either load line, so the ABS inspectors is
25 there during the incline, or it's an ACSA boat, which is a U.S.

1 Coast Guard program for fishing vessels where they'll have a Coast
2 Guard inspector aboard during the incline. But pretty much, as
3 Paul said, it's gathering information on the boat, how the boat is
4 operated. Primarily, really important to find out where openings
5 are that could allow water into the watertight envelope.

6 CAPT CALLAGHAN: And you mentioned the inclining. Can you,
7 can you just briefly tell us what's, what's required to conduct
8 the inclining portion for that?

9 MR. BRONSON: This is Mr. Bronson. You take a known weight
10 or weights and move them transversely, port -- centerline to port,
11 port to centerline, centerline to starboard, starboard to
12 centerline. You make sure that you get a straight line, that you
13 haven't got something crazy going in there. And then, using the
14 GHS software, it's pretty straightforward to find out what the
15 displacement is at that particular loading condition.

16 And then, going through the vessel, you find out what isn't
17 part of light ship, tanks that are filled, things like that, and
18 go back and, from that, deduct what's necessary and come up with
19 light ship. And then go back and sit down with the owners and
20 find out what he's going to use on the vessel, what he's going to
21 put on and off, and calculate all the different loadings
22 conditions that are, that are necessary. IMO and the Coast Guard
23 have a set of standard conditions that we're supposed to look,
24 like ready for sea or live (audio skip) the grounds departure with
25 a full load, departure with a partial load. There's a pretty set

1 -- a pretty thick set of conditions that we need to look at, and
2 then we need to talk to the owner and find out if he's going to do
3 anything else that's different than that.

4 CAPT CALLAGHAN: Okay. And so what would -- would you
5 have -- what would your expectation be for revisiting a vessel to
6 conduct a new stability examination after, say, a period of
7 30-plus years?

8 MR. PARROTT: That's always been a contention on, I think,
9 all the naval architects trying to figure out when the proper
10 interval is to reincline a boat. Based on multiple studies, boats
11 are always gaining weight, anywhere from a half a percent to a
12 percent and a half a year. And I think ABS has come up with
13 standards for five or ten years between looking at stability to
14 see if there's any major weight changes. There's also -- any
15 modifications to the boat that are beyond a certain percentage of
16 weight of the vessel requires either a new dead weight survey, but
17 some reevaluation of stability.

18 There are quite a few boats out there that have 20, 30 year
19 old stability tests, and they're -- they have based on pot rates
20 that were valid way back when. Most of the pots have gained
21 weight significantly. And up to a couple of years ago, the Coast
22 Guard up in Dutch Harbor had a program where they would go down
23 and weigh the boats -- pick a couple of boats, weigh the pots that
24 were going on the boats, compare them to the stability booklet,
25 and if there were significant weight differences, they would hold

1 the boat until the stability booklet was updated.

2 CAPT CALLAGHAN: Okay.

3 MR. BRONSON: This is Mr. Bronson. If you look at the
4 instructions to the master, which is one of the first pages in a
5 stability -- studying a stability report, almost always the last
6 line says, any changes to the configuration or the weight or --
7 voids the stability booklet. That's one of the biggest challenges
8 is to get people to understand that going from 200-pound pots to
9 250-pound pots, you need someone to reexamine your stability.

10 CAPT CALLAGHAN: Okay. Can --

11 MR. BRONSON: I mean, it's not, it's not constrained to the
12 crabbing industry. All the fishing vessels are that way.

13 CAPT CALLAGHAN: Lieutenant McPhillips, can you pull up
14 Exhibit 36 please, particularly page 5? This is the stability
15 instructions, directions to the master. So looking at these
16 instructions to the master for the *Scandies Rose*, is this a
17 standard -- is this, is this standard that you would normally use
18 in your stability booklets?

19 MR. ZANKICH: This is Mr. Zankich. We might have it in
20 different sequences and such and we might have several different
21 words in here, but, but the -- the coverage of the subjects is
22 generally the same.

23 CAPT CALLAGHAN: Is there --

24 MR. PARROTT: Yeah, we would, we would -- I mean, we would
25 add probably a little bit more descriptive of the crab pots and,

1 and actual dimensions, but other than that, our, our letters are a
2 little bit longer. They're a little bit more wordy, but we
3 generally cover the same, same items.

4 CAPT CALLAGHAN: Is there a standard anywhere for what they
5 -- what is required or what is normally included in these
6 instructions to the master?

7 MR. PARROTT: Not that I'm aware of. There would be -- if,
8 if the boat was a load line boat, ABS would have certain standards
9 as to how the, the letter is written and what's included. But
10 other than that, no, there are not.

11 MR. ZANKICH: Looking, looking at this in front of me -- this
12 is Mr. Zankich -- I don't see any directions in here as to
13 sequence of burn of tanks, which sometimes is critical in the
14 conditions evaluated where you need -- you can't have -- can't be
15 moving fuel around from one tank to another. He talks about, do
16 not operate with a slack, partially filled hold. That's a good
17 thing to say, but sometimes that hold has to be pumped down or
18 pumped up.

19 And years ago, when I was writing these without a whole lot
20 of direction from the Coast Guard, I had a line in here that said,
21 if your crab tank is not pressed full or empty, you should put the
22 nose of your vessel into the weather until you can either get it
23 full or empty. Because usually in the -- that transition period
24 from full to empty can drastically affect the operation or the
25 stability of the vessel. So we tell the master to put his nose

1 into the weather and then pump it down or pump it up, but don't be
2 operating with it slack.

3 We also sometimes have in here burn sequences on the tanks
4 where we tell them, don't fill the number three crab hold forward
5 until the number one or number two are full. You can get yourself
6 out of trim; you can get yourself with lots of free surface. So
7 it's really, really important to tell the operator how he's going
8 to operate the vessel, and he may have told you how he's going to
9 operate it, so you want to parrot back at him.

10 CAPT CALLAGHAN: Thank you.

11 Lieutenant McPhillips, you can pull that exhibit down please.
12 So continue on, looking specifically at the *Scandies Rose* --
13 Lieutenant McPhillips, could you please pull up Exhibit 014
14 please, page 1? This, this was a picture of the vessel. Are, are
15 you gentlemen familiar with the design -- such design as the
16 *Scandies Rose*?

17 MR. ZANKICH: Looks like a house aft crabber.

18 MR. PARROTT: Yeah, it's, it's a pretty typical house aft
19 crabber design. We actually did an incline on a sister vessel.

20 CAPT CALLAGHAN: And so, you say did an incline on a sister
21 vessel. Does that mean you issued the stability instructions for
22 that vessel?

23 MR. PARROTT: Yes, this would have been quite a while ago.
24 We're not sure. We, we provided that information to the Coast
25 Guard early on in the investigation, but I'm not -- offhand, I

1 can't remember the name of the boat or the date that we did the
2 incline.

3 CAPT CALLAGHAN: So just looking at this particular design,
4 will you -- can you comment on some of the particular positive
5 characteristics in terms of stability, vessels like the *Scandies*
6 *Rose*?

7 MR. PARROTT: I mean, one, one of the things that, that we
8 noticed on these types of boats is because they have buoyancy back
9 aft with the deck house and forward with the fo'c'sle, it's that
10 they generally tend to be very stable boats. Their pot loads are
11 limited by the ability to see out of the pilot house, so it's
12 somewhat difficult to -- well, it used to be somewhat difficult to
13 overload the boats. We, we -- early on, when we were doing
14 stability, we could get the boats with their decks awash still to
15 meet the stability criteria, and that's when we started
16 instituting a minimum free board for the boats. But generally,
17 the boats are very good crabbers, very -- you know, with very good
18 stability characteristics.

19 MR. ZANKICH: What Jonathan is taking reference to I think
20 is, as the boat heels to the port or starboard with the raised
21 deck forward and house aft, you could pick up buoyancy as you roll
22 to port or to starboard, whereas if they were flush decked, you
23 don't pick it up from those two raised areas. And that'll give
24 you interesting righting arm curves because you start to pick up
25 that buoyancy at 30 degrees heel or 35 degrees heel or something.

1 So it pushes your righting arms out there. But it's -- these are
2 generally very stable vessels.

3 CAPT CALLAGHAN: Okay. Conversely, what would be -- in your
4 professional opinion, what are the -- would be the -- any negative
5 concerns with stability of a vessel like this in -- operating in
6 the Bering Sea or Alaskan waters?

7 MR. ZANKICH: Well, I see on the -- it must be the starboard
8 side here, the area where they operate the -- it must be the pots.
9 And that's unusual to have that, you might say, as low as it is.
10 But -- so you could be pretty wet there in the sea.

11 CAPT CALLAGHAN: And so, again, looking at this photo and
12 going to your professional opinion, what do you think operating it
13 in the, in the waters of -- off Alaska could be the major factors
14 that can affect erosion of positive stability for a vessel like
15 this?

16 MR. ZANKICH: Ice, ice, ice.

17 MR. PARROTT: Either that or water on deck. A lot of these
18 vessels have, have high wing walls. You can see where back aft of
19 the pat hauling station, the side of the vessel goes up to the --
20 to level with the first gear of flat pots. You can -- if, if you
21 don't put enough frame ports into that area, you, you -- there's a
22 possibility that you can accumulate water on deck. Typically, it
23 wouldn't be too much of an issue with these boats, but there is a
24 possibility of that happening.

25 CAPT CALLAGHAN: Okay. I'm going to ask Lieutenant

1 McPhillips, if you could pull up Exhibit 40 please, page 47.
2 These are the icing portions of the regulations in the Code of
3 Federal Regulations. Okay. Has it, has it come up for you,
4 gentlemen?

5 MR. PARROTT: Yes.

6 CAPT CALLAGHAN: Are you gentlemen familiar with these?

7 MR. PARROTT: Very much so.

8 MR. ZANKICH: Yes.

9 CAPT CALLAGHAN: And would you -- in terms of calculating
10 stability, would you say that these are the -- the calculations
11 here are conservative in nature?

12 MR. ZANKICH: No.

13 MR. PARROTT: I would have to agree with Mr. Zankich.
14 There's certainly been documentation that the ice accumulation is,
15 is -- can be much greater. The icing -- these icing calculations
16 also do not take into account the fact that icing will most likely
17 accumulate more on one side of the vessel than the other, which,
18 which would add a heeling moment to the, to the stability icing.

19 CAPT CALLAGHAN: So --

20 MR. ZANKICH: One of the problems with this verbiage and
21 everything about the ice in these rules is that you can leave port
22 -- not on a sunny day (indiscernible) but maybe -- and head out to
23 the grounds, and you could start experiencing icing conditions,
24 and you can't do anything about it other than get out baseball
25 bats and try and break it, because you can't get rid of the pots

1 because they're all iced in place.

2 CAPT CALLAGHAN: Right.

3 MR. ZANKICH: And so the accumulation can continue over and
4 over and over again, and you cannot -- you can stick your nose
5 into the wind and try and get that off center icing that was
6 mentioned, but that's not maybe the direction you're going to your
7 grounds. So the fact that you started icing while you were away
8 from the dock, another problem is you were sitting at the dock
9 maybe for a week before you went out. The boat is cold, cold,
10 cold, and you go out and the first spray you hit forms ice on the
11 boat and starts locking your pots in right then. You can't get
12 rid of them anymore. You're stuck. So you either find some way
13 to get rid of the pots, which you can't because they're all iced
14 in place, or you get back to a port where you get into safe harbor
15 or somehow. You're an accident looking for a place to happen.
16 You've got to find a way out of it.

17 CAPT CALLAGHAN: So, gentlemen, based on the assumptions for
18 the requirements within these standards, looking at this and
19 trying to calculate it in terms of stability, is this -- are these
20 assumptions made, I guess, in what would be assumed as like a
21 shoebox like assumptions where all the weight's being on vertical
22 and horizontal surfaces? Is that approach accurate for vessels
23 with pot loads onboard?

24 MR. ZANKICH: Well, the others can talk to that, but I've
25 sent this Coast Guard group that you're in photographs of pots

1 that were iced, and they look like a solid block of ice. And I've
2 also see [sic] on your site advertising this meeting we're
3 partaking in, the lead-in photographs show a tremendous load of
4 ice on top of pots on the deck of a vessel. And that's not the
5 way this calculation is done. This is done on horizontal and
6 vertical surfaces. And there's a whole lot of other things going
7 on on that boat and inside of a pot.

8 And I and Bud and Jonathan have all looked, I think, since we
9 first talked about this several months ago at a pot -- and like I
10 said, I sent you photographs of a pot that was literally solid
11 ice. And I made a sample, as bad as it is, calculation of a pot
12 and the amount of wires and the amount of pipes in that pot, and I
13 easily, easily came up with additional 300-plus pounds of weight
14 to that pot formed by ice, which far exceeds if you were just
15 doing the shoebox approach to that pot.

16 And subsequently -- maybe I'm way ahead of your interview
17 here, but subsequently, you can't do a calculation and say that
18 the boat rolled over or didn't roll over from ice. But if you
19 start adding 3- or 400 pounds of ice to every pot on that vessel
20 -- and I don't remember how many were on this vessel; it was a
21 bunch -- I wouldn't be surprised if you were to run that GHS
22 calculation and put that additional 3-, 400 pounds in there for
23 every pot, this vessel might well have roll over.

24 CAPT CALLAGHAN: Lieutenant McPhillips, can you please pull
25 up Exhibit 93 please, page 1? So this is not the *Scandies Rose*,

1 gentlemen, but this is a photo that we were provided aboard a crab
2 vessel showing -- demonstrating some of the icing conditions. So
3 looking at this photo, gentlemen, does this represent the
4 standards outlined in the current regulations?

5 MR. ZANKICH: Speak up, Jonathan.

6 MR. PARROTT: Well, I mean, it looks like this is just
7 surface ice on those pots or whatever structure that is, and that,
8 in itself, would probably be pretty close to what the regulations
9 show. What the issue is is with crab pots is that they can
10 accumulate ice on the inside of the pots, and if you've got wind
11 and weather coming from a certain direction, the pots on that side
12 are going to be heavier, are going to accumulate ice -- more ice
13 in it than pots on the other side.

14 I just pulled up a picture of a boat that has icing in it,
15 it's a house aft crabber, and apparently -- I would say the
16 weather's coming in from the port bow side, because forward, the
17 pots are just -- I mean, you can't see the pots because of the
18 ice, but aft of the crane, you can see the ice. There's some ice
19 accumulation on pots, but it's less as it goes further aft, so
20 I -- you know, calculating icing on pots is going to be very
21 difficult, because it's such a random event, and the effects are
22 so dependent on vessel heading and a number of factors. It's,
23 it's, it's difficult.

24 CAPT CALLAGHAN: Okay. Lieutenant McPhillips, can you pull
25 up Exhibit 46 please? This is the Marine Safety Alert regarding

1 stability. So, looking at this, is this more what's referred to
2 as the blocks of ice in the -- in that picture on the first page
3 there?

4 MR. PARROTT: That's exactly -- I'm looking at a partial view
5 of that exact same picture. You can see that, aft of the crane,
6 the pots have less accumulation of ice than that -- I mean, it's
7 just one block of ice forward. But that is the picture that I was
8 looking at on the internet.

9 CAPT CALLAGHAN: Thank you. And so, Lieutenant McPhillips,
10 if you can zoom out. I just want to gauge, so are you -- have you
11 gentlemen all seen this document before?

12 MR. ZANKICH: I think I got a copy of this from a lawyer in
13 Alaska, and I think I forwarded it on to your committee, because I
14 think this is the one that takes reference to the fact that you
15 could tarp the pots. But maybe it isn't. Maybe it's another one
16 of these.

17 CAPT CALLAGHAN: Okay. And you bring up the issue of tarping
18 the pots. So, in your professional opinions, would tarping the
19 pots add benefit? And if so, can you talk to that? And if not,
20 what would be the hazards of that?

21 MR. ZANKICH: Well, it's a maybe or maybe not. You can tarp
22 the pots and then you can calculate per that IMO or Coast Guard
23 rule about so many inches of ice. You can still get more ice than
24 that, however, but at least you're not dealing with the interior
25 of the pots being iced and iced and iced and iced. But how do you

1 -- and I know my customers, maybe the others, would be, wow, how
2 are we ever going to tarp the pile of pots?

3 And I guess you'd have to do that when you leave port, so you
4 could tarp them in port and only cover -- under -- uncover
5 particular areas, and then, as you restack parts -- pots, you'd
6 have to start tarping over those pots also. Fortunately, pots
7 have lots of areas where you can put hooks to hold tarps. But the
8 -- but that ice accumulation in that picture that's on the screen
9 here is, like I say, an accident looking for a place to happen.

10 MR. BRONSON: This is Mr. Bronson. If I could add a couple
11 of comments. First, the idea of tarping all of these is an
12 interesting phenomenon, but I deal, and have for years, done ocean
13 racing with large sailboats. Handling a 2,000-square-foot piece
14 of canvas in a wind with ice and all that in addition, I think
15 that's a disaster that's even worse than the problem with the pipe
16 -- with the, with the ice. I can see crew getting thrown
17 overboard trying to, trying to control that. We're not talking
18 about doing this under nice conditions but in terrible conditions,
19 and to have a 40-by-40 piece of canvas running around is not
20 something I would like to do.

21 MR. ZANKICH: Unless you were to do it, Bud, before you left
22 port and then take it off if you don't have icing conditions
23 coming up.

24 MR. BRONSON: Okay. But, eventually, you're going to have to
25 take that tarp off.

1 MR. ZANKICH: Yeah.

2 MR. PARROTT: And you're not going to take it off in port;
3 you're going to take it off at sea. And you've got to have fairly
4 calm conditions, and that is not the North Pacific.

5 CAPT CALLAGHAN: Okay. And referring back to that Marine
6 Safety Alert following the casualty on the fishing vessel
7 *Destination* just a few years back, have any of you or your
8 companies shifted any of the work that you do in regards to
9 stability on crab vessels, vessels of similar design since that
10 casualty or since any of these alerts have come out?

11 MR. BRONSON: I haven't done any crabbers in the last five to
12 eight years.

13 MR. ZANKICH: We haven't modified our standards or the way we
14 treat things in quite a few years, and not since -- definitely not
15 since the *Scandies Rose*. We were awaiting the guardians of the
16 coast -- I'm sorry, the Coast Guard to tell us what went on.
17 Fortunately, in this case, they had a couple of survivors, so
18 maybe we know, maybe, what went on. But we were waiting before we
19 made modifications for here.

20 MR. PARROTT: One of the things that's happened to our
21 calculations in the last 12 to 18 months is that ABS has now
22 required us to add in the icing of the forward superstructure to
23 the calculations, in addition to the side profile and the
24 horizontal areas. So that, that's the only change that I'm aware
25 of in the last two years on stability calculations.

1 CAPT CALLAGHAN: Okay. And, when you refer to the forward
2 portion of the superstructure, are you -- the bow section and
3 astern, astern house vessel? Is that what you're referring to?

4 MR. PARROTT: That would be like the front of the
5 superstructure of the aft part of the vessel.

6 CAPT CALLAGHAN: Okay. And so kind of thinking over the --
7 some of the pictures we just looked at with regards to icing, and
8 while the last two were pretty extreme, some of you had mentioned
9 some experience on vessels out in that area. What are the -- you
10 know, what would be some normal icing conditions as far as ice
11 accumulation that would be assumed as fairly normal conditions
12 while underway?

13 MR. ZANKICH: I surely can't say because I've only been out
14 to Dutch Harbor half a dozen times, and I wasn't aboard a boat. I
15 was there to do tests on boats. I should note, even at this port,
16 in 1977, Dr. Storch of the University of Washington wrote a
17 (indiscernible) paper about Alaska king crab boat casualties. He
18 reviewed 300 vessels, and he said were -- a significant number
19 were built from '67 to '74, and they had 107 casualties. And in
20 this paper, which is quite a few pages, only one or two mentions
21 of ice or even icing are listed in the 13 cases that he "detaily"
22 covered. You should read that paper. I don't know what happened
23 from '67 to '74 or in '77 when he wrote this paper. Maybe global
24 warming came along, and we started having a lot more icing, but we
25 didn't have any icings back then. I don't know why.

1 CAPT CALLAGHAN: Thank you. I'm going to shift a little away
2 from the ice and talk -- go back to something you mentioned
3 earlier with regards to pot weight and determining the number of
4 pots that the vessel can carry. So, as naval architects, how do
5 you account for the weight of pots and the gear in your stability
6 calculations?

7 MR. ZANKICH: We ask the owner what size pot he's got, how
8 many fathoms of line he's got in there, how many buoys that he
9 stores in there. And we'll even ask him to go and weigh one like
10 the Coast Guard asks.

11 CAPT CALLAGHAN: And how important is it that those pots and
12 gear are correct in terms of the weight that they provide you?

13 MR. PARROTT: Well, they're very important.

14 MR. ZANKICH: Very important.

15 MR. PARROTT: Yeah. The -- I mean, you need to get as
16 accurate information, weights and dimensions so that, you know,
17 that you can put the realistic loads on the boat and run it
18 through the stability conditions to make sure the conditions meet
19 the criteria.

20 MR. BRONSON: All of this weight is above the center of
21 gravity. It's just decreasing transverse stability. It's vital.

22 CAPT CALLAGHAN: And so, once they -- once you have pot
23 weights, in moving forward to create that -- the stability
24 instructions, how do you determine, then, how many of the pots can
25 be carried?

1 MR. BRONSON: Well, I -- when I have done that, I have done a
2 little sketch that laid out where on the vessel the pots were
3 going to be, whether they were going to be stacked vertically or,
4 you know, horizontally, but generally, the bottom stack is all
5 verticals and then you lay horizontal layers on top. You do a
6 weight moment study of the pots and how that affects the center of
7 gravity and then run your transverse stability calculations and
8 see if that meets the energy needs.

9 MR. ZANKICH: And you consult with the owner. He's got to
10 tell you what he's planning on doing.

11 CAPT CALLAGHAN: And so, once you've calculated the number of
12 pots and indicated that, can a vessel carry items on top of the
13 stack of pots? And, if so, how would you account for that weight
14 ensuring the vessel was stable beyond that?

15 (Simultaneous speaking.)

16 MR. ZANKICH: Only if he asked for something up there would
17 we have it in the, in the calculation.

18 CAPT CALLAGHAN: So interpreting that, then it would be
19 something that would have to be included in the initial
20 calculations ahead of time?

21 MR. BRONSON: Yes, yeah.

22 CAPT CALLAGHAN: Okay. Gentlemen, we have been going for an
23 hour and -- almost an hour and 15 minutes now. Would you
24 gentlemen like to take a short recess at this point, or are you
25 good to go -- keep going for a little bit?

1 MR. ZANKICH: I'd like to go pump the bilge for a minute.

2 CAPT CALLAGHAN: Okay. Let's go ahead and take a five-minute
3 recess. The time is 0943. We will resume at 0948.

4 (Off the record at 9:43 a.m.)

5 (On the record at 9:49 a.m.)

6 CAPT CALLAGHAN: Okay. It's 0949. The hearing is back in
7 session.

8 Welcome back, gentlemen. Just want to kind of go
9 back -- Lieutenant McPhillips, can you please just pull up Exhibit
10 014 please, page 1, just to have for referencing the configuration
11 of the *Scandies Rose*?

12 So, gentlemen, in kind of -- in taking a look at the profile
13 of the vessel and also looking at -- going back to our discussion
14 on icing, we're trying to get an understanding of the effects an
15 icing will have on a vessel with a pot configuration of this sort
16 and if -- I guess my, my general question is, as the vessel's
17 proceeding and making headway and starts to take on freezing
18 spray, is there a point where the ice accumulation on the pots
19 could then essentially serve in a function where it shifts, shifts
20 the stability to a degree where -- that, that isn't -- is not
21 recoverable?

22 MR. BRONSON: So I think the simple answer is yes. If you
23 look at where those pots are with them empty right now, there's a
24 lot of air above the main deck. If you start putting ice in
25 there, the center of gravity is continually rising. Eventually,

1 you're going to raise it high enough above to where the vessel may
2 roll over.

3 MR. PARROTT: That would especially be exaggerated if the,
4 the ice is accumulating on one side more than the other instead of
5 a uniform accumulation of ice about --

6 MR. ZANKICH: That's why I mentioned earlier that the master
7 may want, may want to put his nose into it to, to try and go that
8 way if he can to keep himself from getting a list.

9 CAPT CALLAGHAN: Okay. And, and if they go from -- if they
10 were going from a condition where they had been previously
11 receiving freezing spray, taking wind off -- wind and swells off
12 one side, and over time -- and so, take, you know, heeling --
13 taking into account the wind heel from the direction of the wind
14 and then starting to take on freezing spray on the same side,
15 could that -- where would you expect the, the ice accumulation to
16 start?

17 MR. BRONSON: When you look at the track of the *Scandies Rose*
18 once she came out of -- on, on the north end of Kodiak Island and
19 turned, she was going southwest and the winds were from the
20 northwest. To me, it's perfectly reasonable to expect that most
21 of the ice will be on the starboard side. And, at some point, you
22 build enough up, you'll roll over, which is apparently what
23 happened in this case.

24 MR. ZANKICH: Looking at this profile of the boat, on the
25 foredeck, there's a break water or a wave breaker or whatever it

1 is. There'll be a massive accumulation of ice up there very
2 quickly on that foredeck, and then the -- it'll progress into the
3 pots.

4 CAPT CALLAGHAN: And so --

5 (Simultaneous speaking.)

6 MR. ZANKICH: -- nose into the wind.

7 CAPT CALLAGHAN: And just two questions then there, so in
8 that case, if she's got some wind heel with -- taking ice
9 accumulation from the, from the prevailing winds, then would there
10 be a point where the accumulation could then shift enough to where
11 it shifts the stability from one side to the other?

12 MR. ZANKICH: I don't understand the question.

13 CAPT CALLAGHAN: For example, if she had a port list and
14 started taking freezing spray from the starboard side, would there
15 be a point where ice accumulation would shift -- would be enough
16 to shift, shift the list of the vessel over to starboard?

17 MR. ZANKICH: I presume so.

18 MR. BRONSON: Probably, yes.

19 CAPT CALLAGHAN: And then my second question, looking at the
20 profile of the vessel here, as you mentioned, the ice may
21 accumulate in different fashions along the profile of the vessel.
22 From the vantage point of the pilothouse, do you -- does the -- do
23 you think the person at -- in the pilothouse has the -- an
24 accurate reflection of what that accumulation is beyond the stack
25 of pots?

1 MR. ZANKICH: Well, your question was about ice. But I look
2 at this profile, and that pile of pots is too high for the captain
3 of that vessel to see two boat-lengths ahead of his vessel in the
4 water. He can't see. So all he can see is an icebox in front of
5 him, and he can't see what's going on up there. So as far as
6 icing, you know, he can see it happening from his wheelhouse, but
7 he can't see up in the front. There's a couple guys standing on
8 the bow of this thing, but they're not going to be standing there
9 if they're icing. They're running for cover. And so he can't see
10 what's going on on the front of that pile of pots. And he can't
11 see over that pile of pots is what I mentioned also.

12 CAPT CALLAGHAN: And, earlier on, one of you gentlemen had
13 mentioned one of the limiting factors in the number of pots,
14 particularly on vessels of this design, pertains a lot to -- with
15 the visibility from the pilothouse. Based on your professional
16 experience, looking at this profile, what would your assessment be
17 in the number of pots and, and the -- bridge visibility aboard the
18 *Scandies Rose* at this time?

19 MR. ZANKICH: It's too damn many.

20 MR. BRONSON: It looks like that top whole layer should come
21 off, in my opinion, for him to be able to see forward.

22 CAPT CALLAGHAN: Okay. Gentlemen, at this time -- because I
23 think there's a lot of great questions, and this discussion has
24 been very informative, but I -- what I would like to do at this
25 point is I'd like to shift questions -- I know my colleague from

1 the National Transportation Safety Board has some questions for
2 you, so I'd like to pass it over to Mr. Barnum from the National
3 Transportation Safety Board at this time.

4 Mr. Barnum?

5 MR. BARNUM: Thank you, Captain.

6 And thank you, gentlemen. A lot of great, great information
7 here, very insightful. I appreciate it. I know I'm learning a
8 lot. I'm sure the public is as well. Kind of -- I'm going to
9 kind of skip around. The Captain covered a lot. I do have a few
10 follow-ups.

11 First off, I wanted to bring up, let's see, Exhibit -- the
12 regulations and talk about the regulations governing again --
13 40 -- 40 please. And if we can go to page 45. Okay. So here,
14 here discusses -- this is Title 46 C.F.R. 28 Subpart E Section 28
15 here, paragraph 530. So in you -- in your understanding, are
16 these the regulations that the *Scandies Rose* would have -- would
17 fall under for their stability?

18 MR. BRONSON: I believe so.

19 MR. PARROTT: Yes.

20 MR. BARNUM: Okay. I just --

21 MR. ZANKICH: Yes, but Subchapter 28 didn't come out, maybe,
22 when the boat was built.

23 MR. BARNUM: Understood.

24 MR. ZANKICH: We naval architects kind of were alone out here
25 for years writing our own standards, like using Rahola or, or

1 other standards to make instructions for boats. And we did not
2 have -- and I don't think *Scandies Rose* had this in her previous
3 (indiscernible) book.

4 MR. BARNUM: Okay. A vessel having a major modification,
5 though, I believe would have to fall under these stability rules?

6 MR. ZANKICH: Yeah.

7 MR. PARROTT: That would be yes.

8 MR. BARNUM: Yeah. Okay. I just wanted to read a part of
9 this and get your feedback on it. So mid-way down this first
10 paragraph says, "The rules provide maximum flexibility for owners
11 and qualified individuals to determine how this information is
12 conveyed, taking into consideration decisions by operating
13 personnel must be made quickly and that few operating personnel in
14 the commercial fishing industry have been -- have had specialized
15 training in stability. Therefore, stability instructions should
16 take into account the conditions a vessel may reasonably be
17 expected to encounter and provide simple guidance to the operating
18 personnel to deal with these situations."

19 So the stability instructions the three of you complete for
20 these, these similar vessels, where would -- what kind of simple,
21 specialized, you know, guidance that is mentioned here, where
22 would that be included in your stability instructions?

23 MR. BRONSON: In my -- in the booklets that I would prepare,
24 they would be in the -- in the instructions to the master.

25 MR. BARNUM: Okay.

1 MR. BRONSON: And, if it were the type of the vessel that
2 might have to go back and calculate another loading condition,
3 there might be a separate section of the stability book that
4 showed how to calculate another loading condition that's not part
5 of the booklet.

6 MR. BARNUM: Understood.

7 MR. ZANKICH: As an aside to that, nowadays, many -- I won't
8 say all, but many fishing vessels have a computer in the
9 pilothouse. And we, Columbia-Sentinel, probably Jensen, probably
10 others, have been known to provide an Excel spreadsheet on that
11 computer with all the tankages, and they put in how much percent
12 is in every tank and the deck load or how many pots are on deck.
13 We can do that now with an Excel spreadsheet, and we could even
14 put on that Excel spreadsheet how many inches of ice they're
15 expecting based upon the horizontal or vertical surfaces where
16 they're seeing, and that could have a block down in the corner
17 that says safe or unsafe.

18 MR. BARNUM: Okay. All right. So, in your opinions, would
19 you consider a vessel operated in the Bering Sea, Aleutian
20 Islands, such as the *Scandies Rose* crabbing vessel, would you
21 consider icing accumulation to be one of the possible conditions
22 that a -- that vessel could encounter?

23 MR. PARROTT: Definitely.

24 MR. BRONSON: Yes.

25 MR. ZANKICH: Yes, if the master said he was going north of

1 that latitude.

2 MR. BARNUM: Okay. And I, and I understand that the
3 regulations factor in to margin for icing. That I want to discuss
4 in a minute there. But would, would you feel that it might be
5 important to include some sort of guidance on icing in those
6 instructions to the master you -- that you mentioned?

7 MR. PARROTT: Typically, when we issue our booklets, we have
8 a description of hull icing. Gives -- basically says that it has
9 so many inches on vertical surfaces, so many inches on horizontal
10 surfaces, and equivalent weight. And we also put in there that
11 icing can easily be in excess of, of these numbers.

12 MR. BARNUM: Okay. Great. Thank you. All right. I --

13 MR. PARROTT: Typical of Paul's stuff too.

14 MR. BARNUM: Okay. Lieutenant McPhillips, could you please
15 bring up Exhibit No. 36, page 5?

16 Gentlemen, this is the 2019 stability instructions for the
17 *Scandies Rose*. Page 5 is the instructions to the master. I know
18 you've already looked at this under Commander -- Captain
19 Callaghan's line of questioning, but is there anything on here
20 instructing the master or alerting the master to any icing --
21 special icing conditions?

22 MR. PARROTT: The only icing mentioned is in item two.
23 Basically, it gives -- it just says it applies for icing or
24 non-icing conditions. It doesn't really describe what an icing
25 condition is.

1 MR. PARROTT: All right. Mr. Parrott, would, would stability
2 instructions issued by your firm contain a more detailed
3 description?

4 MR. BARNUM: Yes, it would.

5 MR. BARNUM: Okay.

6 MR. PARROTT: It would, it would give the -- as I said, it
7 would say, say that there's approximately so many inches of ice on
8 the vertical surface, so many inches of ice on a horizontal
9 surface, and it's equivalent of so many pounds of added weight in
10 ice.

11 MR. BARNUM: Okay. Thank you. And going to back to the
12 exhibit for regulation -- sorry, Lieutenant McPhillips, for
13 jumping around some, but could you bring that one back up? That's
14 Exhibit 40.

15 And I wanted to just get your professional explanation of the
16 Section 550 on icing. We've been talking a lot about accumulation
17 of icing on these vessels. Could one of you just, you know,
18 explain to us the amount of icing that regulation -- the amount of
19 icing that the regulations account for onboard these vessels that
20 operate in this area?

21 MR. ZANKICH: Yeah, it's pretty clear, item 28.550 --

22 MR. BARNUM: Yeah.

23 MR. ZANKICH: -- (a), (b) -- I guess it's (b)(1) says 1.3
24 inches on horizontal. I guess I can't read the next one down.
25 Oh, there it is.

1 MR. PARROTT: 0.65 inches of, you know, vertical.

2 MR. ZANKICH: 0.65 inches on vertical.

3 MR. BARNUM: Okay. And Commander -- Captain Callaghan
4 mentioned it earlier, this is a boat full of crab pots, a stack of
5 pots. This would be -- you know, how would you apply these
6 numbers to a stack of pots given this guidance from the
7 regulations?

8 MR. BRONSON: That exact --

9 MR. BARNUM: How would you treat it?

10 MR. BRONSON: You, you have a -- I, I would have a diagram or
11 a drawing of the vessel that showed where I was going to put pots,
12 and I would calculate the surface area that's vertical and that's
13 horizontal and apply those numbers on there and, using a weight
14 moment calculation, see what that did to the center of gravity

15 MR. ZANKICH: That's the shoebox method, right?

16 MR. BRONSON: Yes.

17 MR. BARNUM: Okay.

18 MR. BRONSON: And, and therein lies the challenge is that
19 this presumes that that box -- that shoebox of crab pots is a
20 shoebox. It's not a shoebox. It does not have a horizontal and a
21 vertical surface. It has a bunch of pots in there that are just
22 screens. As the water comes over the top, it's not going to lay
23 on the top layer of the top on a bunch of pots. It's going to
24 slowly filter down through all of them. And, and there's the
25 challenge that we have is we don't have any good information on

1 how that happens.

2 MR. BARNUM: Right.

3 MR. ZANKICH: Now both Bud and I and Jonathan, I think, in a
4 subsequent -- or in a meeting we had, telephone call, the subject
5 came up of this, and I think we all suggested that the Coast Guard
6 should contract with a university or a wind tunnel or the Navy or
7 somebody to take a crab pot or a bunch of them and put them in a
8 wind tunnel with wind and put them with spray and see what really
9 happens to a pot.

10 Although, we can tell you what's going to happen. We've got
11 photographs of pots that are nothing but ice. But to see how
12 quickly it can accumulate in a -- pick a number, a 40-knot wind at
13 15 degrees out. And if we had some of this data, maybe the Coast
14 Guard could revamp their IMO standards here, which are clearly not
15 real life in the North Pacific.

16 MR. BARNUM: Understood. Have, have any of you heard of any
17 kind of studies that have taken -- that have gone on, you know,
18 previously in trying to address that same -- figure out that same
19 issue?

20 MR. ZANKICH: Not I.

21 MR. PARROTT: There are a couple of studies from way back in
22 the '70s that were, I believe, NOAA studies about the icing in
23 the, in the Pacific Northwest and icing during spray. I'm not
24 sure -- I came across them when I was cleaning up the -- oh, here
25 we go. They were -- I found -- cleaning up the office, I found

1 three different studies: icing of ship, splashing a ship with
2 spray. It was done by the Pacific Marine Environmental Lab NOAA
3 in 1986. They did another study, vessel icing in Alaskan waters,
4 1979 to 1984. It's a dataset that was published in 1985. And
5 then there was another article -- or a paper, prediction of vessel
6 icing, that's a reprint from the Journal of Climate and Applied
7 Meteorology in December of 1986. None of those, I suspect,
8 specifically address pots. They're more on vessel, vessels
9 themselves.

10 MR. BARNUM: Understood. Great. Thank you.

11 MR. BRONSON: The, the U.S. Navy has a publication on --
12 talks about icing of vessels, and the challenge is that they're
13 all solid surfaces. They're not -- there's -- no one has ever
14 really looked at the crab pot problem.

15 MR. BARNUM: Understood. One, one follow-on question, my
16 last question here to you Mr. Bronson. You had mentioned earlier
17 you had taught some stability classes. Could you elaborate on
18 that some please?

19 MR. BRONSON: We lost two boats back in the late '80s. Two
20 boats were lost up in Alaska, and the North Pacific Fishing Vessel
21 Owners Association was established, started doing a lot of things
22 to try and address some of the education of crews. They did some
23 exquisite medical training and all like that. One of the things
24 that we did was, four or five years, we -- and they may still be
25 teaching it; I just don't do it now. For five years, I taught a

1 one-week course on ship stability. We took a typical Northwest
2 fishing vessel -- I don't recall whether it was a crabber or which
3 particular type it was, but we took a vessel, an actual vessel
4 that I had done some stability work on and we used that and we
5 showed them how to calculate different loading conditions.

6 And we talked about icing, but the challenge even then was we
7 really didn't -- we don't -- we really don't and didn't have any
8 good information on how a crab pot ices, so we used the IMO
9 criteria, which says, use the outside of the crab pot. And a crab
10 pot isn't really a box. It's this sieve that collects ice all
11 through it.

12 MR. BARNUM: Understood. Great. Thank you, gentlemen. I
13 really appreciate it.

14 Captain, I'm all set.

15 CAPT CALLAGHAN: Thank you, Mr. Barnum.

16 Gentlemen, I'm now going to ask the PII if they have some
17 follow-on questions for you, so I'll turn to PII -- counsel
18 representing the two survivors.

19 Mr. Stacey, do you have any questions, sir?

20 MR. N. STACEY: Good morning, gentlemen. Thank you very much
21 for your testimony and your work. We have no questions.

22 CAPT CALLAGHAN: Thank you, Mr. Stacey.

23 Now turn it over to counsel representing the vessel owners,
24 Mattsen Management Company.

25 MR. BARCOTT: Thank you, Captain.

1 Gentlemen, thank you. My name under my screen says Daniel
2 Barcott. This is Mike Barcott. I'm using Daniel's computer
3 for -- technical issues arose.

4 I know the Board, of course, knows this, but the general
5 public may not. Could you explain how it is the three of you came
6 to be providing testimony to this Court?

7 MR. ZANKICH: This is Paul Zankich. I recall getting a call
8 from Bud, and Bud said, are you aware the Coast Guard's going
9 to -- scheduling a -- or is doing an investigation. And I said,
10 no, but they ought to. And I went to my computer, and I clicked
11 on Coast Guard Investigation *Scandies Rose*, and Mr. Callaghan's
12 name, as I recall, came up. And I called San Francisco and said I
13 wanted to talk to him, and I did. And he referred me to one of
14 the people that was working on this situation.

15 And I called Bud back and said, Bud, she -- I think it was a
16 she -- wants to know if you're interested in talking to them. And
17 he said yes. Then I called Jonathan and said, I could get you in
18 trouble really quickly. Would you, would you like to talk to the
19 Coast Guard on this subject, also, with Bud and I? And he,
20 voluntarily, said, yes, I'm very interested. And we called back
21 to whoever that was and set up a phone call.

22 MR. BARCOTT: So if, if I characterize it as you are three
23 interested citizens with specialized knowledge who are
24 volunteering your expertise to the industry, is that a fair
25 assessment of what you're doing?

1 MR. ZANKICH: Well, it -- let me make a statement here. If
2 you're a crabber, you have to believe the Coast Guard standards.
3 You have to believe the IMO standards. You have to believe your
4 naval architect. All of these three beliefs need review in this
5 inquiry because we are the naval architects who are asking our
6 owners and operators to believe, and we rely upon the Coast Guard
7 standard to believe and the IMO standard to believe. And
8 honestly, I don't believe those standards now.

9 MR. BARCOTT: Mr. Parrott or Mr. Bronson, care to comment on
10 that?

11 MR. BRONSON: I think he reasonably describes our problem.
12 We understand how the IMO came up with the, the standards they
13 have for icing, but the crab fishery in the Northwest Pacific is
14 significantly different than anywhere else. I've, I've done work
15 everywhere from Northern Europe, China; I'm doing work now down in
16 New Zealand. This fishery is different than all of the others in
17 that we have this lovely device called a crab pot, which we all
18 love because we love Alaska king crab and all that jazz. But it
19 doesn't behave the way we're told we should apply this -- the
20 rules.

21 At least from my own point of view, I've had a master's
22 license, I've sailed, I've been up there, I've done tuna fishing.
23 I want those guys to come back -- and with apologies to the
24 ladies, I want those guys and gals to come back. I want the stuff
25 that I -- the work that I do, I want them to give them a chance to

1 come back alive. And, with the king crab pots right now, I don't
2 want to restrict them if I don't have to, but I sure would like to
3 make sure that the information I'm giving them is the best chance
4 to come back alive.

5 MR. BARCOTT: Yeah, I'm sure we all.

6 Mr. Parrott?

7 MR. PARROTT: Well, I mean, we're talking about king crab
8 pots, but, I mean, pot fishing is expanding into other fisheries.
9 It's -- lingcod fishing, they use pots now because apparently the
10 orcas have gotten smart enough to know that long lines is a buffet
11 for them. So the -- pot fishing is going to expand and there are
12 going to be more people doing it. People -- you know, crab
13 fishermen have been doing it for years. They're familiar with --
14 generally familiar with how pots affect the stability of their
15 boats. Some of these new fisherman may not have that. So, you
16 know, we need to be aware of the, the pitfalls of new crew coming
17 into the -- into this -- this pot fishery.

18 MR. BARCOTT: So the members of the Board, of course,
19 understand the next area I'm going to go into, and I understand
20 that area, but I'm not sure the public does, and your testimony
21 has been helpful. But I'd like to make it crystal clear, when a
22 stability study for a vessel like the *Scandies Rose* is done,
23 according to the current regulations, does it assume that ice
24 accumulates on the outside areas of the pots only?

25 MR. PARROTT: Correct.

1 MR. BARCOTT: I'll stop there. Let me stop there. Is that
2 one of the assumptions?

3 MR. PARROTT: That is correct.

4 MR. BARCOTT: Okay. And does it assume that that ice will
5 accumulate on vertical surfaces to six-tenths of an inch?

6 MR. ZANKICH: Yeah, it's 0.6 or 0.65 or some number.

7 MR. BARCOTT: Right. And the horizontal surfaces, the top of
8 the crab stack, does it assume that ice will accumulate on the top
9 only and how much ice?

10 MR. PARROTT: It's 33 millimeters.

11 MR. BRONSON: Inch to about an inch and a half.

12 MR. PARROTT: Inch, to an inch and a half.

13 MR. BRONSON: Something less than that.

14 MR. BARCOTT: And you've talked about a shoebox, and the
15 concept of a shoebox has been used, but again, I want to make sure
16 this is really understandable. If you put a giant shoebox over
17 the stack of crab pots and accumulated ice on that shoebox,
18 six-tenths of an inch on the vertical surfaces and 1.3 inches or
19 so on the horizontal surfaces, is that what the regulations tell
20 you to do in calculating icing?

21 MR. PARROTT: That's the guidance it provides, yes.

22 MR. BARCOTT: Okay. And does -- do the regulations also
23 assume that that ice will accumulate uniformly over those
24 surfaces?

25 MR. PARROTT: It does.

1 MR. BARCOTT: Okay.

2 MR. BRONSON: On the average, I would say.

3 MR. BARCOTT: Right. But there is no accounting in the
4 regulations for uneven distribution of ice, as I understand it; is
5 that right?

6 MR. ZANKICH: That's true.

7 MR. BARCOTT: Okay. So, in the regulations, is there any
8 consideration given for the water that drips down into the middle
9 of that crab pot stack and ice accumulates?

10 MR. ZANKICH: No.

11 MR. BRONSON: There isn't, not to my understanding.

12 MR. BARCOTT: Okay. So I'd like an answer to this question
13 from each of you, if you would. The regulations that dictate how
14 stability studies are to be performed in icing conditions, how do
15 those match the reality of crab fishing in the North Pacific?

16 MR. BRONSON: Well, that's my question is I, I don't believe
17 it's accurate, and I want to know what the -- how do we really
18 apply something in that area? What, what really happens?

19 MR. BARCOTT: Mr. Zankich, reality versus regulations, how do
20 they match up?

21 MR. ZANKICH: Well, I, as a naval architect, don't believe
22 the regulation.

23 MR. BARCOTT: Mr. Parrott?

24 MR. PARROTT: I believe the, the regulations provide minimal
25 guidance in the application of ice. I don't think the -- I know

1 that there are situations where the boats will be out, and they
2 will accumulate much more ice than the regulations provide
3 guidance for.

4 MR. BARCOTT: Okay. And I understand from what you said,
5 Mr. Parrott, earlier that you may actually provide information
6 when Jensen does stability studies that, that accounts for
7 additional accumulation of ice beyond what the regulations call
8 for; is that right?

9 MR. PARROTT: Well, what we do is we indicate in our
10 stability letters that the regulations -- the guidance there is a
11 certain accumulation of ice on, on the shoebox and that -- we
12 usually have a final statement in there that, that accumulation of
13 ice will -- can be in excess of this guidance and that the master
14 should take that into account.

15 MR. BARCOTT: Okay. But since Mr. Bronson has pointed out
16 there are no good studies on exactly how much additional ice
17 accumulates, do you have good quantitative data to provide to your
18 captains as they consider additional icing?

19 MR. ZANKICH: No.

20 MR. PARROTT: No, we do not.

21 MR. BARCOTT: Okay. Mr. Bronson or Mr. Zankich, did you want
22 to comment on that additional information to the operator?

23 MR. ZANKICH: Not as we presently address it, but I've seen
24 -- there are methods out there now with Excel spreadsheets and
25 such. We could possibly do that, but they would probably also

1 assume the shoebox until we hear more about the mesh (ph.) box.

2 MR. BARCOTT: Right.

3 MR. ZANKICH: So we would gain maybe a little with, with the
4 spreadsheet telling them, if you got two times this ice, are you
5 safe or unsafe, or you got three times this ice, are you safe and
6 unsafe. But that doesn't account for the mesh box.

7 MR. BARCOTT: Right. Gentlemen, I really appreciate you
8 coming forward. This is very helpful. Thank you.

9 Those are all the questions I have, Captain.

10 CAPT CALLAGHAN: Thank you, Mr. Barcott.

11 So, gentlemen, I am -- would like to answer a few questions
12 and, and ask a few more. But before I do so, I do -- I would like
13 to take a two-minute recess just to discuss an item with the
14 parties in interest on a photo I'd like to bring up that we have
15 not previously provided as an exhibit. So I'm going to take a --
16 it's 1026. I'm going to take a two-minute recess, and we'll
17 reconvene in two minutes. Thank you.

18 (Off the record at 10:26 a.m.)

19 (On the record at 10:27 a.m.)

20 CAPT CALLAGHAN: Okay. It's now 1027, and we're back in
21 session.

22 Thank you, gentlemen. I appreciate your, your patience
23 there. A bunch of us talked an item over with the parties in
24 interest.

25 Lieutenant Commander Comerford, would you mind pulling up

1 that photo we just talked about?

2 So, gentlemen, as kind of alluded to earlier, with regards to
3 studies that have been conducted and, you know, the timeframe that
4 it's been since such studies have, have been conducted.

5 So just to make the public aware, as, as part of this Marine
6 Board, we've done a couple of things to try and push those efforts
7 forward. Number one is we've tried to engage the Coast Guard
8 Research and Development Center to take on a longer-term study for
9 ice secretion on crab pots. But in the -- in immediate interest
10 of the hearing and gaining some elementary data on ice
11 accumulation, a single pot was put aboard the Coast Guard cutter
12 *Polar Star* on her last voyage up through the Arctic. And so this
13 is a picture of the, the pot as it was onboard, empty, with a pot
14 weight that they estimated was close to 1,000 pounds prior to
15 conducting the experiment.

16 And so, gentlemen, before I show you the next picture, just
17 would like to ask, so in your professional -- your professional
18 experience, how much weight do you think a pot could accumulate
19 with ice alone?

20 MR. ZANKICH: My rough calculations have said 300 pounds.

21 CAPT CALLAGHAN: Okay.

22 MR. ZANKICH: Bud can give a calculation also.

23 MR. PARROTT: Basically, I would assume that the maximum
24 weight would be that full pot full of ice. So eight-by-eight-by-
25 three, ice at 64 pounds per cubic foot, plus the, the pot weight.

1 CAPT CALLAGHAN: Lieutenant Commander Comerford, can you
2 switch to the next picture?

3 So this is a -- after 72 hours of conducting the experiment
4 with utilizing a fresh water hose -- so not exactly the same
5 representation, but again, this was to measure accumulation. So,
6 gentlemen, just to ask you, you know, what, what do you -- looking
7 at this picture, what do you see as far as accumulation on the,
8 the, the top of the pot and then the sides of the pots?

9 MR. PARROTT: Nothing on the sides, but the tops looks to be
10 about three inches. But it's interesting to see the icicles
11 hanging inside the pot, so --

12 MR. ZANKICH: And can you imagine if this was alongside
13 another pot or underneath another pot? Wow. I'm a --

14 MR. PARROTT: Well, the, the thing with a pot stack though is
15 they'll -- as the pots freeze, there'll be less and less water
16 reaching the interior of the lower pots. So the, the weight of
17 the ice is going to accumulate higher quicker. And, and you may
18 have pots down on the bottom of the tier that have no ice at all
19 in them.

20 MR. ZANKICH: I don't believe that.

21 MR. PARROTT: Well, that's good, but --

22 MR. ZANKICH: It runs downhill.

23 MR. PARROTT: Yeah, but it -- as it runs downhill, it
24 freezes, and then it, it provides obstructions, so the water
25 coming down will freeze earlier and -- you know, it's -- I've seen

1 this happen on, on brush.

2 MR. ZANKICH: Well, what's the punchline? How many pounds
3 was that?

4 CAPT CALLAGHAN: So, at the end of the experiment,
5 unfortunately, we were not able to get a total weight, and only
6 because the pot maxed out our 3,000-pound scale.

7 MR. ZANKICH: So you're saying there's more, more than 2,000
8 pounds in this pot?

9 CAPT CALLAGHAN: That -- from the -- an initial weight of
10 1,000 pounds --

11 MR. ZANKICH: Wow.

12 CAPT CALLAGHAN: -- prior -- pre-test to maxing out the,
13 the -- the scale at, at the end of the test.

14 MR. ZANKICH: That is astounding. But I guess that's real
15 life. That's what we were asking for was get some data. That'll
16 tip a boat over really quickly.

17 CDR DENNY: (Indiscernible).

18 CAPT CALLAGHAN: Mr. Bronson, I believe you're on mute, sir.

19 MR. BRONSON: Okay. Now can you, now can you hear me?

20 CAPT CALLAGHAN: Yes, sir.

21 MR. BRONSON: I, I have two or three acquaintances who are
22 not quite my age, but they've been up there, and we were talking,
23 and they all said that the lower levels of pots have more ice than
24 the upper ones because the, the water trickles down and begins to
25 freeze on the lower pots first and works its way slowly up. I --

1 that's an unskilled seaman's eye of what happened. That's why I
2 really want somebody to do a study. I want somebody who can, who
3 can come back to us and tell us what really happens.

4 MR. ZANKICH: This was a good start though.

5 MR. BRONSON: Oh, yes. Yeah.

6 MR. ZANKICH: If you had it stacked up -- a stack of four or
7 five of them high.

8 CAPT CALLAGHAN: Okay. Thank you, Lieutenant Commander
9 Comerford.

10 Okay. So I'm going to ask my Coast Guard colleagues here if
11 they've got any follow-on questions for you gentlemen.

12 LCDR COMERFORD: Thank you, Captain.

13 I'd like to start by going back to Exhibit 040, page 42, the
14 stability instructions section. Oh, page 45 I think. Thank you,
15 Lieutenant McPhillips. Can you scroll down to paragraph (e)(1)?
16 Okay. No, back up please. All right.

17 Gentlemen, (e)(1) talks about the stability instructions,
18 including the light weight data. First question, generally from
19 your opinion, is this important? Is this essential information
20 for the stability instructions?

21 MR. ZANKICH: I don't usually put that on the initial sheet.
22 I bury it back in the stability calculations of the book. You
23 could see where the light weight of the vessel is for every
24 condition, and it should be the same starting point for every
25 condition.

1 MR. PARROTT: Typically on ABS load line in class, their
2 instructions will include light weight data. It's not -- it's
3 important for the naval architect to know what it is. For the
4 master of the vessel, other than knowing that any change to that
5 data will be critical to the stability of the vessel, actually
6 knowing the actual weight in centers is probably not that
7 critical.

8 LCDR COMERFORD: Okay.

9 MR. ZANKICH: That's why we put it in the booklet area.

10 MR. BRONSON: Well, my only comment is that, if you're going
11 to do other loading conditions, you have to have the light weight
12 data. You have to know what the light ship value is and the
13 center of gravity, because that's part of the calculation, to come
14 up with the current -- the, the center of gravity right now, which
15 is what you're going to use to determine whether you've got a
16 stable or unstable condition.

17 LCDR COMERFORD: Lieutenant McPhillips, can you turn to
18 Exhibit 36, page 4 first? That's back to the stability
19 instruction from 2019 for *Scandies Rose*.

20 Generally first, broad question before I go into this, if you
21 were to do an updated stability instruction, would you find it
22 best practice or a requirement to follow the required stability
23 instructions and that Subpart of 28 -- 46 C.F.R. 28?

24 MR. ZANKICH: (Indiscernible) the question.

25 LCDR COMERFORD: So earlier -- let me clarify. Earlier,

1 there was a comment, the vessel's very old; it may not have been
2 built when the regulations were in place. And then my follow-up
3 question to that would be, if this was done in 2019, would you,
4 would you find it prudent or is it a requirement to meet those
5 requirements in that paragraph of the C.F.R.?

6 MR. PARROTT: I think --

7 MR. ZANKICH: I, Paul Zankich, would have assumed I had it in
8 there because I had it in there on every condition description.

9 MR. BRONSON: I agree with Mr. Zankich.

10 LCDR COMERFORD: On this page, do you see any characteristics
11 that would indicate the, the light ship of the vessel?

12 MR. BRONSON: Not on this page, but that's not where I would
13 expect to see it. I would expect to see it on a worksheet that
14 lets you do a load calculation.

15 LCDR COMERFORD: All right. Lieutenant McPhillips, can we
16 just go to the next page?

17 And, again, I'm going to ask the same question. Did, did you
18 see it in the instructions to the master?

19 MR. PARROTT: No.

20 MR. BRONSON: Nor would I expect to see it there.

21 LCDR COMERFORD: And then --

22 MR. ZANKICH: Nor would I expect to see it there.

23 LCDR COMERFORD: And -- understood. And can we -- Lieutenant
24 McPhillips, can you progress on to the first condition? Can you
25 keep, can you keep scrolling down? All right.

1 Can you, can you help me find the -- to the gentlemen of the
2 panel, can you help me find the light ship information or where I
3 should -- should I be looking further in the instructions?

4 MR. ZANKICH: This sheet does not have it. I -- I don't have
5 the entire book in front of me, so I --

6 LCDR COMERFORD: Yeah, understood.

7 And one more, Mr. McPhillips, can we go to the next page?
8 Again, any indication of light ship on this page?

9 MR. PARROTT: None.

10 MR. ZANKICH: Nope.

11 LCDR COMERFORD: All right. Thank you. I, I don't want to
12 go through every page of the book. I just wanted to get through
13 some of the main pages. So thank you for that. Last question for
14 me, can -- Lieutenant McPhillips, can you turn to Exhibit 004,
15 page -- the first page. And focus on the, the picture of the
16 vessel.

17 Again, this is a follow-up on some of the comments previously
18 made. There appear to be some discussion, perhaps academic
19 discussion on that side rail on the main deck. In the previous
20 pictures you were shown, you saw a little bit of a higher side
21 wall on the aft part of the main deck. Curious on your take on
22 the balance between icing with this updated photo or the frame
23 port concerns general, general -- generally interested in hearing
24 what your perspective is on this different photo of the vessel.

25 MR. ZANKICH: I don't see this would be any different icing

1 than the previous photo.

2 MR. BRONSON: Are you saying that you think the bulwark has
3 been raised?

4 MR. PARROTT: Yeah, the wing wall aft of the pot hauling
5 station is higher on, on the more recent photos. That's very
6 typical of the -- from the modifications in recent years to
7 provide more weather protection for the deck crew.

8 LCDR COMERFORD: Now, to clarify, this is the most recent
9 photo that we have of the *Scandies Rose*.

10 MR. ZANKICH: This is the most recent?

11 MR. PARROTT: No, the, the one with the pot --

12 MR. ZANKICH: And the previous one was not most recent?

13 LCDR COMERFORD: Correct.

14 MR. ZANKICH: Oh, now it's lower than it was then?

15 LCDR COMERFORD: It is lower than it was.

16 MR. PARROTT: Oh, interesting.

17 MR. ZANKICH: So it didn't go up, it went down?

18 LCDR COMERFORD: Yes.

19 MR. ZANKICH: Well, I mean, it might get a little more spray
20 on that lower row of pots, but that'd be salt water spray rather
21 than the rain coming in usually. And so that lower first pot
22 might get a little more ice, but boats -- mostly, these boats
23 aren't affected by the spray. It's the rain and the mist from the
24 spray that's icing them up.

25 LCDR COMERFORD: Commander Denny, did you have any --

1 MR. BRONSON: Well, well, if --

2 LCDR COMERFORD: Those are --

3 MR. BRONSON: Well, if, if, if the latest stability study
4 done by Mr. Culver is done after this picture was taken, then it
5 would have calculated -- it would have taken care of the change in
6 weight due to the lowering of this bulwark over there.

7 MR. PARROTT: That's correct.

8 CDR DENNY: And, gentlemen, this, this is Commander Denny.
9 I, I have a question that's a follow up to Lieutenant Commander
10 Comerford's but specifically in what you're talking about. In
11 your professional opinion, would that have been considered a major
12 modification or does that not meet that threshold?

13 MR. ZANKICH: Doesn't meet that threshold.

14 (Simultaneous speaking.)

15 MR. BRONSON: That's not critical.

16 CDR DENNY: Okay.

17 MR. ZANKICH: That's a minor, minor housekeeping.

18 LCDR COMERFORD: What, what kind of things would you consider
19 as a major conversion type of issue on these fishing vessels?

20 MR. ZANKICH: Lengthen, widen, add another deck.

21 MR. BRONSON: Build something underneath the waterline,
22 adding a (indiscernible), something like that.

23 MR. PARROTT: Yeah, there's also vague reference to a chance
24 in service. So like pulling a cargo vessel into a fishing
25 industry would be a major conversion.

1 MR. BRONSON: Yes.

2 LCDR COMERFORD: Thank you very much, gentlemen.

3 Captain Callaghan, those are all the questions for me.

4 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

5 And, gentlemen, now I'm going to pass it to Commander Karen
6 Denny who's got a few follow-on questions.

7 CDR DENNY: Good morning, gentlemen. Thank you again. I
8 want to shift the topics. I've been writing notes throughout our
9 entire conversation. We've covered a lot of ground.

10 So, Mr. Bronson, my first follow up question is for you.
11 Early on you mentioned that, that you had taught some stability
12 courses to masters for a time. So a few follow-on questions to
13 that. Could you refresh my memory of what that timeframe was
14 please?

15 MR. BRONSON: My best recollection is somewhere around 1990
16 to 1995 probably, somewhere in that area, maybe a little earlier,
17 maybe a little later. Certainly before the year 2000 because by
18 that time I had moved and was chief engineer at Martinac Ship
19 Building in Tacoma.

20 CDR DENNY: Okay. And, and you said that those were one-week
21 courses. About how often a year did you put those on?

22 MR. BRONSON: Well, you can probably talk to the folks at
23 NPFVOA, but I think probably at least three or four times a year.

24 CDR DENNY: And, and about how well attended were those? Did
25 you have empty seats? Did you have -- roughly, to the best of

1 your recollection?

2 MR. BRONSON: I think there were probably maybe a dozen
3 people at each one of those courses.

4 CDR DENNY: Okay. Do you happen to know how long that
5 section -- if that's still being taught and if that training is
6 still the same length of time that you, that you did them?

7 MR. BRONSON: I have no idea.

8 MR. PARROTT: I do know that NPFVOA is continuing stability
9 instruction classes. I don't know duration or time. But I do
10 know that they, they have a naval architect providing that
11 guidance.

12 CDR DENNY: Okay. Thank you for that clarification. I
13 appreciate that.

14 Mr. Parrott, you had made some comments about -- it was
15 around the same section that we were talking about the GHS
16 software, and you had mentioned that, through the course of
17 things, you had found some bugs in the system, you relayed that
18 information to the developers, and that they corrected those and
19 those came out in the updates. Could you specify or elaborate
20 what kind of bugs you, you found?

21 MR. PARROTT: I didn't find them. It would have been the
22 people that were doing the, the calculations. Generally, they
23 would be bugs that were in specific conditions where the program
24 might not accurately call out -- it, it -- they have a graphic
25 output and then data output, and sometimes the two might not

1 correspond. They might say that the, the angle of, of zero
2 righting arm is at 40 degrees where it was actually at 38 or 42.
3 So they were just minor corrections to some of, some of the
4 calculations. And usually, once we verified that and got it back
5 to GHS, they would send out a hot fix within a couple of days.

6 CDR DENNY: Okay. That is helpful. So -- but if you're not
7 getting the general updates, does that still get sent out? Does
8 it still connect with the computers, do you know?

9 MR. PARROTT: I don't know. That's one program we maintain a
10 current subscription on because we base so much of our work on
11 that. I, I do know that they just sent out an update earlier this
12 year. I don't know how much it costs because I don't, I don't
13 bother to take a look at those bills anymore. But they're,
14 they're pretty good at updating and keeping, you know, putting
15 more functions on the program.

16 CDR DENNY: Okay. Thank you for that clarification.

17 Jumping forward to later in the conversation, you guys
18 mentioned that when we talked about the perceived inadequacies of
19 the regulations, which I understand the concerns, how does that
20 interrelate to your responsibilities as PEs? And, and I say you,
21 but I mean the general PEs and nav arcs that do these
22 calculations. As PEs, there -- I'm paraphrasing, but there's a
23 general, like, a code of ethics where, you know, you're not to do
24 harm to your clients, people, the environment. If, if you have
25 concerns about the sufficiency of the regulations or the

1 calculations that are in place, what do you, as Pes, or your
2 colleague in the PE community, do to mitigate that?

3 MR. ZANKICH: Do just what I did. Call Callaghan and tell
4 him we're interested. We're on board. We want to get this
5 straight.

6 CDR DENNY: That's fair, Mr. Zankich, but what about prior to
7 the sinking of the *Scandies Rose* and, you know -- go ahead, sir.

8 MR. ZANKICH: Previous Coast Guard investigations haven't
9 resulted or discovered things that affected the directions that
10 the naval architecture was giving to the masters. But since this
11 and since we had some survivors who could describe what went on,
12 I'm pretty confident now those regulations are not -- I was
13 assuming they were reasonably correct and had, had not reported or
14 been reported to me by any operators that they had seen anything
15 bogus in what we had told them. But I'm sure they could now.

16 MR. PARROTT: I think one of the, one of the factors in
17 previous casualties of fishing vessels, it's been pretty apparent
18 that weight gain or not operating in accordance with the stability
19 instructions has been, has been the major factor of a casualty. I
20 think this is one of the first vessel casualties that -- in recent
21 years where the vessel has -- should have had adequate stability
22 for the conditions that, that we typically look at.

23 MR. ZANKICH: I urge you to read that 19-, whatever it
24 was, -77, Dr. Storch's paper about the casualties that he
25 documented and he assigned various reasons for the casualty.

1 CDR DENNY: Okay. Thank you.

2 Mr. Bronson, do you have any thoughts on that before I move
3 on to another question?

4 MR. BRONSON: Well, one of the challenges we have as a -- as
5 professionals is these regulations come out of IMO, the
6 international organization. How do we decide -- how do I decide
7 that, in this particular, case I will insist that I impose a more
8 -- a more restrictive requirement on a vessel than what IMO, which
9 is supposedly the international organization -- how do I, how do
10 I, as a professional, override that? We've asked the question
11 periodically and the answer has been, IMO has done their homework.
12 Now we have a case in which we got to say, guys, would you please
13 go back and do your homework again and verify it to us that what
14 we're telling our clients is, is the right thing?

15 MR. ZANKICH: I (indiscernible) what you're suggesting. I've
16 tried to tell a customer that I want to put an additional standard
17 on in relation to like his crab tank and it's free surface. And
18 some of them didn't even want to pay the bill for the naval
19 architecture study at that point, because I was recommending 30
20 pots, and they could go down the street a couple blocks and get a
21 40-pot assignment on their vessel with that naval architect that
22 wouldn't impose, impose that additional regulation that was not
23 written down in the standards. And I lost customers by doing
24 that. And I was, I was okay with that.

25 CDR DENNY: Thank you. Thank you, gentlemen. I appreciate

1 that.

2 Just a few minutes ago you mentioned, you know, additional
3 weight gain, Mr. Parrott. Speaking of weight gain, have you, as a
4 group of Pes, or do you know of organization -- PE organizations
5 that are working with other sub-entities of the commercial fishing
6 vessel industry to more accurately find out the weights of pots or
7 develop standards to self-regulate within the community so that
8 they can get either more accurate weights and therefore stability
9 calculations, or are you aware of any initiatives like that?

10 MR. PARROTT: Well, I do know when Marty Kechow (ph.) and his
11 crew were up at -- in -- up in Dutch Harbor. They instituted a --
12 the Coast Guard group up there instituted a policy of, of weighing
13 pots for the crab fleet before they went out. We commonly, when
14 we do a new stability report for crabbers, we ask that they update
15 their weights for the crab pots they use. You know, they've,
16 they've -- the crab pots have gone, you know, 600 pounds to 800
17 pounds because of heavier material being used, because they're
18 fishing deeper or they're fishing in higher currents, so they need
19 to -- need the pots to be heavier to, to stay in place.

20 I don't know if the Coast Guard is, is continuing that policy
21 of weighing pots before each season on some of the boats -- I was
22 pretty sure it was a random operation -- and then verifying that
23 those weights were the weights that were included in the stability
24 booklets for that particular vessel.

25 CDR DENNY: And you guys -- one PE, and I apologize that I

1 don't recall who, mentioned that, when stability tests are done,
2 you might even actually ask a vessel operator or the
3 representative of the vessel to weigh a pot right then and there
4 so that you have accurate numbers. What you're referring to as
5 the Coast Guard up in Alaska, they do weigh several pots at random
6 off a vessel, and they note that, so -- but you brought up an
7 interesting point about material and gear and how that changes.
8 When you or your company do a stability report for a vessel, would
9 that be something that triggers a different condition as -- for
10 example, if they are fishing for one type of fishery, and that
11 requires two shots of line and associated gear, and a different
12 type of fishery, which requires some other type of gear which has
13 a weight differential, do you run two different conditions? How
14 does that work?

15 (Simultaneous speaking.)

16 MR. PARROTT: Yeah, we would --

17 MR. BRONSON: If I could just -- go ahead, Jonathan.

18 MR. PARROTT: No, you go ahead, Bud.

19 MR. BRONSON: I'm in the tuna fishing industry more than the
20 others right now. Vessels that 30 years ago had a 2,000-fathom
21 net that was 12 strips deep are now running 4,000 fathoms that are
22 22 strips deep. They're, they're -- the same net is now two to
23 three times the weight that it was before. You keep encouraging
24 your clients, please tell me when you do things like this. And
25 some of them do, and some of them don't. That's the challenge

1 that we have. We -- I know of at least one instance in which a
2 tuna vessel pulled it masts down because the weights of the net
3 and all had so -- gone up so much that they, they bent the mast
4 off. That's part of the education problem that we have.

5 CDR DENNY: Thank you.

6 MR. PARROTT: And GHS is a very easy tool for the naval
7 architect to be able to plug in different variables and run
8 hundreds of conditions in an hour and, and check stability on, on
9 those conditions. It's a wonderful tool for the naval architect.

10 CDR DENNY: Okay. Thank you, guys.

11 So, Lieutenant McPhillips, could you please pull up Exhibit
12 036, page 1? It's the stability -- the first page of the
13 stability report. And just scroll down please. Actually -- yep,
14 scroll down. One more. I have the page number incorrect, but I
15 was going to the page -- oh, it's, it's -- actually, it's right
16 there. That's perfect. Thank you. Thank you.

17 So I wanted to bring up this, this slide right here because
18 one of the things that you mentioned is that when you -- after you
19 go through the process -- or part of the process of establishing
20 the, the stability conditions or the, the assumptions that you put
21 in to the GHS, you indicated that you talked to the vessel master
22 or the operator because there are very specific things that you
23 want to know so that you can make it as accurate as possible for
24 what they do.

25 So would you be concerned if you were not talking to the

1 vessel operator or somebody that has intimate knowledge on, let's
2 say, how the loading condition is or the, the intimate details of
3 the pot, the gear used on board? Would that be a concern, and
4 what would you do as a PE if you were doing that?

5 MR. ZANKICH: I'm confused. What are you implying? What are
6 you looking for?

7 CDR DENNY: I'm just trying to find out, as an experienced
8 PE, if you have somebody that's not the operator -- because you
9 were very specific in saying that you would talk to the vessel
10 operator. I, I noted it a couple of times. So if you're talking
11 to like the owner, who doesn't necessarily sail on the vessel, is
12 that a concern for you as a PE? Do you then say, no, I need to
13 have an interview with the operator so that I better understand
14 that? How does that work?

15 MR. PARROTT: I guess it depends on how involved the owner is
16 in the operation of the boat. If it's an owner who is -- you
17 know, especially if they've run the boat before, they generally
18 will brief their skippers on, on how best to operate it and, and
19 the skippers may change a little bit. But typically we would
20 prefer to, to interview with the actual skipper. But, then again,
21 most boats have several skippers that --

22 MR. ZANKICH: Yeah, a couple.

23 MR. PARROTT: -- trade off and on.

24 MR. ZANKICH: A couple, yeah.

25 CDR DENNY: Okay. We can take that down. Thank you. I just

1 wasn't sure and I wanted to get clarification. So thanks for
2 that.

3 Captain, I have no further questions at this time.

4 CAPT CALLAGHAN: Thank you, Commander Denny.

5 So I just want to go over and check with the colleagues at
6 the National Transportation Safety Board. Do you have any
7 follow-on questions, Mr. Barnum?

8 MR. BARNUM: No follow-on questions from us. Thank you very
9 much, gentlemen.

10 CAPT CALLAGHAN: Thank you, Mr. Barnum.

11 Mr. Stacey?

12 (No audible response.)

13 CAPT CALLAGHAN: No questions from Mr. Stacey.

14 Mr. Barcott, any follow on questions for you, sir?

15 MR. BARCOTT: None, thank you very much, Captain.

16 CAPT CALLAGHAN: No follow-on questions for Mr. Barcott.

17 So, gentlemen, I would have -- I will tell you, I greatly
18 appreciate this discussion, and I thank you -- you guys have
19 brought a lot of information not only to the investigation, but to
20 the -- just to the public in general in starting to understand
21 some of these challenges, understanding that the, the answer isn't
22 a simple answer, but it is complex and it's worth taking a look
23 at.

24 So what I want to do now is ask you three gentlemen, so now
25 that we've gone through quite a few lines of questioning, I'd like

1 to ask you gentlemen if there's something that you believe that we
2 didn't cover in our questioning that would bring value to this
3 Marine Board and its investigation following this casualty.

4 MR. ZANKICH: I have heard -- this is Paul Zankich -- that in
5 the Navy manual, there are procedures for avoiding icing or
6 avoiding ice accumulation. Some of them may seem strange or
7 something about wrapping your railing in saran wrap or something
8 like that, but I haven't read that. And that might be one of the
9 documents that Bud or that organization would include in their
10 stability instructions to people and such.

11 If there are certain things -- can you, can you spray a coat
12 of super slip on something and therefore it won't accumulate ice?
13 We have modern technologies now that make vessels slip through the
14 water real easily. Can those be applied to superstructures or
15 rigging or even pots? Without damaging the environment, you know.
16 There possibly are technological advances that we're missing that
17 could keep these boats from icing up. Can you, with a garden
18 sprayer, spray super de-icer on and not have to beat it with
19 baseball bats to get rid of it or -- I don't know.

20 CAPT CALLAGHAN: Lieutenant McPhillips, can you pull up
21 Exhibit 70?

22 Sir, just for the record, is this the manual you're referring
23 to, sir?

24 MR. ZANKICH: I believe --

25 MR. BRONSON: That's the one that I've seen, yes.

1 MR. ZANKICH: -- yeah.

2 CAPT CALLAGHAN: Okay. Thank you, sir.

3 Lieutenant McPhillips, you can take that down.

4 Sorry to interrupt you, sir. I just wanted to confirm that
5 for the record. Either of the other two gentlemen?

6 MR. PARROTT: I have not seen that.

7 MR. BRONSON: I've, I've seen that, and I, I seem to recall a
8 couple of other documents, but I -- if I find them, I'll send them
9 to you.

10 CAPT CALLAGHAN: I guess I'll ask the, the rest of you
11 gentlemen, anything else that we haven't considered here today
12 that, that you would like to add?

13 MR. PARROTT: Not from me.

14 MR. ZANKICH: I want to commend the fact that you're doing
15 this investigation because the -- I understand you opened this
16 thing with a mayday call. You know, I'd hate to get a mayday call
17 where the guy says, I'm rolling over. I'd like to avoid those.

18 CAPT CALLAGHAN: Yes, sir.

19 MR. BRONSON: Let, let, let me make one, one comment. I'm --
20 I, I don't want to make a huge thing of it, but I'm one of the few
21 around that has held a master's license and has fished and all
22 like that. And those are my friends out there. I'd like to do
23 the best job I can for them. I've got a hole in, in my education,
24 in my knowledge, and that is, how do these pots really ice? From
25 talking to them, what they tell me the pots look like doesn't

1 match what the regulations are requiring. Can we please do some
2 research and find out what the truth is so we don't have to repeat
3 this subject any more than is absolutely necessary?

4 MR. ZANKICH: Thanks, Bud, for getting involved.

5 Thanks, Jonathan, for getting involved.

6 MR. BRONSON: Before we, before we end this discussion, it
7 might be interesting for those that don't know the history of it
8 all that the states of Washington, Oregon, and Alaska were the
9 only -- only states before about 1960 that required naval
10 architects to be licensed as PEs. And the three of us are in the
11 early group of that. Now it's a national organization, and I
12 think we're doing a good job of it, but that's why, why the three
13 of us are, are here.

14 MR. PARROTT: I wonder which one of you graded my PE test.

15 MR. BRONSON: Who, yours?

16 MR. PARROTT: Yeah.

17 MR. BRONSON: No, no, I wasn't -- I wasn't rating the tests
18 at that point.

19 MR. ZANKICH: I, I was grading the tests, but we passed it
20 around. Every question got graded by three PEs.

21 CAPT CALLAGHAN: Well, gentlemen --

22 MR. ZANKICH: And so they were anonymous.

23 CAPT CALLAGHAN: -- I couldn't have -- I couldn't ask for any
24 more from you guys today, and I, I -- on behalf of the Coast Guard
25 and the Marine Board of Investigation, I do want to thank you for

1 your time today, for your participation up to this point, and with
2 hopes that we can continue to work together and, as you said, to
3 avoid being in this place again at any time in the future with the
4 goal to prevent such casualties moving forward. So, gentlemen, I
5 thank you and I, again, look forward to continuing communication
6 with you gentlemen moving forward.

7 MR. PARROTT: Any time. Any time.

8 MR. ZANKICH: Yeah, any time.

9 CAPT CALLAGHAN: As we close, I want to thank you for your
10 patience as well. I know we took you well beyond your scheduled
11 timeframe, but certainly the testimony we heard from you gentlemen
12 today was worth every bit of that time, and we thank you for that.
13 So, at this point, the three of you gentlemen are now released as
14 witnesses from this formal hearing. We thank you for your
15 testimony and cooperation.

16 If, at a later time, I determine that this Board needs
17 additional information from you, we will contact you directly. If
18 you have any questions about the investigation, you may contact us
19 through the investigation recorder, Lieutenant Ian McPhillips.
20 Gentlemen, thank you very much.

21 (Witnesses excused.)

22 MR. ZANKICH: I think I speak, I think I speak for all three
23 of us that if you guys have questions, call us. We're here.

24 CAPT CALLAGHAN: Thank you, sir.

25 At this time, before we go to recess, I'd like to just make

1 sure we put Exhibit 123, which was the additional photo that we
2 brought up, into the record.

3 It's now 1112 Pacific Standard Time. This hearing will now
4 go into recess and is scheduled to resume at 1300.

5 (Off the record at 11:12 a.m.)

6 (On the record at 12:59 p.m.)

7 CAPT CALLAGHAN: The time is now 1300, and this hearing is
8 now back in session. At this time, we will hear testimony from
9 Ms. Cecily Lowenstein.

10 Ms. Lowenstein, Lieutenant McPhillips will now administer
11 your oath and ask you some preliminary questions.

12 (Whereupon,

13 CECILY LOWENSTEIN

14 was called as a witness and, after being first duly sworn, was
15 examined and testified as follows:)

16 LT McPHILLIPS: Please be seated, ma'am. Please state your
17 full name and spell your last name.

18 THE WITNESS: My name is Cecily Lowenstein. My last name is
19 L-o-w-e-n-s-t-e-i-n.

20 LT McPHILLIPS: Please identify counsel or representative if
21 present?

22 THE WITNESS: Counsel is Lieutenant Commander Pekoske.

23 Did I get that right?

24 LCDR PEKOSKE: Yes.

25 LT McPHILLIPS: Please have them state and spell their last

1 name, as well as their company relationship.

2 LCDR PEKOSKE: Good afternoon. I'm the witness counsel. My
3 name is Matthew Pecoske, last name P-e-k-o-s-k-e. I'm a U.S.
4 Coast Guard Judge Advocate Agency Counsel for all Coast Guard
5 witnesses.

6 LT McPHILLIPS: Thank you, sir.

7 Ms. Lowenstein, please tell us, what is your current
8 employment and position?

9 THE WITNESS: I am currently the deputy program manager in
10 CG9 for CG9 335. It's the C4 ISR acquisition program.

11 LT McPHILLIPS: What are your general responsibilities in
12 that job?

13 THE WITNESS: I act as the XO for program management for
14 three non-major programs inside the acquisition directorate.

15 LT McPHILLIPS: Thank you. Can you briefly tell us your
16 relevant work history?

17 THE WITNESS: I have been -- in my early years I worked as a
18 naval architect starting in 1997 in the off-shore oil industry. I
19 moved to D.C. and worked for various subcontractors, including
20 supporting the deep water project for the Coast Guard. I worked
21 for multiple naval architecture firms doing a variety of naval
22 architecture. In 2010, I joined the U.S. Coast Guard Marine
23 Safety Center as a staff naval architect where I was employed
24 through 2016. Then I transitioned to the technical manager for
25 the Polar Security Cutter Program acquisition here at Coast Guard,

1 and I then went to Eisenhower School right there, and I've been in
2 my current position about six months.

3 LT McPHILLIPS: What is your education related to your
4 position?

5 THE WITNESS: I have an undergraduate degree in mechanical
6 engineering, a master's degree in naval architecture and off-shore
7 engineering, an MBA, and I also have my Masters of Science in
8 Global Policy and Resource Strategy from the Eisenhower School.

9 LT McPHILLIPS: Do you hold any professional licenses or
10 certificates relating to your position?

11 THE WITNESS: Yes, I owe -- I have a Professional Engineering
12 License in Naval Architecture and Off-Shore Engineering since
13 2003.

14 LT McPHILLIPS: Thank you, ma'am. Captain Callaghan will now
15 have some follow-up questions for you.

16 CAPT CALLAGHAN: Thank you for being here with us today,
17 Ms. Lowenstein. I'm going to turn it over for the -- to
18 Lieutenant Commander Comerford to ask the primary Coast Guard
19 questions.

20 Mr. Comerford?

21 LCDR COMERFORD: Thank you, Captain.

22 EXAMINATION OF CECILY LOWENSTEIN

23 BY LCDR COMERFORD:

24 Q. Good afternoon, Ms. Lowenstein. All my questions are related
25 to the work of the United States Coast Guard in the realm of the

1 safety of commercial fishing vessel operations.

2 A. Okay.

3 Q. Thank you for being, thank you for being on the line with us
4 and attending this hearing virtually today. If at any point we
5 ask a question that you do not understand or cannot hear because
6 of technical difficulties, please do not hesitate to state -- say
7 so and we will repeat or rephrase the question. We will take
8 breaks throughout the hearing as necessary, but if you need a
9 break at any point, please let us know.

10 Using the Zoom platform, we have the ability to share
11 exhibits virtually. The recorder, Lieutenant McPhillips, will put
12 any necessary exhibits up on your virtual desktop. If at any
13 point you need to point something out on an exhibit, Lieutenant
14 McPhillips will highlight the area for -- for the benefit of the
15 Board and the livestream audience. When we look at these
16 exhibits, please take your time to refresh your memory or acquaint
17 yourself with the information as necessary. We have provided the
18 recorder, Lieutenant McPhillips, with, with any -- Lieutenant
19 McPhillips will put up any exhibit on the monitor at any time.

20 So to begin, just some general background questions today.
21 Have you ever worked -- Ms. Lowenstein, could you please describe
22 your position and duties while working at the Coast Guard Marine
23 Safety Center?

24 A. I was a staff engineer in what they called an HQ or major
25 vessel branch. I began working here in May of 2010, and one of

1 the, I guess, collateral duties you could say that I picked up was
2 in late 2010, we started getting asked for assistance from Sector
3 Puget Sound conducting stability analysis for commercial fishing
4 vessels that were members of their ACSA Program.

5 As a direct result of the -- I believe it was the *Alaska*
6 *Ranger* Marine MBI, there was a recommendation that came out of
7 that, that the Marine Safety Center start looking at the stability
8 at the request of the OCMI to make sure that the stability for
9 those commercial fishing vessels, the big processors, were -- met
10 the applicable requirements at that time. And then, throughout
11 the rest of my time at the Marine Safety Center, I worked cruise
12 ships, container vessels, passenger ferries, but the majority of
13 my work really was largely commercial fishing vessels.

14 Q. And just for clarification, did -- were you doing commercial
15 fishing vessel work throughout your tenure from 2010 to 2016 at
16 the Marine Safety Center?

17 A. Yes, sir.

18 Q. Now, going back a little bit further, could you discuss your
19 -- what you had to do to initially certify for your professional
20 engineer certification?

21 A. So I had to take an engineer in training exam when I was
22 still in college, and then after six or ten years of work
23 experience for, I guess, accredited -- it's not really accredited,
24 but naval architecture firms that qualify as giving me real naval
25 architecture experience, you apply and then sit for the exam. So

1 I graduated from Berkeley in '97, so my four year degree from an
2 accredited Clarkson (ph.), along with my -- I took it in 2003, to
3 then follow on six years of experience enabled me to sit for that
4 test. And pass, obviously.

5 Q. Now, with particular focus on the naval architecture, what
6 are the requirements for maintaining your professional engineer's
7 license?

8 A Here in the State of Virginia, we're required to do
9 continuing education classes. The license is renewed every two
10 years, so you have to continue to demonstrate that you have and
11 use your technical expertise, taking additional classes, attending
12 (indiscernible) conferences, things like that.

13 Q. Would you mind going a little bit more in depth on that for
14 the state that you're licensed? How does that work? What do you
15 have -- what are the requirements? Is there a certain number of
16 hours --

17 A. Oh, so --

18 Q. -- a year?

19 A. I believe it's 80 hours a year, or maybe it's 80 hours per
20 the two years. I would have to look it up exactly. But there's a
21 requirement that you self-certify that you have done or
22 participated in, you know, workload or some sort of professional
23 enhancement to your knowledge.

24 Q. Okay. And further to that end, are there any requirements to
25 stay up to date with software technology, current resources

1 available, or is it broad?

2 A. Not that I'm aware of. For the most part, doing naval
3 architecture, you have to stay up to date just in order to be most
4 efficient with your work, but I don't believe there's any
5 requirement in my state, or at least where I'm licensed, to keep
6 up to speed on current -- like (indiscernible) software or
7 (indiscernible) development software per se.

8 Q. In 2010, approximately 2010 I think, you returned a submittal
9 from Mr. Brian Culver for the fishing vessel *Sea Venture* and --

10 A. Mr. Bruce Culver, yes.

11 Q. Correct, Mr. Bruce Culver. I misspoke, thank you. Mr. Bruce
12 Culver. The original return letter was provided to you as Exhibit
13 066. Lieutenant McPhillips, can you bring up Exhibit 066 please?
14 And, while we're bringing this up, Ms. Lowenstein, this letter
15 that was issued is labeled as returned for revision in the opening
16 paragraph, but there's six, six comments that apply to this
17 letter. The first question is, did you draft this letter?

18 A. I did.

19 Q. Okay. I would like to take the opportunity to just walk
20 through each one of the six comments and just in your own terms,
21 can you explain, from your memory, what you had noted, and if not
22 that, if you could give us perspective of if -- why this matters
23 in terms of the safety of a fishing vessel?

24 A. Sure. So reference (a) contains two drawings. Both of these
25 drawings show two seawater ballast tanks, port and starboard,

1 between frames F and J. However, reference (a) does not address
2 the, the seawater ballast tanks. Further, on correspondence from
3 Office in Charge of Marine Inspection, it appears that these tanks
4 have not been completely disconnected.

5 Please -- so the first one is a note that, in order to ensure
6 that we understand the stability of a vessel, we need to make sure
7 we have a full understanding of all of the tanks, whether they're
8 in use, so that you can have a free surface for changing tank
9 levels for the different weather conditions and also -- just also
10 general arrangement of the tanks so that when you're doing the
11 stability, you were creating a GAS or hull model that you can make
12 sure that model is truly representative of the vessel that you're
13 trying to do stability on.

14 So I was concerned that there was some tanks shown, and there
15 was some discrepancies between two drawings, and it appeared that
16 they may have been disconnected, but it wasn't necessarily clear
17 in the, in the -- from the drawings I was provided to try to
18 create a model or validate a model that was provided to me,
19 exactly what the situations were that those tank layouts were.

20 The next one down is that the individual, Mr. Culver, was
21 utilizing two separate steps of stability criteria, and typically,
22 you only use one set of stability criteria. For example, you
23 wouldn't mix something from Subchapter S -- 46 C.F.R. Subchapter S
24 with stability under 46 C.F.R. 28 or Subpart C for the uninspected
25 fishing vessels.

1 Item three, so this was actually one of my, my bigger
2 concerns with this particular vessel is there was a whole list of
3 openings indicated that were provided as a part of the stability
4 booklet, and it wasn't clear to me which ones were actually being
5 able to be secured weathertight or watertight, which would enable
6 them to or to not have to be used as a downflooding point. And
7 with these commercial fishing vessels, there's usual very low free
8 board, and so being able to understand if something is going to be
9 a downflooding point and when it's going to downflood is kind of a
10 critical stability aspect.

11 Q. So for clarification on this one, you say please provide a
12 list of downflooding points. Is this something normally expected
13 in the stability packet or was it information that you would want
14 as supporting information from the submitter?

15 A. So it's important that it be included as a part of the
16 stability booklet. That was specifically for the ACSA vessels
17 requirements that they have this list of downflooding points and
18 what type of closures were on them and whether these closures were
19 open or closed as a part of fishing operations, because there had
20 been such concern with potential downflooding points for things
21 that may have been accidentally left open that would normally be
22 opened while fishing, to ensure that they're closed during transit
23 or during heavy weather.

24 So this, this would be a requirement for load line to have
25 this information available and it, it was a requirement for these

1 ACSA vessels. And typically, to understand when you're running up
2 against the stability criteria, this information would be provided
3 as a part of stability calculations. Not necessarily as a part of
4 stability instructions, although it is usually identified so that
5 the master knows what, what point it is you're talking about being
6 submerged when -- that the calculations are based on.

7 Q. And just kind of coming full circle here, the correspondence
8 from the Office in Charge of Marine Inspections, was that the
9 indications to you that there may be other downflooding points not
10 contained in the information provided?

11 A. Yes. Yes, they identified -- so they were, they were my eyes
12 on the ground. Like, normally, if I was doing -- or if I was
13 working for a non-government agency, being a naval architect, I
14 would be inspecting the boat, talking to the operator to
15 understand how the vessel's used, what hatches are open when,
16 et cetera, where the downflooding points are. But the, the Office
17 in Charge of Marine Inspection was my eyes on the ground, able to
18 validate and verify the information -- or limited information that
19 I was seeing that was submitted to me.

20 Q. Lieutenant McPhillips, if we can move to the next page and
21 continue on? We'll try and zoom in a little bit here for you.

22 A. Sure, that's fine. We're talking about hull models. Due to
23 what appears to be two different hull models being used in this
24 analysis, we note that there are inconsistencies between the volumes
25 and center of gravities of tanks, the holds and the loads in

1 between cod fishing and crab loading conditions.

2 Basically, depending on which load case I was looking at,
3 there were discrepancies and inconsistencies in the information
4 that I would expect to be similar across -- what do I want to call
5 it -- the various loading conditions of the vessels. So I
6 basically requested that a single hull file be used, and then the
7 next one is for him to -- again, I was looking at a paper copy of
8 the stability calculations, and I didn't have a lines plan, I
9 didn't have a hull model myself to be able to really understand
10 what was going on, and so I wanted to understand why there were
11 differences in tank volumes between two loading conditions that
12 supposedly were for the same vessel.

13 And then the next item is me asking for a copy of the lines
14 plan. So typically, at the Marine Safety Center, we would do an
15 independent hull file or use a lines plan that validates the hull
16 file that would be provided by a submitter.

17 Q. Was there --

18 A. And then the last --

19 Q. -- when you did receive one, and just to kind of -- on that
20 one, when the hull file was received by the Marine Safety Center,
21 were there any steps taken to -- when you were there during your
22 time --

23 A. Validate it?

24 Q. -- validate that information?

25 A. I -- I actually ended up developing, I think, three to five

1 of my own hull files just because I couldn't reconcile the
2 information that was on the lines plan relative to the information
3 that had been in the stability booklet that I was looking at. So
4 I ended up developing multiple hull files myself to try to figure
5 out what the actual representation I believe is an independent
6 (indiscernible) would be most representative of the vessel. And
7 that's what I ended up using long term in my stability
8 calculations.

9 Q. Oh, I'm just a little curious here. Ms. Lowenstein, when you
10 make a hull file, do you remember about how much time it would
11 take for one of these fishing vessels to develop --

12 A. Well --

13 Q. -- a model?

14 A. -- again, it depends on whether you're working from an old
15 lines plan where you actually have to collect the data off of the
16 curve or if you're provided with an offset table. I don't think
17 this vessel had an offset table. I think it took me a little bit
18 of time, and part of the issue is that you are trying to read
19 points of hull geometry off of a, you know, a drawing. So it
20 tends to be something you need to check and verify, and as you
21 create the frames of the vessel, make sure it's smooth and that
22 the -- it's -- the hull model that you're working with, really
23 does represent what's, what's being shown to you on the lines
24 plan.

25 Q. Okay. All right. Thank you. You can continue on to six

1 please.

2 A. And so the whole reason why the OCMI initially called me
3 about this vessel, the *Sea Venture*, is they were asking permission
4 to put a -- I think -- I believe it was a 20-ton bait box up
5 behind the pilot house. And understanding that the, the stability
6 of these vessels is, is often -- can be precarious depending on
7 the loading condition you're in and the kind of fishing they're
8 doing.

9 And so OCMI had asked us to look at the stability because
10 they were interested in putting 20 tons up high in the vessel,
11 which has negative impacts on stability, and wanted us to verify
12 the vessel could handle the addition of those 21 tons on the
13 vessel. And I was unable to verify that because I couldn't even
14 validate for myself based on the information I had available at
15 this time that the vessel stability was indeed okay.

16 I had limited information -- not sufficient information to be
17 able to do that. And this was me expressing my concern that I had
18 thought it was a bad idea at this point to even consider putting
19 the bait box up up high because I couldn't validate the stability
20 or give the OCMI assurances that the stability of the vessel was
21 adequate.

22 Q. All right. So for clarification purposes, Ms. Lowenstein,
23 that means that you're just requiring further information? It's
24 not that it is an issue, it's that you don't have the ability to
25 evaluate that information?

1 A. Yes, I didn't have -- the information that was presented to
2 me had -- I had enough questions about it that I didn't have a
3 high level of confidence in the information I was reviewing, and
4 also I had insufficient information to do what I always did as a
5 Marine Safety Center staff engineer which was to independently
6 validate the results that I was looking at. So I didn't have the
7 information to be able to do that based on what was provided to
8 me.

9 Q. So following these letter -- this letter and your further
10 communication with Mr. Bruce Culver, could you describe, in your
11 own terms, from your personal experiences, the types of
12 interactions you had with Mr. Culver and that, that --

13 A. So --

14 Q. -- your impressions?

15 A. -- Mr. Culver, when I would ask a question, it would often
16 take follow-up questions, and as he produced further information
17 for me, it was often times creating more questions for me than it
18 was answering due to inconsistencies between, say, a downflooding
19 point I would ask a question about, and then I would contact the
20 OCMI to have them validate the information that was being sent by
21 Mr. Culver, and I would get conflicting information between what
22 the OCMI was believing was a downflooding point versus what
23 Mr. Culver was indicating may or may not have been a downflooding
24 point, or a hatch open during fishing, et cetera.

25 And so it was this constant uncertainty on my part as to what

1 really was the condition of the vessel, what really were the
2 downflooding points, how was the vessel actually being operated
3 for the various fishing operations, because they were doing long
4 lining and crab fishing for the *Sea Venture*. And the different
5 arrangements of -- for example, they had a COMX (ph.) box that
6 they would leave on the deck when they were doing long lining, and
7 I, I just didn't have a complete confidence in the picture of the
8 information that I was receiving, and it took a lot of back and
9 forth to really try to, try to hone in and be specific enough to
10 get the details I needed to actually be able to do my independent
11 stability verification.

12 Q. There was a bit of information thrown in there about the
13 practices of the vessel, if you will, if I paraphrase. Were --

14 A. Yeah, so it's --

15 Q. Were you getting --

16 A. We want to make sure the stability instructions reflect how
17 the owner's actually going to operate the boat. It gets to become
18 really important when there's certain hatches open during fishing,
19 the way that they put the pots in the water, the way they load or
20 unload the deck can impact the trim and heel of the vessel, the
21 way they load the cargo holds, whether it's a fluid filled cargo
22 hold or not fluid filled, you know, whether they're freezing and
23 boxing it. So all these things have an impact on the stability,
24 and being able to understand how the vessel was used and how
25 weight is distributed as they burn fuel and put pots in the water

1 or burn fuel and are long lining all come into play when you're
2 evaluating the stability of the vessel.

3 Q. And to -- if you put yourself back in that timeframe, were
4 you receiving this information from one person or a group of
5 people to develop, in your mind, what conditions you should be
6 considering?

7 A. So you mean the loading conditions that I should be
8 considering for this vessel? I was getting a little bit of it
9 from Mr. Culver, some of it from the OCMI, and the OCMI was
10 talking to the vessel owner or one -- and the -- it wasn't the
11 OCMI, it was the lead commercial fishing vessel examiner, the
12 OCMI's representative, to ask the specific questions and what --
13 and so the fishing vessel person, inspector on the ground in
14 Seattle would go and talk to the vessel owner to try to get the
15 information that I needed to kind of help me learn and understand
16 how they were using the vessel, the different ways they were
17 fishing with the vessel, and then basically how the different
18 doors or chutes or hatches were being opened or closed during
19 those fishing operations and to validate whether they could be
20 closed weathertight or watertight to not be considered
21 downflooding, et cetera.

22 Q. To your recollection, do you recall if Mr. Culver was
23 submitting his, his plan, his plans and his calculations under his
24 professional engineer certification?

25 A. I believe to submit it, it would be -- a 1092 or is it 1082?

1 Which if he were to submit it through the Marine Safety Center, it
2 basically entitles you to an expedited review, and I do not
3 believe that he submitted them under his PE, but his stability
4 booklets were stamped with his PE. So he didn't receive that
5 expedited courtesy at the Marine Safety Center, but he did stamp
6 his stability booklets with his PE stamp and his signature.

7 Q. All right. So when you received his plans and saw the PE
8 stamp, it did not necessarily flag an immediate review under 1092?
9 It would -- he would have had to indicate that in his request?

10 A. Yeah, and since the request for the review of the stability
11 came through the OCMI and he was submitting it at the OCMI's
12 request as a member of the ACSA Program, I'm not sure that the
13 Marine Safety Center would have recognized the 1092 submission
14 because we really -- under the normal C.F.R. statutes, Marine
15 Safety Center doesn't have an official role in reviewing those
16 commercial fishing vessel stabilities. It's only on behalf of the
17 OCMI that we did that.

18 Q. Could you maybe describe that a little bit better to me in
19 the terms of when -- during your time there, when was the Marine
20 Safety Center actually conducting reviews for certain fishing
21 vessels?

22 A. It started, to the best of my knowledge, in the fall of 2010,
23 and I believe they are still doing it. Again, I left there in the
24 summer of 2016. And we were asked by the Sector Puget Sound to
25 review the stability of all of the fishing vessels enrolled in the

1 ACSA Program. I believe there were 50-plus of those at the time.
2 And that included conducting oversight of the commercial fishing
3 vessels that ABS was issuing long lines for and the associated
4 stability instructions that they were approving on behalf of the
5 Coast Guard as an authorized classification society. So it was
6 basically continuous for those six years, and I know that those,
7 those stability reviews are still going on, to the best of my
8 knowledge.

9 Q. When you left there, some of the 52 vessels were still in
10 pending status, is that what you're saying?

11 A. Oh, yeah. There were -- I mean, the *Sea Venture*, from the
12 day I got the stability booklet until we finally got it all
13 squared away, was about a three and a half year process. And that
14 was largely due to the way the fishing vessel was being utilized
15 and some discrepancies in structures and deck strength and other
16 things that had to be corrected.

17 Q. Did you -- was this the one time you had interactions with
18 Mr. Bruce Culver for purview or did you have interactions for
19 other vessels with him?

20 A. He -- this is the only time I've interacted with Mr. Culver
21 and it was only for a period from December of 2010 -- oh, is that
22 right? Yeah, December 2010 through the summer of 2011 because I
23 received -- I had received an updated stability booklet from
24 Mr. Culver, and I had also received a stability booklet from
25 another engineering firm for -- both for the *Sea Venture*. And I

1 wrote an email to the owner, Dan -- I'm sorry, I don't remember
2 his last name -- asking which, which stability booklet he wanted
3 me to review. And he said he had retained the services of a new
4 engineering firm to conduct the stability for the *Sea Venture*
5 moving forward. And then, from that date on, I worked with the
6 other engineering firm that was hired to complete the *Sea Venture*
7 stability.

8 Q. Do you -- did you have further communication after that point
9 with Mr. Culver?

10 A. No.

11 Q. Or did you just ask --

12 A. I did not.

13 Q. So you -- did you just ask the owner to clarify the --

14 A. Yeah.

15 Q. -- with Mr. --

16 A. I asked him to clarify and then I sent a note to Mr. Culver
17 saying I wasn't going to be reviewing that stability booklet any
18 further because I had talked to the owner of the vessel and he had
19 indicated that I should be utilizing the submission of the new
20 engineering firm as the *Sea Venture's* stability booklet to be
21 reviewed by us to satisfy the vessel's ACSA requirements for Puget
22 Sound.

23 Q. Thank you. So now I'd like to shift gears a little bit.
24 Mr. McPhillips, can you please bring up Exhibit 49? And when it
25 comes up, Ms. Lowenstein, this is just a planned review guide for

1 commercial fishing vessel stability from the Marine Safety Center.

2 A. Yes, I drafted this. I wrote it actually, so yes, I'm very
3 familiar.

4 Q. Can you describe to me the process you followed to produce
5 this guide?

6 A. Okay. So this -- within the Marine Safety Center we had, had
7 very little requirement to review these commercial fishing vessels
8 because they are uninspected, and the Marine Safety Center is only
9 required to review inspected vessels. So when we started, as a
10 result of the whole request by the OCMI to start looking at these
11 commercial fishing vessels, the only other way we would have had
12 authority to do it was some of these larger vessels are required
13 to be load lined, so it would have been through a load line
14 certificate, which we had designated ABS or other authorized
15 classification societies to be able to do on our behalf. So
16 through oversight of that would have been the only other way we as
17 the Marine Safety Center started looking at fishing vessels.

18 And as I started digging into trying to identify what is the
19 correct stability criteria, what should I be looking at for a
20 fishing vessel, it was a very, very interesting and complex thing
21 to try to do. And so as we started reviewing more fishing vessels
22 and learning what we needed to know and kind of best practices
23 and, you know, in some cases the engineering firms would do
24 something a certain way based on the way they had interpreted one
25 of these requirements, and so doing this work, we decided that

1 there were some ways we wanted to basically add another layer of
2 conservatism because of, in my personal opinion, some of the -- I
3 guess the way these vessels are operated increases their risk for
4 having a stability challenge over time.

5 So to really make sure that we explain to them when we came
6 to a point that we wanted them to do something more specifically,
7 and an example I can give is most vessels do not track their TCG
8 as a part of light ship or as a part of any of their stability
9 calculations. The vessel is assumed to be, you know, even, evenly
10 loaded and not in any sort of state of heel. So we found a large
11 number of these fishing vessels had a -- more than 0.5 degrees of
12 heel in their light ship condition, and people were using slack
13 tanks to try to correct that light ship while they were fishing
14 and slack fuel tanks. Well, it's okay to do that with ballasts.

15 So, again, there's just all these things that we're finding
16 out that were being practices and accepted by the naval
17 architecture firms that we recognized we would not accept for an
18 inspected vessel. So we passed on that information and their --
19 the inability to review that to the engineering firms as we got
20 smarter as a group, right. You know, there was challenges with
21 just about every fishing vessel that came across my desk. There
22 was never a yes, it's approved right away. It was always a
23 process. And a lot of times, it was even to the basis of the
24 stability tests.

25 Some of these big fish processors, they have huge amount of

1 stuff that they store onboard. And for some of the early
2 stability tests, there was huge amounts of unknown weights being
3 kept onboard the vessels during these stability tests, and trying
4 to get them to even remove all that stuff to truly get a sense of
5 light ship and then weigh the equipment and the nets so we really
6 understood what they were and how they were stored was, again, one
7 of the challenges we had early on. And really understanding what
8 the light ship of the vessel is is essential to understand the
9 overall stability of the boat and really understand the weights of
10 the equipment and things that they're moving around and the
11 shifting of (indiscernible) and things on deck and all those kind
12 of stuff all play into the stability of fishing vessels.

13 And at the time that this was put out in 2013, it was the
14 status of the accumulation of the knowledge I had put together and
15 kind of clarifications we'd provided the industry on where we
16 thought it was a good idea to try to provide clarity and more
17 conservatism to their calculations. But, again, this is guidance.
18 It's not law. This was just our interpretation of the guidance
19 that was out there to try to help the engineers that are doing
20 these stability calculations to really understand what we were
21 looking for to try to put a layer of conservatism and clarity into
22 the calculations.

23 Q. Just maybe -- I'm going to come back to one term you used
24 earlier.

25 A. Sure.

1 Q. The TCG. So forgive me, could you for the -- audience, the
2 best of the audience --

3 A. So when you --

4 Q. -- kind of explain?

5 A. When you have a vessel, you have the vertical center of
6 gravity, which people will talk about GM or KG curves, and if the
7 vessel's KG is, is too high, that's what can cause the vessel to
8 heel or capsize or tip over if there's an instability. The
9 longitudinal center of gravity is the vessel's trim from stem to
10 stern, how much of it is in the water. And the TCG would be the
11 center of the vessel if you go from stem to stern. The TCG is
12 where on that center line -- usually you would assume the weights
13 of the vessel are on the center line of the water plane and then
14 the hull structure, but for some of these boats, the TCG was
15 actually off center in the natural light ship state vessel. So
16 the vessel is sitting in the water at sometimes as much as seven
17 to 15 degrees of heel in its light ship condition.

18 So before you put anything else on it, the vessel was not
19 upright in its natural light ship condition; it was heeled over,
20 which means that when you're doing stability, if you do stability
21 to the side that it's heeled on, you're going to hit downflooding
22 points sooner, you're going to have less riding energy. Where if
23 you do that stability to the other side, you're actually falsely
24 representing that you have that much more angle of heel to meet
25 stability criteria.

1 You -- so typically, if you have a passenger vessel, you
2 would assume that, that it's straight up when you're doing the
3 stability calculations, and you don't care whether you heel the
4 vessel to the port or the starboard. Well, we found early on that
5 a lot of these fishing vessels had a natural list that was being
6 corrected by fuel tanks, which is not allowed. And so, if you
7 took away that fuel correction, the vessels would actually be
8 heeling to one side. And so they would be getting credit for a
9 range of stability that they didn't actually have on either the
10 port or starboard side of the vessel depending on which way the
11 vessel was heeling based on this -- I guess they'd call it a list
12 based on the light ship of the vessel.

13 Q. Okay. And to clarify something, prior to this plan review
14 guide, was there any other formal guidance in place for fishing
15 vessel review?

16 A. No, but you can see that there was -- there's, there's the
17 other plan review guides for the trim and stability booklet, the
18 MSC plan review guide H2-02 for stability tests, submission of
19 stability test results, and then there's also other ones that were
20 for trim and stability booklets and stability instructions which
21 apply to inspected fishing vessels, which you wouldn't necessarily
22 say applied, but there was some good information in there that, if
23 you were looking to understand how the Marine Safety Center was
24 looking to have you consider things for stability, like free
25 surface, you could go and read for clarification in those other

1 Marine Safety Center guides. But this is the only specific one to
2 fishing vessels that I was aware of at the time, or I created.

3 Q. Lieutenant McPhillips, can you shift to page 8 on this
4 exhibit please?

5 CDR DENNY: You're muted.

6 THE WITNESS: I mean, I think it was NVIC 586, which I'm sure
7 is referenced here. Yeah, but --

8 BY LCDR COMERFORD:

9 Q. So Lieutenant McPhillips is putting up page 8 of Exhibit 49
10 right now.

11 A. Okay.

12 Q. In this section, it discusses ice loads. My question to you
13 is, when you were a staff engineer and receiving these
14 submissions, did you ever get vessels that applied ice load?

15 A. Yes, I did. And I found that sometimes the ice loads weren't
16 calculated in accordance with the guidance. And also, when we
17 started looking at -- because basically what you do is you treat
18 that -- like say if there's crab pots on the deck, you treat it
19 like it's a big square, and you apply ice to it to get like a
20 weight in moment of where the ice would be, like the center of the
21 ice load would be, and then you apply that as a -- I guess a point
22 load in GHS. And I had found sometimes that the icing was not
23 always done in accordance with the standards that were there. And
24 oftentimes, you know, it was not -- how do I say -- not calculated
25 correctly or not as conservatively as, based on my calculation, I

1 was doing it.

2 Oftentimes, it was just a number provided without any backup
3 calculations as to how they arrived at that number. So I would do
4 my own calculation and arrive at a number that was oftentimes more
5 conservative than what was provided and then usually talk to the
6 naval architect, and between the two of us, we'd figure out what
7 we thought the best answer was given, say, the crab pot
8 configurations of how the crab pots were loaded, for example. But
9 sometimes, like on the *Sea Venture*, they had crab pots in two,
10 sometimes three locations on the ship, so you'd have to combine
11 the ice loads from those various locations into, you know, a
12 common ice load that you're applying in GHS.

13 Q. Do you recall in general different ways you saw people
14 submitting the ice loads? Because you said sometimes they weren't
15 fully --

16 A. Yeah.

17 Q. -- your interpretations.

18 A. So a lot of times early on I -- they would give me a number
19 and a longitudinal transverse and vertical center of gravity for
20 that ice load without giving me an explanation of how they arrived
21 at it. So we started requesting as a -- I think there's a list in
22 here of stuff we wanted done to provide for us, like a general
23 arrangement plan or other things -- that they actually show us how
24 they calculated the ice load and what it was based on so that we
25 can understand how they were arriving at the ice load.

1 Q. And then when you -- in your experiences, when you were at
2 the Marine Safety Center and when you were evaluating the plans,
3 were you applying it in the same manner the naval architect did
4 that submitted or did you have your own criteria to evaluate --

5 A. Well, it's not --

6 Q. -- and validate?

7 A. So it's, it's -- with all things law and C.F.R., there's
8 always room for interpretation, right. So really understanding
9 that you -- we all understood we needed to apply an ice load, that
10 it was one of two levels of icing depending on where the vessel
11 was operating, how we applied that and what it really meant. So,
12 again, it was, over time, coming to an understanding with the
13 naval architects -- which, by the way, there's some really great
14 naval architects that are doing the stability for these fishing
15 boats, and I learned a lot from them as much as anything else.
16 But all trying to do the right thing and understand what the
17 requirement said.

18 And the challenge with these fishing vessels is, for years
19 and years, they're uninspected; no one from the Coast Guard who is
20 ultimately responsible for interpreting these regulations had been
21 involved to give our opinion on what we thought -- how we would
22 interpret that regulation and how we would apply an engineering
23 solution to that regulation. So this provided an opportunity for
24 us to do that and clarify for them. Oftentimes, our application
25 is more conservative than what somebody in industry may interpret

1 to do that.

2 But still, at the end of the day, I mean, these, these ice
3 loads are what we got, you know, sent down from IMO. And based on
4 some of the icings, I mean, I've seen on those of these boats, I
5 don't, I don't think that it's necessarily conservative as the
6 regulations. But at the Marine Safety Center, we apply the
7 regulations and, and either approve it based on it meeting it or
8 not, so --

9 Q. In an earlier testimony we heard perspective that naval
10 architects apply ice loads sort of like a shoebox or similar
11 terms, you know, top, sides.

12 A. Yeah, top and side icing. And then, so one of the challenges
13 I've found is that sometimes they would do the top and one side
14 with the idea that the ice would be only accumulating on one side.
15 And I'm like, no, you need to do the top and even the front and
16 back and the sides. The exception I would give is if all the crab
17 pots, for example, were pushed all the way up against a deck house
18 and there was an overhang, I'd let them not consider one side of
19 it.

20 But think about five sides of a cube, right. And some people
21 will interpret it as the top and one side. And so I started
22 looking at, you know, the application of ice on the actual
23 affected surfaces, to -- again, to be less conservative than -- to
24 be more conservative than what some of the engineering firms were
25 interpreting. I can't remember exactly what the final answer was

1 with the number of sides and the weight and the calculations. I'd
2 have to dig back in. But I know that we applied it more
3 conservatively than industry did.

4 Q. Thank you for your time today, Ms. Lowenstein.

5 LCDR COMERFORD: Captain, that's the questions I have for
6 now.

7 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

8 At this time, Ms. Lowenstein, I'm going to pass it over to
9 our colleagues at the National Transportation Safety Board.

10 Mr. Barnum?

11 MR. BARNUM: Thank you, Captain.

12 BY MR. BARNUM:

13 Q. And thank you, Ms. Lowenstein. I appreciate this. You're
14 very knowledgeable. You're proving very knowledgeable on this
15 topic, so you've been a great witness so far. Just a couple,
16 couple questions, clarification to the benefit of me and possibly
17 the public. ACSA you mentioned that earlier. Could you just
18 remind us what that stands for?

19 A. Alternate Safety Compliance -- I forget what the last A is,
20 but essentially, in the writing of 46 C.F.R. Subchapter C Part 28,
21 there was a requirement that all commercial fishing vessels built
22 after -- I believe it was 1979, were required to be classed in
23 load lines. After, classification societies within the United
24 States generally will not take on vessels that are more than, say,
25 20, 25 years old, and a lot of these fishing vessels were older

1 than that. So it's my understanding Sector Puget Sound stood up
2 this ACSA and it was the 2006 timeframe to try to help not put
3 these commercial fishermen out of business, but do to a government
4 equivalent of what classification and load line requirements of
5 the 46 C.F.R. Chapter 28 were intending to do.

6 Q. Okay. So you --

7 A. So it's, it's basically supposed to be a government-like
8 version of classification of load lines for these boats, for, for
9 -- it's, again, it is head and gut fish processors only.

10 Q. Correct. Okay. Understood. So it, it is not all commercial
11 fishing vessels?

12 A. No.

13 Q. All right. Okay. I want to make that clear. Now, your time
14 there at MSC, you conducted plan reviews on these ACSA vessels,
15 load lined vessels and --

16 A. So, it's --

17 Q. -- inspected vessels?

18 A. -- again, I wouldn't, I wouldn't say plan reviews because I
19 wasn't reviewing -- I was only reviewing anything related to the
20 stability and loading of the vessels. So I didn't do a
21 longitudinal strength calculation for a vessel unless I was
22 concerned that they were utilizing parts of the structure that I
23 didn't think were originally designed to be a part of the
24 watertight hull section. So it, it was only plan review for
25 structures or something in support of validating stability --

1 Q. Okay.

2 A. -- and loading of the vessel.

3 Q. Okay. Understood. Strictly stability review. So your time
4 there completing these reviews of stability, did you ever conduct
5 a review of stability assessment that wasn't part of the ACSA
6 Program or a load lined vessel or a --

7 A. Yes.

8 Q. -- inspected vessel?

9 A. Well, the commercial fishing vessels are uninspected.

10 Q. Right.

11 A. But did I review -- fishing vessel stability for a vessel
12 that -- I'm sorry, can you ask that again?

13 Q. Yes. So in context, I'll get to it, vessels such as the
14 *Scandies Rose*, they're not required to -- they're not members of
15 the ACSA Program. They're not required to carry a load line.
16 They're uninspected, and their stability --

17 A. Okay.

18 Q. -- but they're required to have stability instructions. Did
19 you ever --

20 A. So if we were asked to review a vessel we weren't required to
21 review, I'm not sure -- like I, I never -- nothing ever came
22 across my desk that I wasn't either asked by an Office in Charge
23 of Marine Inspection to review or it wasn't required to be
24 reviewed either through our oversight program of ABS or through
25 involvement of another OCMI.

1 Like I remember there were two commercial fishing vessels in
2 the South Pacific I was asked to look at that were not a part of
3 the ACSA Program, but there was concerns over their stability
4 instructions. And I really don't remember the name of the two
5 boats, but they might have been load lined, I don't recall. But
6 there was, there was something going on with these two boats in
7 the South Pacific that the OCMI out there had some concerns with
8 that I was asked to look at.

9 But, again, it's -- vague recollection, but to the best of my
10 knowledge, I don't believe we ever were requested to review any of
11 these booklets for -- I'll call them the not required to be -- you
12 know, the -- essentially, 46 C.F.R. does not require a third party
13 to validate or verify, which is really what you're getting at with
14 these bigger --

15 Q. Correct.

16 A. -- fish processors, by putting ABS in their (indiscernible),
17 they literally are what they call third, third party independent
18 verifier. They're meant to be that party looking over the
19 shoulder of the engineer, the PE, to make sure that they're doing
20 it the right way in accordance with the law.

21 And so a lot of -- a large number of these fishing vessels
22 that are out there in the world are not -- again, the PE does the
23 stability and then that's it, right. There might be some
24 commercial fishing vessel safety inspections. I'm not up on what
25 the rules are since 2016, but -- and there were voluntary, you

1 know, fishing vessel inspections where you could come out and make
2 sure your flares were installed correctly and other things, but I
3 don't think there's ever been a requirement for the stability for
4 a lot of fishing vessel fleets if it's not these large processors
5 or something that's large enough to not require a load line to
6 have anybody come in and look at them.

7 And because it's so unregulated, it's kind of like the Wild,
8 Wild West. And there's a lot of scary things out there. I mean,
9 some of these boats that I looked at -- like the *Sea Venture* was
10 probably one of the scariest ones that I looked at the whole time,
11 but when you actually start peeling back the layers of -- when I
12 was running calculations on that boat on my own eventually, I had
13 the thing downflooding at like seven degrees, which is really,
14 really small. It's not a lot of, you know, free board and, and
15 righting energy. I mean, most vessels that exist in the word have
16 a free board of at least, I don't know, somewhere between six to
17 12 inches. These vessels were operating with a free board of two
18 inches.

19 And sometimes they were operating with the draft -- forward
20 draft of the vessel above the watertight hull boundary. They were
21 basically overloading the vessel from the existing watertight
22 boundary to the point that essentially the whole true watertight
23 volume of the hull was submerged, and they had no real free board
24 to, to speak of from an engineering perspective. And trying to
25 explain that that's not a good thing and understanding that that's

1 not allowable -- well, the engineering firms know that, but they
2 also have customers that are the fishing vessels that they make
3 their money by having crab pots onboard. And so, until somebody's
4 going to come in and really enforce that there is a law and you
5 have to follow the law, you know, it's -- everyone's going to
6 interpret it their own way and it's, it's just really difficult to
7 try to hone in on a particular thing.

8 And the engineering firms I work with -- Jensen, Hockema
9 Whalen -- they, they did a really great job of being consistent.
10 And when we told them we wanted something done differently, they
11 applied it and they did it, no questions asked. Their heart --
12 they wanted to do the right thing. They want to keep these guys
13 safe while they're fishing. But unless somebody can really force
14 their hand, the person who's paying them, I believe -- you know,
15 there's -- if you don't like what Naval Architect A is saying, go
16 down next door and get Naval Architect B and you'll probably get
17 the loading instructions --

18 Q. Sure.

19 A. -- you want for the loading conditions you want.

20 Q. Sure.

21 A. So, again, this not being regulated is, I think, one of the
22 biggest challenges. Not having that third party oversight is one
23 of the biggest challenges to making sure that any of these boats
24 are, are safe and the stability instructions are done to the best
25 of anyone's ability with a third party verifying that they're

1 being done in accordance with whatever standard we're going to
2 apply.

3 Q. Sure. Great. So -- excuse me, there's a little bit of an
4 echo. Okay. Let's try that. Can you hear me okay?

5 A. Yeah, I'm fine.

6 Q. Okay. So let's -- speaking of the *Sea Venture* -- or I'm
7 sorry, *New Venture* --

8 A. No, the *Sea Venture* was the vessel I did.

9 Q. Okay.

10 A. I never worked on the *New Venture*.

11 Q. Okay. Great. *Sea Venture*. You stated that you were very
12 alarmed after you, you know, conducted your initial review of the
13 documents, and then you responded to Mr. Culver, stating that you
14 need more information or you -- actually, I'm sorry, you stated
15 that you were -- the owner wanted to go with a different firm.
16 Did you ever hear back from him?

17 A. No, I did not.

18 Q. Okay.

19 A. I never heard from Mr. Culver again, and I don't believe he
20 regularly submitted any -- like, a lot of Jensen does commercial
21 vessels, Subchapter K vessels, H vessels. So we're familiar with
22 those engineers, and we work with them regularly. Mr. Culver, to
23 my knowledge, I don't think regularly submitted things to the
24 Marine Safety Center at all. He just -- the work -- work he did
25 was not on inspected vessels as a general rule is my

1 understanding. I mean, there are a lot of naval architects we run
2 into on a regular basis. You know, I know who Mr. Bronson is.
3 I've run into Mr. Parrott and, you know, a whole bunch of other
4 engineers. But at the end of the day, it's like I -- no one was
5 really familiar with him.

6 Q. Okay. So, when you did get that -- when you did do that
7 assessment, what -- is any -- is anything triggered? I mean, is
8 there any further review of maybe the naval architect's other work
9 that you may have come, come across? Is he put on a list? I
10 mean, is there --

11 A. So it's, it's an interesting question because I did, at the
12 time, ask -- and this is throughout all of my fishing vessel
13 inspections -- is there a way that we can notify the PE licensing
14 board that we're concerned that maybe, you know, people are not
15 introducing the level of conservatism or, or quality assurance --
16 I'm, I'm trying to use the right words here -- into their
17 calculations as we would like to see, if there was a way to kind
18 of report on that.

19 And I, I think I pulled the string on it, but I could never
20 really figure out what was the proper method inside the Coast
21 Guard by which -- and we have this list of 1092 -- basically, if
22 you have a professional engineering license and you want to
23 submit, normally we guarantee the 30-day turnaround time. If you
24 want to submit something and stamp it with your PE and it's either
25 1082 or 1092 -- I'm sure Lieutenant Commander Comerford can

1 correct me -- that you get this expedited review.

2 Q. Okay.

3 A. So if you got the expedited review as the submitting PE and
4 we found problems with your calculations, you got put on a no,
5 you're not allowed to submit your 1092 expedited reviews at the
6 Marine Safety Center again, because we're going to do a really
7 thorough check, because we're not confident that, you know, you
8 deserve an expedited review because you do such a quality job
9 because you're PE. So we would not allow those PEs to have that
10 expedited review process because we've gone through enough of
11 their calculations or had concerns to a point that their, I guess,
12 advance to the front of the line privileges were revoked.

13 Now, how you report a PE out in industry, again, working at
14 the Coast Guard, it was one of those things that people are like,
15 eh, we don't really want to go there. You know, there's, there's
16 no formal process that I could ever identify within the Coast
17 Guard by which I could do that. And I ran across other PEs that
18 were not fishing vessel related that I asked that question of, but
19 again, there was no clear, constructive way for me as an engineer
20 representing the Coast Guard for these inspected or uninspected
21 vessels to, to raise the flag.

22 Q. Sure. I want to circle back to one of my last questions
23 here. So you talked a little bit about ABS and how they are an
24 accredited organization that does the, you know, assessment of the
25 stability instructions on, on vessels. What kind of oversight

1 does your group have over them?

2 A. So, every time ABS conducts a review, they are required to
3 notify the Coast Guard that they've done a review, and the Coast
4 Guard at the Marine Safety Center at the time pulled a certain
5 percentage of certain types of vessels for oversight to verify
6 that ABS was doing this work on our behalf. And so I was asked by
7 the OCMI in Puget Sound to pull for oversight all of the ACSA
8 vessels stability that ABS had done on our behalf. And honestly,
9 I found not quite as many, but still a significant number of
10 concerns -- not concerns, but things not being done to the quality
11 or conservatism that, as the interpreter of the regulations, we as
12 the Coast Guard wanted them to do.

13 And so I actually sat down with a guy named Tom Gruger (ph.)
14 at ABS, and we went through -- because they have -- they're ISO
15 9001 certified, so they have checklists and policies that they
16 follow for each one of the different types of vessels, they review
17 stability and other things, and we went through and verified that
18 more language was added so that when the engineers at ABS were
19 actually reviewing the stability of these large fish processing
20 vessels, that they were interpreting it with some of the
21 information that was in the H2-19 fishing vessel guidance that we
22 put out there and really, you know, digging into making sure that
23 the inspections were done.

24 Because they do an inspection for load line that identifies
25 the downflooding points and stuff that then the engineer in ABS

1 office that's validating stability uses to validate that the right
2 downflooding point is identified. And sometimes there were
3 discrepancies between the load line survey and what was actually
4 in the stability booklet that they were reviewing. And just, you
5 know, just really trying to make it smoother and make sure that
6 they were paying as much attention to these uninspected vessels as
7 they were the inspected ones. And a lot of it was just no one
8 from the Coast Guard had ever really looked at these regulations
9 because we're not examining these vessels --

10 Q. Right, right.

11 A. -- so to give the interpretation of what we think is the
12 conservative way we would interpret this, you know, requirement.
13 Do I actually need to include the vessel's transverse center of
14 gravity in a dead weight or -- sorry, inclining survey or not?
15 Well, when it has huge impacts on stability for some of these
16 fishing vessels, well, yeah, we want you to, but it's not
17 something you would typically think about.

18 Q. Right.

19 A. So, again, having that TCG be included was something ABS
20 wasn't doing and we then requested that they do. A lot of these
21 fishing vessels were being done -- their inclining experiments
22 with like lots of extra stuff onboard. Well, you're only supposed
23 to have two, two percent of anything that can't physically be like
24 tied down to the vessel, right. If it's not welded it should come
25 off for the light ship. Really were making sure they were

1 enforcing that two percent to really understand what's the --
2 their vessel stability look like and then purposely adding back
3 all the weights so you do -- you really do have a true
4 understanding of the loading conditions and how the vessel in a
5 particular loading condition is going to react to, you know, the
6 stability criteria, i.e. the seas.

7 Q. Great, great. Well, thank you for that. And I just -- I
8 want to see if I can summarize, and tell me if I'm correct in
9 this. So basically, if the vessel stability instructions are
10 required to be reviewed by ABS, the Coast Guard will take a
11 percentage of those and do their own independent review
12 periodically -- yearly I assume or --

13 A. Yeah, and that's only if the -- so the vessels are coming to
14 ABS because they're required to be load lines --

15 Q. Right.

16 A. -- and ABS is doing those load lines certificates or trim and
17 stability booklets in accordance with the law. They notify to us
18 because we've given them the ability to do that on our own behalf.

19 Q. Right.

20 A. If somebody goes to ABS to have their stability verified
21 because the vessel is maybe classed, but we don't necessarily have
22 a role in oversight of that, we may not necessarily get notified
23 by ABS that they did stability on that particular vessel. So just
24 -- it's, it's a narrow scope of group of vessels that ABS does,
25 and then we get notified of probably 90 percent of that, and then

1 we would pull maybe ten percent unless directly asked to --

2 Q. Correct.

3 A. -- by maybe somebody who is concerned.

4 Q. Okay. Okay. And then the vessels that are not regulated by
5 a -- or are not reviewed by ABS and are not specifically asked for
6 review from the OCMI, there is no oversight by Coast Guard on
7 those?

8 A. It would be a rare occasion if there was really -- like, I
9 talked about these two vessels in the Pacific Southwest, like it's
10 a rare thing that you might get a call from a concerned inspector
11 in the field that they want --

12 Q. Right.

13 A. -- you to take a look at something specific. But it's, it's
14 a rarity. That and the only other time I did stability on
15 commercial fishing vessels was helping out with accident
16 investigations, which is like what Andy Lawrence is going to do
17 for you guys tomorrow.

18 Q. Sure.

19 A. That's the only other time we would look at stability for
20 fishing vessels is when something bad had happened.

21 Q. Perfect. Okay. Understood. Thank you very much. I really
22 appreciate that, and it helped me out a lot.

23 MR. BARNUM: That's all the questions I had, Captain.

24 CAPT CALLAGHAN: Thank you, Mr. Barnum.

25 Ms. Lowenstein, I'm going to pass it around just to the --

1 our parties in interest.

2 So, Mr. Stacey, any questions for Ms. Lowenstein?

3 BY MR. N. STACEY:

4 Q. Good afternoon, Ms. Lowenstein. Nigel Stacey. Just a couple
5 of very, very brief questions. You discussed earlier with
6 Lieutenant Commander Comerford that you would, to best assess the
7 stability of a vessel, you know, review the vessel and crew
8 practices aboard a vessel. Can you tell us why it was important
9 for you to assess stability to know those practices?

10 A. Okay. So the -- that -- the stability part is very
11 sensitive, meaning they don't have a lot of margin between what
12 their allowable KG is and where they're operating at the actual
13 loaded condition of the vessel. So it could mean a difference of
14 how you unload crab pots into -- how you load and unload crab pots
15 in what order. If you did it in a certain order, you'd exceed the
16 stability criteria. If you did it in a different order you'd
17 pass.

18 So you'd want to make sure the stability instructions -- in
19 some cases, the naval architects were telling the crew the best
20 way to load and unload crab pots to keep them within the stability
21 criteria. The, the engineer firm that ended up finally doing the
22 *Sea Venture* did an amazing job. They ended up running, I think,
23 in the neighborhood of -- sometimes they would run 1,000 different
24 stability loading conditions against the different criteria to
25 show how crab pots were loaded and unloaded, the sequence in which

1 you should be taking crab pots off a certain part of the boat,
2 again, burn fuel in what sequence.

3 Like it's -- it becomes a very specific mathematical -- like
4 you leave, you leave, you know, port with this many crab pots and
5 fuels in this tank. In order to keep the vessel within stability
6 limits, you have to burn these fuel tanks in this order to this
7 percentage and then unload crab pots in a certain way. And
8 that -- I mean, we did that with the *Sea Venture*. Her stability
9 margins were narrow enough that we actually had to very, very
10 deliberately examine how the vessel was unloaded and unloaded on a
11 regular basis to be sure that they operated her within -- inside
12 the stability limits.

13 And so we talked to the operator to be like, what do you do?
14 What's the process you follow? And then within what they did, we
15 further guided them to keep them within the stability limits that
16 we as naval architects understood and together found -- again,
17 some of these operating instructions or current stability booklets
18 are quite -- how do I say? I don't want to say involved because
19 the naval architects would take the, the stability -- and some of
20 these things you do in stability calculations, we took out the
21 ability of these guys to do a stability calculation and gave them
22 instructions that said, when these tanks are loaded this way,
23 here's the number of crab pots you can carry.

24 When it's -- you know, and it was -- I can only encourage you
25 to go look at -- you know, have -- see if you can have an

1 engineering firm produce one of these, but the idea is that these
2 guys don't have stability instructions. When you're doing the
3 stability instructions for a big ferry, the master's trained in
4 stability. They know how to do these calculations and what it
5 means. These fishing guys don't. So to really try to be very
6 clear, concise, and direct with what they should do and how they
7 should do it in a way that meant something to them to keep them
8 inside these stability criteria without them having to understand
9 what a righting arm curve or what GM is or anything. And to make
10 sure they understood that icing's bad, right. And, and to be
11 careful about certain things. And, you know, also, don't put
12 stuff there. You're deck's not designed to carry a load there.
13 You know, like simple things like that.

14 Q. So, so it's fair then the loading and unloading is obviously
15 a very important one. Would you have a set set of questions, a
16 standard set of questions you would ask each vessel and operator?

17 A. It really, again, depended on the size of the vessel, the
18 kind of fishing that they were doing. And, and so these were all
19 head and gut fisher processers, right. But there were some long
20 liners, there were some cod ends and other things. And so
21 depending on the type of fishing they were doing and the size of
22 the boat, we would ask question a little bit differently.

23 Because these big huge fisher processer are very -- you know,
24 they have captains that understand the, the -- the license to
25 operate these vessels require stability instructions versus the

1 small kind of mom and pop, I've got five to seven people, it might
2 be mariners and crew onboard and everyone else is -- think of them
3 as like a factory worker. They're not mariners. They're people
4 working inside a processing plant, which in some cases were 120 of
5 137 person crew, right. So really making sure that it's
6 simplified enough that you're keeping the people safe who are on
7 there and making sure that the small mom and pops can understand
8 how to operate their vessel in a safe manner in a way that works
9 based on their knowledge level.

10 Q. Are you aware of any documents out there or guidance where
11 you, depending on the kind and size of vessel that you have, look
12 so that when you do go and speak with these operators, they'll be
13 possibly more prepared to answer those questions?

14 A. Honestly, there are two engineering firms I work with the
15 most, Jensen and Hockema Whalen, are the most knowledgeable, in my
16 mind, of the different ranges and types of fishing vessels, and I
17 know based on the engineers that they work with that they may have
18 something similar to that that they use. Because as, as engineers
19 and engineering firms, like anything, you create job aids. You
20 create things that are repeatable so that you can take less time
21 to do something. Again, it's all about being efficient in the job
22 you're doing. And I believe there were some check sheets that the
23 -- maybe Office in Charge of Marine Inspection Sector Puget Sound
24 might have as well, but I think that's more safety related than
25 necessarily like details of how the vessel was operated.

1 Q. Okay.

2 A. And it was only over time that I started to understand what
3 questions to ask and, and how these vessels were actually
4 operated. I mean, if you don't understand how they -- they're
5 operated and the terms they use and the rhythm of what they're
6 doing, it's really hard to actually be able to do stability in a
7 meaningful way. You have to understand who these people are, what
8 they're operating, how they're working, and the challenges they're
9 facing.

10 Q. Certainly so. Thank you very much for your testimony today.
11 It's been very helpful.

12 MR. N. STACEY: Captain, those are all the questions I have.

13 CAPT CALLAGHAN: Thank you, Mr. Stacey.

14 I'm going to pass to Mr. Barcott.

15 Ms. Lowenstein, just in the interest of time, I am going to
16 ask if you -- if Mr. Barcott has any questions that we just try
17 and be as brief as possible.

18 THE WITNESS: Sure.

19 CAPT CALLAGHAN: Mr. Barcott?

20 MR. BARCOTT: Thank you, Captain.

21 I appreciate your testimony. I don't have any questions.

22 CAPT CALLAGHAN: Thank you, Mr. Barcott.

23 Ms. Lowenstein, I greatly appreciate you time today. I
24 really appreciate you contributing to this hearing and I
25 appreciate your time and bearing with us in the virtual

1 environment here.

2 THE WITNESS: No problem.

3 CAPT CALLAGHAN: So at this point, you are now released as a
4 witness from this formal hearing. Thank you for your testimony
5 and cooperation. If I later determine that this Board needs
6 additional information from you, we'll contact you through our --
7 your counsel. If you have any questions about this investigation,
8 you may contact the investigation recorder, Lieutenant Ian
9 McPhillips. Thank you again for your time.

10 THE WITNESS: Okay. Thank you.

11 (Witness excused.)

12 CAPT CALLAGHAN: The time is now 1405. This hearing will go
13 into a brief recess, and we will resume at 1415.

14 (Off the record at 2:05 p.m.)

15 (On the record at 2:14 p.m.)

16 CAPT CALLAGHAN: Okay. The time is 1415. This hearing is
17 now back in session. We will now hear from Mr. John Lawler.

18 Mr. Lawler, Lieutenant McPhillips will now read -- will now
19 administer your oath and ask you some preliminary questions.
20 Lieutenant McPhillips?

21 LT McPHILLIPS: Please stand and raise your right hand.

22 (Whereupon,

23 JOHN LAWLER

24 was called as a witness and, after being first duly sworn, was
25 examined and testified as follows:)

1 LT McPHILLIPS: Please be seated, sir. Please state your
2 full name and spell your last name.

3 THE WITNESS: John Lawler, Lima-Alpha-Whiskey-Lima-Echo-
4 Romeo.

5 LT McPHILLIPS: Please identify counsel or representative, if
6 present.

7 THE WITNESS: Joseph Stacey.

8 LT McPHILLIPS: Please have them state and spell their last
9 name, as well as their company or firm.

10 MR. J. STACEY: My name is Joe Stacey with the firm Stacey
11 and Jacobsen, and I'm here with John Lawler.

12 LT McPHILLIPS: Please tell us, what is your current
13 employment and position?

14 MR. J. STACEY: I am a partner with the law firm of Stacey
15 and Jacobsen.

16 LT McPHILLIPS: I apologize. Mr. Lawler, please tell us what
17 is your current employment and position?

18 THE WITNESS: I'm currently doing odd jobs at this point
19 since I have not been able to fish since the accident. So that's
20 not really specific. In general, doing what I can get to get by
21 right now.

22 LT McPHILLIPS: Can you briefly tell us your relevant work
23 history?

24 THE WITNESS: I've been fishing for the last 12 years
25 roughly. Before that -- there wasn't really much before that.

1 Just odd, odd jobs as well.

2 LT McPHILLIPS: Can you please describe your education
3 related your position as a commercial fisherman?

4 THE WITNESS: I've ran boats. I owned my own boat. Sorry,
5 I'm really nervous right now. I took the 100-ton course. I never
6 followed through with getting a license itself because I was out
7 at sea and you're only allotted six months to actually procure
8 that after passing the test.

9 LT McPHILLIPS: Do, do you hold any licenses or certificates
10 related to your job now?

11 THE WITNESS: Negative, sir.

12 LT McPHILLIPS: All right. Thank you, sir. Captain
13 Callaghan will now have follow up questions for you.

14 EXAMINATION OF JOHN LAWLER

15 BY CAPT CALLAGHAN:

16 Q. Good afternoon, Mr. Lawler. And, on behalf of the, the Coast
17 Guard and behalf of the Marine Board of Investigation, thank you
18 for being here. And I'd like to extend our extreme gratitude for
19 your participation and our deepest condolences for the loss
20 experienced during this tragedy. So again, thank you for your,
21 your willingness to be here in person today. I think we all have
22 a lot to learn from your experience and, you know, not only
23 from -- to help better understand the facts surrounding the case,
24 but as a survivor, we -- that provides a lot -- a great
25 opportunity for everybody to gain some knowledge and see how we

1 can make improvements in the future.

2 There's a (indiscernible) this, this will be done. Any
3 evidence that'll be pulled up, any exhibits, Lieutenant McPhillips
4 will pull up on the screen in front of you and on the, the big
5 screen behind me for you to view. If for some reason that you
6 have trouble seeing it or have trouble understanding a question,
7 please feel free to stop, ask me to rephrase the question or just
8 slow down, and we'll make that happen for you.

9 A. Yes, sir.

10 Q. We have some scheduled breaks, but if at any time you need
11 additional breaks or you need to take a short recess, please let
12 us know, and we will.

13 So, Mr. Lawler, can you just -- I, I know Lieutenant
14 McPhillips asked a few background questions. Can you tell us how
15 long you've been a commercial fisherman?

16 A. Roughly the past 12 years.

17 Q. Okay. And what areas have you fished in previously?

18 A. I started out -- well, I guess my career goes a little
19 further back, but as far as commercial goes, about 12 years.
20 Prior to, I did some sport fishing on charter vessels down in
21 Southern California. My first initial experience on a fishing
22 boat was in Southern California as well in the squid fishery out
23 of San Pedro, California.

24 Q. And with regards to your experience in, in the Alaska
25 fisheries, what types of fish catch or seasons have you worked

1 previously?

2 A. I, I didn't hear that, sorry.

3 Q. So with regard to your experience in the Alaska fishing
4 region, which fisheries have you been involved in fishing?

5 A. Bristol Bay drift netting, also red crab season, opilio
6 season, pot cod season, state and federal. No dragging at all.

7 Q. And so, aside from non-merchant -- merchant marine -- mariner
8 credentials, do you have any other formal certifications? For
9 example, first aid training, EMT, any stability or safety training
10 in regards --

11 (High pitched ringing sound.)

12 CDR DENNY: It's an Amber Alert.

13 THE WITNESS: Amber Alert. Do I -- so you -- say that again
14 now?

15 BY CAPT CALLAGHAN:

16 Q. So aside from Coast Guard credentials, do you have any other
17 formal training, first aid, any basic safety training for --

18 A. I don't hold anything currently, but all through my years of
19 my career, I've held CPR, also my AB, a few other things as well.
20 Advanced firefighting and such.

21 Q. Have, have you ever attended any of the NPFVOA training
22 courses?

23 A. No, just the -- a few, like the AB license out of like San
24 Diego and whatnot. Nothing was ever done up in Alaska here.

25 Q. And have you ever -- had you ever sailed on any vessels in

1 similar configuration to the *Scandies Rose* before?

2 A. Well, this would be my second aft house boat. I've fished a
3 season on the *Wizard*, which was also an aft house boat, but the
4 rest of them all have been house forward boats.

5 Q. Any differences between the two vessels?

6 A. In, in what regard would you say?

7 Q. Just any, any -- I guess in regards to, I guess, in
8 operation, operationally?

9 A. No, generally, generally speaking, you know, we kind of have
10 the same program. Everyone knows their place and their job. And
11 the only thing really different is I didn't know a lot of the guys
12 on, on the *Scandies* personally.

13 Q. Had you sailed with any of the crew from the *Scandies* before?

14 A. Dean Gribble, I had, I had sailed with him prior to this. We
15 did red crab on the *Western Mariner* together.

16 Q. And had you ever had -- have you ever been on another trip on
17 the *Scandies Rose* before this --

18 A. Negative. I've only seen the boat in passing. And as I
19 said, I, I -- well, I don't know if I said this, but I own a
20 Bristol Bay boat, and we would see them in the bay tendering.

21 Q. In, in what capacity did you -- had, had you worked with
22 Mr. Gribble before or just known, known of him?

23 A. I had never known him prior to working on the *Western*
24 *Mariner*. I completed the -- but we did a little bit of black cod,
25 and then we went into the red crab soon thereafter.

1 Q. Okay. So thank you. That's, that's some -- just some
2 background questions. My intent now is what I'm going to -- the
3 way I'd want to -- intend to form the rest of the questions is
4 kind of talk about prior to the voyage, and then we'll go to into
5 once, once you got underway and work up into the accident itself.
6 So prior to the voyage, what was your employment directly leading
7 up to employment with the *Scandies Rose*?

8 A. Well, I had just got done on the *Western Mariner*, as, as I
9 stated earlier. And up until then, I was going to make a change,
10 go on a different boat for the opilio season. So we just had that
11 break in between, and that's when I started making phone calls to
12 reach out and contact someone that may have an opening on their
13 vessel for the winter.

14 Q. And, and how did you come about the, the job on the *Scandies*?
15 You said you made some phone calls. How, how far before the
16 voyage had you been hired by them?

17 A. I was actually pretty delayed, honestly, because I had gotten
18 in contact to Gary himself. He was acquainted with a mutual
19 friend. Her name was Stephanie Anthony (ph.). She was a
20 bartender in Dutch Harbor, so we all kind of knew each other. And
21 she name dropped me to him, and he reached out to me and let me
22 know that there was a potential opening. They weren't sure if
23 someone was going to make it back. You know, it was kind of a
24 wishy washy type deal.

25 Waited a few days, then I started kind of reaching out to him

1 saying, you know, I -- it's cutting close to the season's going to
2 start. I need to fill a spot. Otherwise, I'm going to be without
3 work for the winter. So he finally said, okay, you know, we're
4 going to go ahead and take you with us. I said great. And that's
5 kind of how that whole thing started there.

6 Q. And so were you aware if there was someone who was in --
7 scheduled to sail in your -- in that position prior to your
8 employment?

9 A. Yeah, he had told me that. And I stood by -- you know, was
10 standing by for a little bit, and it was literally on the same day
11 I, I got another call from another boat, the *Sandra Five*. Captain
12 Bob there had called and offered me a job. But in the same day
13 I'd verbally committed to, without a plane ticket of course, but
14 verbally committed to Mr. Cobban that I would go with him. So in
15 turn had to tell him, Bob, that, you know, I had already made a
16 verbal commitment and that was my word, so I'm sorry, I have to
17 deny the job that you're offering me right now.

18 Q. Okay. And, and once you had the conversation with Captain
19 Cobban, can you tell me -- just explain what the process was to
20 complete your employment?

21 A So he put me in line with Gelia Cooper, which you guys have
22 already spoke with. She in turn called me, a whole line of
23 paperwork. I mean, nothing -- I'm really used to doing all that
24 kind of paperwork, but it was a little extensive. I don't know if
25 it was due to prior insurance issues or not, but like background

1 checks and, you know, all sorts of things like that. I mean, your
2 standard drug tests and, and so forth.

3 Q. Lieutenant McPhillips, can you pull up Exhibit 17 please?

4 Okay, while he's pulling this up -- it should be the employment
5 contracts. So do you recall what kind of things that -- once we
6 get that up -- so does this look familiar to you, Mr. Lawler?

7 A. Yes, sir.

8 Q. And I, I know this one on here isn't yours. Yours would be
9 later in, but I just wanted to have this as -- to -- for you to
10 verify that this is the type of agreement that you signed when
11 employed by the *Scandies Rose*.

12 A. Yes, sir. And it's, it's all -- most contracts are generally
13 pretty standard as far as like any prior injuries and what your
14 percentage is going to be. Generally speaking, it's a lot less
15 than what your actual percentage is as it shows, I think, further
16 down in that document that you're started with an X amount
17 percentage per pay and on completion of the season you receive the
18 rest as a, quote/unquote, "bonus."

19 Q. Okay. And do you recall any other -- so you mentioned a
20 health -- kind of a background questionnaire on your health. Any
21 other provisions within this regarding drug and alcohol use or
22 anything else?

23 A. Yeah. I, I mean, it's, like I said, standard. So generally
24 speaking, every contract (indiscernible) I've ever been on is zero
25 tolerance, according to the paperwork.

1 Q. Okay. Thank you. Lieutenant McPhillips, you can pull that
2 exhibit down please. And, Lieutenant McPhillips, would you mind
3 pulling up Exhibit 081 please? Okay. And can you go down to the
4 last page please? Mr. Lawler, can you tell us if this -- can you
5 verify that this, this is -- this shows a drug test that you had
6 completed?

7 A. Yeah. Yes, sir, that's -- yep, that is mine.

8 Q. And where was this drug test administered?

9 A. That was in Anchorage, Alaska, not too far from my house.

10 Q. And what was the -- what were the results of this drug test?

11 A. Negative for everything.

12 Q. Okay. Thank you. Lieutenant McPhillips, you can take that
13 down please. And so, in your -- for your employment on the
14 *Scandies*, what position were you employed for on the *Scandies*
15 *Rose*?

16 A. I, I was just hired as a deckhand.

17 Q. And as a deckhand on the *Scandies*, what were the -- what were
18 your main tasks or functions to be?

19 A. Main, main functions are, are just everything that has to do
20 with fishing. We're, you know, hauling the gear, you know,
21 counting crab. I mean, I would also take other, you know,
22 responsibilities on, too, even though I wasn't hired for it, but
23 that's just always been my MO. Art Ganacias, the chief engineer
24 on there, I would help him go do some of his work because I had
25 experience prior. But as far as what I was hired to do was just

1 merely the, the deckhand work, throwing hook, counting crab, tying
2 the boat up, taking wheel watches. The list goes on.

3 Q. Okay. I'm going to move to the time so -- now, in regards to
4 time, once you've, you've been employed by *Scandies Rose*, can you
5 please describe everything from the time you landed in Kodiak and,
6 you know, to the time you got -- your initial boarding of the
7 *Scandies Rose*? So from the time, you know, getting to Kodiak,
8 getting onboard?

9 A. Yeah, so I, I originally flew in with -- it would have been
10 Art, David -- no, excuse me, sorry, David was already in Kodiak.
11 I flew in with Art, Brock, and Seth. I believe that was it for
12 us. We flew in, I don't know, it was early morning. We went
13 straight to the boat, and the boat was tied up in the harbor.
14 There was already pots on the boat. We put our bags on. Gary
15 hadn't quite got there yet. I believe he was on a later flight
16 that day.

17 So we were just cleaning some stuff up. There was a big mess
18 on the deck, as, as far as I recall. It was steel everywhere from
19 a project they had worked on, which you had noted earlier in this
20 -- these hearings. Paint stuff scattered throughout the deck.
21 You know, it was just kind of clean up the -- whatever had
22 happened while the offhand (ph.) was happening and then stand by
23 and wait for Gary to get there. Gary showed up soon thereafter.
24 Then we had to move the boat over to the Trident dock so we could
25 load our gear and rig pots.

1 But it took probably the better part of three, four hours to
2 move the boat because the, the lines we were using weren't the,
3 the regular Samson line, you know, the, the newer aged stuff. It
4 was the three braid, pretty hard laid stuff, and it had been froze
5 over from being -- the boat sitting there for the last -- I don't
6 know, I don't know when they laid the boat up, but it took quite
7 some time of putting water on the lines, beating it with, you
8 know, our ice hammers trying to get the, the boat cut loose. So
9 that was quite an extensive task.

10 Then we moved over to the Trident dock, and it was just
11 boogey on gear. You know, putting triggers in for cod. They were
12 re-web pots, so they weren't ready at all. We had to start doing
13 that. And the first day, that's all we did for probably 18-plus
14 hours working on that.

15 Q. And I'm sorry if I missed it, so where, where was the vessel
16 when you first got onboard? I see -- you said you moved to
17 Trident, but where was it when you got onboard?

18 A. I don't know Kodiak that well because I haven't fished a lot
19 of out of there, but I believe it's Dog Bay is what it's called
20 over there. It's across the bridge in town there.

21 Q. Okay. And, and you also mentioned doing some cleanup work.
22 Do you remember who assisted you in that cleanup work?

23 A. It was kind of a mixed bag of us. We, we were all looking to
24 staying busy, right. And if you're, you're leaning, you're
25 cleaning. And, you know, a clean boat's a happy boat. So I think

1 everyone was trying to do their part there. And a lot of
2 questions were being asked, by me, of course, because I'm fresh to
3 the boat. I want to know like what's all this steel from and, and
4 I got some answers out of Art, you know. General maintenance on
5 the outside of the boat, getting ready to go, you know, put our --
6 just getting down to the boat. You know, you want to put all your
7 stuff away, too, so after we got the deck cleaned up, then staying
8 busy putting our clothes away, getting ready for a couple month
9 long season.

10 Q. And so in, in regards to the steel that, that you cleaned up,
11 do you recall what you guys did with the steel when you cleaned it
12 up?

13 A. So it was originally consolidated, like stacked because it
14 was just kind of scattered at first, stacked up by the launcher
15 there until we moved. And then that steel was actually -- I don't
16 know if you actually went and got it, but I did put in my
17 statement that when we were loading pots, you know, the, the
18 saying goes -- as a fisherman is we should probably float this
19 out. So it's sitting in the harbor right there next to -- it's by
20 the dock right there.

21 Q. Okay. So if I understand --

22 A. It just went overboard.

23 Q. So the first -- but in the initial cleanup, it was stacked.

24 And then when you -- when transited over --

25 A. Yeah.

1 Q. -- to Trident it was dropped?

2 A. As, as we started stacking the boat out, you know, we were
3 stacking from the, the front of the house forward, and then things
4 started getting tight. And that one point everyone's like, we're
5 tripping -- we were tripping over this for however long. Now it's
6 time to do something with it. It's got to go somewhere so we
7 could stack more pots up.

8 Q. Okay. And, and now -- so now the vessel's at Trident and you
9 spent the day loading the pots, as you said. Can you tell us more
10 about loading the pots and that time between loading all the pots
11 and getting ready for departure?

12 A. You know, it was a slow go because it, it wasn't just like
13 load pots, let's go. Like I said, you know, I, I wasn't really
14 made aware of all this -- of all, all the work that really needed
15 to be done on all these pots. So we were, you know, tying shots
16 of line. It's pretty basic still, but to the extent we were
17 rigging over all the pots to do cod like triggers in all of them.
18 So, you know, we have a loader.

19 We'd stack 15, 20 pots by the boat, and then we'd sit there
20 and zip tie the triggers in, you know, pretty basic stuff, and
21 then swing those over, and then we'd get another 15. So it was a
22 -- definite process, you know. Tedious, took quite some time to
23 actually load the whole boat up. I don't think the boat was
24 actually -- I think it was after Dean finally showed up that we
25 finally got the last of the pots loaded.

1 Q. And just for clarity for -- to, to help educate us, so you
2 said the -- loading the triggers into the pot, can you describe
3 what those are and, and, and how they're inserted into the pots?

4 A. What, what, the, the triggers?

5 Q. The triggers.

6 CDR DENNY: The triggers.

7 THE WITNESS: Oh, the, the triggers are basically -- it's a
8 way for the fish, cod fish to actually swim in and (indiscernible)
9 their face like this. So the cod will come into that final
10 pattern there when they open up. And as soon as they're in the
11 pot, they close back down and the cod can't get back out. It's a
12 fight to get back up.

13 BY CAPT CALLAGHAN:

14 Q. Okay. Thank you. So it's, it's something that's put in just
15 for cod fishing or --

16 A. Yeah.

17 Q. -- is it left in all --

18 A. Unless you're 100 percent full time cod boat, they get pulled
19 out and put in. If, if you don't have a gear there -- and there
20 are some boats that have enough gear where they have their cod
21 gear set aside and then their (indiscernible) gear.

22 Q. Okay. Thank you. And as far as loading all the pots, do you
23 remember how many pots were loaded?

24 A. No, I kept asking Art how many we were putting on because it
25 had gotten a little out of hand where I was like thinking we had a

1 little too many on, but I'm hired from here down. Not there to
2 ask a lot of questions about that. And not being on the boat
3 ever, you know, what's not normal to me might be normal to someone
4 that worked on there (indiscernible), you know what I mean? So I
5 would have to look at -- I think there's some pictures on it, but,
6 but if I looked at it, I was a -- they swung pretty much every pot
7 on there. And I can give you a pretty close number, and I think
8 it was pushing up over 200 a little ways.

9 Q. Okay. Thank you. And so can you -- and it -- and in terms
10 of how the pots were being stacked, can you describe for us when
11 the pots were placed on boat and what configuration they were
12 being stacked in?

13 A. So basically any space on deck was filled, you know, and
14 that's actually -- to, to go back to what you asked me about the
15 other aft house boat I worked on, this was different to me because
16 once you stack this boat out, there's no alleyway. And like, on
17 the *Wizard*, for instance, they have a way to actually come in to
18 the gear room into the house. This boat, once you stacked it out,
19 you had to climb up over the stack to even get back to the house.
20 There was no, you know, pass through.

21 So every -- from port to starboard, every spot was filled
22 there. And then we would be four high -- I believe it was four
23 high port side all the way to the starboard side, but on the
24 starboard side, they were only three high. And that would be
25 enough of a visual for whoever was operating the boat could

1 actually see out the wheelhouse window to see, you know, what was
2 ahead. There was -- we also stacked them under the shelter deck.
3 You know, we'd have to push -- because we pushed them under there,
4 stack them out under there. I mean, literally like every square
5 inch of that deck was full of pots. And then we would put them on
6 top of the wave wall -- or not wave wall, sorry, on top of the
7 shelter deck, four high on there and then wrapped in an L shape up
8 towards the, the tree up front there.

9 Q. And two, two follow-up questions before I, I move on from
10 this line. So for that stack that's up above on top of that, that
11 foredeck there, in comparison to your previous work on similar
12 vessel, is -- was that a normal configuration, to add those pots,
13 extra pots up on that forward deck area?

14 A. I, I had seen that before. Personally, I mean, I hadn't done
15 it before personally, but I'd definitely seen it done before.

16 Q. Okay. Lieutenant McPhillips, can you pull up Exhibit 093
17 please? And can you just -- so you referred to alleyways before.
18 So this is not a picture of -- from the *Scandies Rose* itself, but
19 in terms of an alley within a stack, is this what you were
20 referring to?

21 A. Yeah, yes, sir.

22 Q. And so the difference between this and what the configuration
23 that you loaded on the *Scandies*, am I correct in saying that the
24 difference would be that that in the middle there would be another
25 pot stacked vertically?

1 A Yes. Yes, sir.

2 Q. Okay. Thank you, Lieutenant McPhillips. You can bring that
3 down. Okay. And as far as the stacks, how are the stacks
4 secured?

5 A. Oh, we used pot ties, standard. Everything's tied with pot
6 ties. And then, you know, you have your, your, your ties that are
7 for (indiscernible) and then port and starboard. So pitch and
8 roll. And then after that's all tied up like that, we put the
9 chains on them and we chained every rope before we left.

10 Q. And once, once you had the, the pots stacked up, the -- what
11 was the -- what, what kind of -- what role did you have after the
12 pots were stacked up and, and what took place onboard between the
13 time you had the pots all stacked up and then --

14 A. Well --

15 Q. -- prior to departure?

16 A. Well, the -- after -- of course, after we get the pots
17 stacked, you know, we're, we're coming up and then we got the
18 table. So then the table goes up on top as well, our sorting
19 table. And that goes on top of the whole stack. And then this
20 was a little goofy to me, but we took bait after we had stacked
21 the whole boat up and just barely enough room to sneak a pallet of
22 bait down in -- by the launcher there and we loaded bait after
23 that. That was our next task, loading bait. And we took about
24 15,000 pounds of bait that night.

25 Q. Okay. So you mentioned the sorting table loading on top of

1 the stack. So in, in reference to the, the stack itself, where --
2 can you tell us where on, on the stack had --

3 A. Forward of the house. And, and the reason for that is, you
4 know, you start setting gear, and then you work your way back kind
5 of -- you start by making yourself a little work area at that
6 point. You know, you make some room for -- things are a little
7 tight at first when you start to -- initially start setting. Then
8 you work your way back, and once you stair-step back, you pull the
9 table off and put it on deck and secure it on deck.

10 Q. Okay. And, and was that normal from other configurations
11 you've seen to load the, the sorting table on top --

12 A. It's whatever --

13 Q. -- pot stack?

14 A. -- floats your boat. Some, some will put it on top. Some
15 will put it -- I've seen it on top of the wheelhouse itself. I've
16 seen it on the, the shelter deck. But -- yeah, well -- and I've
17 also seen it under the shelter deck was what I worked on actually
18 would push it back and have it under the shelter deck right there.

19 Q. Lieutenant McPhillips, can you bring up Exhibit 014 please?
20 Well, this is just a series of photos of the *Scandies Rose*. So
21 in, in terms of where the, where the sorting table is located on
22 here, can you identify it in this picture at all?

23 A. Yes, and that (indiscernible) wheelhouse, like I was saying.
24 I can see it right now on top of that (indiscernible) here.

25 Q. So once that --

- 1 A. About -- it's about seven windows over.
- 2 Q. And once that's, once that's loaded, is there any obstruction
3 be -- from there to the forward end of the stack from the bridge?
- 4 A. What, what do you, what do you mean by that? Sorry.
- 5 Q. So looking from the wheelhouse, does that -- does having that
6 sorting --
- 7 A. Obstruct view?
- 8 Q. -- table there obstruct the view of the forward end of --
- 9 A. It would.
- 10 Q. -- the stack?
- 11 A. Yeah.
- 12 Q. Okay. So now that the, the stack is secured, can you tell us
13 what else took place onboard before getting underway?
- 14 A. Like I said, bait -- we loaded bait. They were throwing a
15 chain on every row. And we were standing by and just kind of
16 waiting. You know, trying to make my memory serve me correctly,
17 but, you know, we waited for a little while. I think someone
18 brought some pizza down. We looked -- it was such a boat show. I
19 don't want to use, I don't want to use the S word, but if you
20 follow me there, that we were -- food was coming on, pots were
21 coming on. There wasn't like a method of the madness. It was
22 just pretty much madness. You know, we got to go. Time to go.
23 So anything we could do, everything was just swinging on.
- 24 (Indiscernible) some food and then pots and then food and then
25 pots and more pots and then bait, you know, after we were done

1 with the pots.

2 Q. And, and so in terms of bait, where was the bait being
3 loaded?

4 A. Up forward, in the forward freezer there.

5 Q. And do you recall how much bait was taken onboard?

6 A. 15,000 pounds is what we took from the cannery there. And I
7 believe it actually came to 15 from the *Ocean Beauty*, I believe,
8 and was brought around with the forklifts to -- we were at the
9 Trident dock, so they brought it around to us.

10 Q. Okay. And in terms of -- you said, you said things were kind
11 of -- seemed to be in a rush to, to keep going. Any explanation
12 of why it -- things, things might be hurried? Was there -- from,
13 from that point, was there an understood schedule or timeframe
14 that the -- to get underway?

15 A. Well, I knew we were going to fish cod, January 1, right, but
16 it was just a little, a little -- it was a little off to me just
17 because, you know, generally doing gear work, getting stuff ready
18 to go, you know, the sun goes down and, and we don't have any
19 lights out there and hard to see. It's almost like counter-
20 productive to try and keep tying triggers. And when you're off in
21 the shadows, you can't see anything. I got a headlamp on, but
22 definitely not as productive. So there was a few days there
23 getting ready that we went over 20 hours in just doing gear work,
24 which was not normal to me, at least on any boat I've ever worked
25 on. You know, usually the guys kind of sit down and have some

1 dinner and BS for a little bit.

2 But, you know, at that time, I just thought, you know, we
3 need to get out of town. We're ready to get out of town. And I,
4 I didn't really put it together until, of course, after this all
5 happened, why, why we were in a hurry to leave so fast. And, you
6 know, the thing that came up to me was the prior year, all, all
7 the over 60 -- all over -- the over -- 60 and over boats that were
8 fishing last year or the year prior to this, their season closed
9 on the 6th of January. They only had enough time to get their
10 gear out, in the water, barely make a trip, and then they had to
11 stack out again and go to town. So by schedule, leaving on the
12 30th, you know, we got some days of travel. And by the time we
13 even get our gear in the water, that's if we don't have any
14 weather (indiscernible), we might not even make a trip. You know,
15 it seems like it's possible.

16 Q. Okay. And, Lieutenant McPhillips, can you pull up Exhibit
17 014 again, please, and put up page 19? Mr. Lawler, does this
18 picture look familiar at all?

19 A. Yes, sir.

20 Q. And --

21 A. That -- in fact, in fact, to reiterate, I had my headlamp on
22 because we were rigging pots still.

23 Q. And so is that --

24 A. It took all night.

25 Q. Is that --

1 A. What's that?

2 Q. -- you in the picture?

3 A. Yes, sir.

4 Q. And, Lieutenant McPhillips, can you scroll up to page 18
5 please? Mr. Lawler, can you tell us where this -- kind of give us
6 some sense of reference for where this picture was taken and, and
7 kind of what we're looking at here in this?

8 A. Okay. So my right hand is -- if I can see it. Yeah, my
9 right hand is facing toward the bow. Those pots there on my right
10 hand there are up against the tree there. On my left, those are
11 the pots that head back to the superstructure. And so where my
12 head is is the, the shelter deck. The pots are stacked on the
13 shelter deck there, so that goes right down, and below that
14 shelter deck, on my right hand side, the shelter down, that goes
15 into the forepeak there where all the bait is stored as well.

16 Q. So, Mr. Lawler, there, there is a laser pointer up there if
17 it would make it easier to kind of highlight the areas, but so,
18 understanding that your right arm is then on the forward, forward
19 side of the stacks and your, your left hand being on the aft side
20 of the stacks, is that correct?

21 A. Yeah, and on the, the right side there, those don't -- that
22 doesn't go all the way down to the deck. That just stops on the,
23 on the shelter -- under the shelter deck right there. That's
24 actually (indiscernible) right here and then comes across the beam
25 of the boat.

1 Q. And, and what other access point do you have to get to that
2 area where you are?

3 A. That's it. And that, that was the -- I mean, every boat has
4 their own way, but that was the goofiest thing to me, having to --
5 you know, something goes bad, which we didn't have to deal with
6 that aspect of it, but I just thought in the back of my head, how
7 do you get back and forth into the house? You know, there's no,
8 no, no real access. Yes, to answer your question, yes, that's how
9 you go to the wheelhouse. You got to climb up and over.

10 Q. Okay. Thank you. And, Mr. McPhillips, can you go to page 20
11 of the same exhibit please? And so this is a -- this shows kind
12 of a picture of, of some of the pots and the mechanisms to secure.
13 Does this look accurate or -- and, and how would you describe this
14 in comparison to others as far as how the -- how, how well the
15 pots may have been secured compared to your other experiences?

16 A. I mean, that's pretty standard. So you got obviously a chain
17 that runs through it. And then right here is your chain binder.
18 And then right here, there's a pot tie on that chain binder to
19 keep the handle of the chain binder from kicking loose and letting
20 slack on that chain.

21 Q. Okay. And then, Lieutenant McPhillips, could you just --
22 page 2, please, on the same exhibit. So, Mr. Lawler, does this
23 picture look like an, an accurate representation of the time the
24 vessel was loading there --

25 A. Yes.

1 Q. -- prior to the voyage? And if, if you would, if you could
2 use the laser pointer and, and I can barely make it out, but if
3 you can make out the sorting table on the back end of the stack,
4 can you highlight that for us please?

5 A. I can.

6 Q. Great. Okay. Thank you. Lieutenant McPhillips, you can
7 pull that down please. And were all the pots the, the same pots?

8 A. So as far as I -- my recollection goes, there were some that
9 were eight-by-eights, and there were some that were eight-by-
10 sevens. And there was the -- I, I can't recall completely, but
11 there was a weird way that the deck had to go on. Because I
12 remember -- if I recall right, we had a few that were just
13 oddballs that had to be on the deck and then ones that would stack
14 them all together up on top the stack.

15 Q. Do you recall --

16 A. And you can have an off side, you know, an offshoot side.
17 You want to have a flat top, you know, your whole deck's stacked
18 that way. Everything stacks up on top without hanging out, so --

19 Q. Okay. Do you recall if any of the pots were weighed prior to
20 loading?

21 A. Not there, no, sir.

22 Q. Okay. And, at any times have there been any discussion about
23 tarping the pots on the *Scandies Rose* at all?

24 A. About, about what now?

25 Q. About tarping the pots on the *Scandies Rose*?

1 A. Yeah, actually there was. So the boat that I referenced
2 earlier that I had the opportunity to go on and I had to turn that
3 down due to already committing to Gary, I have a friend that was
4 on there, and he sent me a picture. They were over in King Cove
5 the day that we were leaving, and they had tarped their whole
6 stack off. And I showed that to Gary in the wheelhouse, and he
7 was like -- I can't remember his exact words he used. It's not --
8 we don't need that, you know, blah, blah, blah. I was like, all
9 right. I'm just showing you what they're dealing with over in
10 King Cove at the time, you know, heavy freezing spray over there.
11 And at the same time, we heard the forecast on the radio too. But
12 we never -- just opted not to, I guess. So --

13 Q. And you -- so you referenced the forecast you heard on the
14 radio. And, and what kind of forecast were you hearing at that
15 time?

16 A. I, I couldn't quote it verbatim, but it was enough of a
17 shitty forecast to -- I didn't think we were going to leave that
18 night. You know, I was waiting for the call, you know. We had
19 been working our asses off getting the boat ready, and then we
20 heard the weather forecast, and I'm thinking, oh, we're -- the
21 boys are going to have a bar night. We're going to go into town
22 and get some beers because we're definitely not leaving in that.

23 And, you know, we waited I think it was six -- no, six, seven
24 -- it was a few hours just to wait on the tide to go out Whale's
25 Pass instead to have a little cover on the way out. And, you

1 know, and the, the words, I still remember them, were we're going
2 to run into some shit, and that's shit's be -- going to become a
3 lot of shit. But make sure everything's tied down good. That was
4 it.

5 Q. And to -- at, at any point was there any discussion, any
6 further discussion on the weather about any -- potentially
7 delaying departure for the weather?

8 A. (No audible response.)

9 Q. I'm sorry, I didn't, I didn't catch that.

10 A. No, sir.

11 Q. Okay. And had there been any concern expressed by any of the
12 crew members regarding the weather leading up to getting underway?

13 A. I mean, it was always jokes until something bad happens,
14 right. So always going to joke, like, oh, it's going to be nasty
15 out. Just prepare, boys. It's always funny until something
16 happens.

17 Q. Is it, is it different -- so would you say that approach, was
18 that any different than any other experiences you've had on a
19 fishing vessel or is it kind of a similar attitude towards the
20 weather?

21 A. No. If I put it this way, you know, I've had people ask me,
22 why didn't you say something, like, you know, suggest that maybe
23 we shouldn't leave, you know? And I, I always laugh about that.
24 I'm like, that's not what you're hired for. You're hired as, you
25 know, like I said, from the neck down. And you get that

1 reputation as being that guy that didn't have, you know, the, the
2 balls, if you will, I guess, to go. That sticks with you, and
3 good luck getting a job on another boat. So no one's, no one's
4 ever brought that up. You don't, you don't do that.

5 Q. Okay. So with regards to further procedures before getting
6 underway, were any -- was the crew brought together at any point
7 prior to getting underway as, as a whole crew?

8 A. Yeah, so since -- we were waiting on the weather for -- not
9 waiting on the weather. If we were waiting on the weather, we
10 would have waited a couple days, but since we were waiting on tide
11 throughout Whale Pass instead of being exposed completely on the
12 first little part of our departure, we utilized that time to do --
13 to run through all the safety equipment. And that was, you know,
14 a little while before we departed.

15 Q. And so can you take us through that, what safety equipment
16 you ran through and to what extent?

17 A. We got survival suits out. Gary had Dean put one on. Sorry.
18 We did -- we made a mock mayday call. He had David do that, and
19 it was kind of a -- then he had me do it because it wasn't being
20 done the way he wanted it to be done, so I did it for him. And
21 then went outside, looked at the (indiscernible), looked at the
22 rafts. It was just an eerie night. There's, there's all sorts of
23 like superstitious things that we have for this, but like even one
24 -- that, that key point there where we were going through the
25 safety drills, you know, Gary made this comment about how you

1 don't leave the boat, the boat leaves you. And there's just all
2 these like references to like bad news. And I knew we were
3 leaving into a storm, and it just didn't feel right. Nothing,
4 nothing about it felt right.

5 Q. So to follow up on regards to -- so through you -- going
6 through the safety items, would you refer to that as safety drills
7 that are normal, standard procedures?

8 A. As far as like EPIRB and like rafts, yeah, generally
9 speaking, yeah. And, you know, I, I think, for me, I've been
10 around the industry long enough to where I make myself familiar
11 to, you know, be proactively like know where things are because
12 you never know when something's going to happen. But there's been
13 boats that were kind of -- where it's just kind of that's there,
14 that's there, that's there. But since we had time, we really went
15 into depth about like going and looking at everything. So we were
16 waiting on the tide, like I said.

17 Q. And so, during the drills, you had mentioned that you had
18 taken the immersion suits out and that Captain Cobban had had
19 Mr. Gribble put one on. Did anyone else on the crew don an
20 immersion suit during those drills?

21 A. No, sir.

22 Q. So, in your previous experience, is that standard practice
23 during the drills for different crew members to, to put it on? Is
24 it usually all crew members or just a random selection?

25 A. Usually, like, if someone does put one on, generally it's the

1 new guy that just showed up, you know, end of the season. But I
2 guess I always assumed that, whatever, being the new guy on the
3 boat sometimes -- well, I mean, I was new there too, but I didn't
4 put one on. But new -- yeah, usually I, I don't think -- I can't
5 even count on one hand how many times I've been in a wheelhouse
6 where the whole crew puts them on as the training precisely.

7 Q. Okay.

8 A. And then to go back to the EPIRB, that's for your
9 (indiscernible), we did bring the EPIRB into the wheelhouse, and
10 this is a thing I do remember which is Gary hit the button on it,
11 and he -- I remember, he's like, whoops, I shouldn't have done
12 that, because I'll call you guys on accident. But I never saw the
13 lights flash on when it happened. We were in a dark wheelhouse.
14 I mean, it may or may not have, but I just always -- it sears in
15 my brain, like maybe that thing was bad when we left, and maybe
16 that's why it didn't go off.

17 Q. Okay. And did you happen to witness Captain Cobban after
18 testing the EPIRB there, what do you -- what --

19 A. Well, it was --

20 Q. -- you did with the EPIRB after?

21 A. Like he didn't mean to, and he thought he did, but I didn't
22 see any indication that it ever started sending out a signal. And
23 then it just went right back to the, the home on the stern there.

24 Q. Okay. So with regards to its home, can you describe to us
25 where, where the EPIRB was located?

1 A. Yeah, it was, it was on the stern on the, the handrail there
2 behind the starboard side, I believe.

3 Q. Okay. So --

4 A. Down, down the stairs I believe it was. I'm trying to
5 remember right, and so -- I only saw it that one quick moment, but
6 I'm -- if my memory serves me correctly, it was, yeah, just, just
7 behind the, the starboard side.

8 Q. Lieutenant McPhillips, can you bring up Exhibit 014, please,
9 page 9? So looking at this picture of the deck there --

10 A. That's on the port side there then, so I, I was off on that.
11 You can see it right there.

12 Q. Okay. Thank you. And is, and is that the area that, that
13 you recall it --

14 A. Now, now, yeah, but like I said, I only saw it for a split
15 second that night, so -- now that you brought that picture up, it
16 flashes back in my head now.

17 Q. Okay. So from the time you guys ran the drills, if we can
18 ask -- if I can ask you just kind of take us through kind of the
19 conversations, the, the attitude of the crew on -- you know,
20 during that time and then kind of, you know, in perhaps leading up
21 to getting underway?

22 A. You mean just how everyone was the whole time loading the
23 boat and everything? I mean, like I said, I didn't know everyone
24 that well, so it was a different -- we were starting to get know
25 every -- you know, each other. And Art spent a lot of time going

1 in and out of the engine room doing his kind of thing and flooding
2 tanks, checking oil. Brock was constantly welding on pots, so
3 he's just kind of welding, welding. He was fixing, welding pots
4 all the time. So it was pretty much just myself, Seth, Dillon
5 Gamby and -- yeah, the three of us, yeah, and David rigging pots
6 the whole time.

7 There was no animosity amongst anybody. Everyone got along
8 good. Actually, at one point, I think I told (indiscernible) I
9 felt like everyone was jiving really well together and looking
10 forward to the season. You know, it was -- you, you get on some
11 boats where people are just butting heads all the time and just
12 not a fun season. You got to get through it. And this, this,
13 this was different. It was easy to, to mesh.

14 Q. Okay. So now that things are prepped and you guys are set to
15 get underway, can you tell us approximately what time you guys
16 departed and, and who might have been on the bridge and kind of
17 take us through the watch vigil from that point?

18 A. Well, everyone (indiscernible) about the crew, so Dean wasn't
19 there yet when I referenced that. It was Dillon Gamby. Dillon
20 had quit -- yeah, I guess he had -- from what I heard, he told
21 Gary he was getting to be old and he thought he was going to be, I
22 guess, a risk to the rest of the crew for not having his head in
23 the game. But then Art also told me that I was moving too fast,
24 and he felt like he was not in his element.

25 I -- when we were loading pots, I had -- he was giving me the

1 signal to go down one day, and I couldn't see him over there, and
2 I went down and knocked him on his head. And I could see him, you
3 know, it, it hurt him, but I could barely see him because I just
4 caught it, and I stopped, and I just told him, I go, what are you
5 doing? You know, you, you know, you told me to go down. I can't
6 see you over there. He, he knew it was his fault, and after that,
7 he never came back to the boat. So I think that was kind of his
8 reasoning there from what I gathered. And then Dean came on the
9 boat. So now we're back to where the crew actually is now. So
10 Dillon did not go with us, just to make that clear.

11 Q. Okay. Thank you. So now can you take us through kind of the
12 steps getting underway and kind of the watch schedule once you --
13 you know, for departure?

14 A. So I untied the bow with Brock. I think Dean was up there
15 with us, I'm pretty sure. I can't remember that one though. And
16 a few other guys untied the stern, bailed out of the dock, started
17 heading out the channel. And then Brock and I turned the bow
18 heater on to get that going. Or actually, no, we, we told Art to
19 turn it on, and he turned it on. We made sure it was actually
20 putting out heat to melt the snow off that was on the deck up
21 there. Stowed our lines, dogged the door, made sure that
22 everything was watertight up front and secure, never made it back
23 to the stern. And yeah, we rounded the corner, and we honked the
24 horn at a house on the way out. Here we go. We're, we're going
25 crabbing -- or we're going cod fishing first, unfortunately, but

1 going crabbing after that.

2 Q. Okay. And, and so who had -- who took the first, who took
3 the first watch after departure?

4 A. (Indiscernible).

5 Q. What was that?

6 A. I, I don't know if I can -- I'd, I'd be -- I wouldn't be
7 giving you an accurate answer if I told you that right now because
8 I, I would be a -- just throwing the dice on that. I don't know
9 who started first.

10 Q. Okay. Do you remember --

11 A. Well, I mean, Gary took us out a ways until we got a course
12 made, of course.

13 Q. Do you remember what timeframes that you stood watch
14 throughout the voyage?

15 A. Yeah, I can't remember all the times, no. I know we were
16 taking an hour a piece for a while there.

17 Q. Do you remember who you would take the watch from or who
18 would --

19 A. I would take it from David, and then I would pass it to Dean,
20 and Dean would pass it to Gary.

21 Q. And do you recall how many watches you had stood during the
22 transit?

23 A. I believe two or three. Three. I think three.

24 Q. And can you take us through kind of, kind of your -- the
25 operation? So once you're underway, kind of making your way out,

1 you know, your observations from that point?

2 A. I mean, everything was running smooth it seemed like. Then
3 it was taking my watch, listening to the radio, channel 16 for you
4 folks and put the weather channel once in a while. It's just the
5 way I just do it. I, I own and operate a (indiscernible) of A
6 boats. I'm always curious about the weather as a boat owner also.
7 And just paying attention to the radar, making sure there's no
8 ships out there. It was pretty basic because I -- it's just what
9 I've been doing for however many years now.

10 You know, at, at one point, we had a little bit of the list
11 out, out of the gate, but I just chalked that up to, to, you know,
12 needing to transfer some fuel. And I think, on my next watch, I
13 actually think I put that in my statement on the, on the next
14 watch it had -- was no longer there. And I, I believe Art
15 transferred some fuel. It wasn't enough to be concerned about
16 though. I figured he was downstairs doing his thing. But like I
17 said, running boats before, I always have that in the back of my
18 head. A little bit of list, what's going on? Making sure, you
19 know, you want to be trim. It's a lot safer that way.

20 Q. And when you took over from David, any -- anything pass from
21 David to you in taking over the watch?

22 A. So, so the first bit wasn't bad because, you know, I mean, it
23 was definitely shitty out, but we, we had a little bit of, of
24 cover still. So that first watch, there was no ice accumulation
25 at all, no nothing. And I'm -- I said two or three watches, so

1 that might have been my second night, it was still okay. And on
2 my third was when I noticed a little bit of ice buildup, but
3 nothing I would ever be concerned about.

4 Q. Okay.

5 A. It's like, I remember my comment to Dean when he took his
6 watch was I looked at the chains because it -- there was a little
7 bit on the bow, like on the crab pots, which is pretty controlled,
8 but likes to gather right there. And the crab pots are not really
9 anything, you know, a little sprinkle. But then the chains have
10 enough ice that it kind of was dropping them, and I was telling
11 Dean, you know, that's going to be a pain in the ass to get those
12 off later because it's pulling against every time you get some
13 slack on the line or it's just going to take it out again.

14 Q. Okay. Had, had you had any conversations with Captain Cobban
15 between the time -- you know, during that your, your watch is or,
16 you know, during that transit time?

17 A. No, the only time I really talked to Captain Cobban,
18 honestly, from the time we left until the time everything went bad
19 was he asked me in the wheelhouse before we left if I had ever sat
20 in the seat hauling gear. And I said I hadn't on a boat that
21 size. And he showed interest that maybe I could take over for --
22 while he -- like if he wanted to keep a 24 hour rotation going or
23 something, maybe I could sit up there, and I said I wouldn't be
24 opposed to that. That's pretty much our only conversation we had
25 after we left.

1 Q. Okay.

2 A. Well, I mean, I -- we had words when everything just went
3 bad, but that's for later.

4 Q. And, and as far as when you were on the bridge, was there any
5 outlying expectations for what duties you should be -- or that
6 were to be -- performed while you were on watch?

7 A. You mean as far as like if there was a problem, like to wake
8 someone up or --

9 Q. Any -- yeah, any -- like were there particular times or
10 expectations for making rounds or, you know, at what point to
11 notify the captain?

12 A. I mean, yeah, if you're listing hard over or something,
13 clearly you're going to, you know, wake the captain up. Or if
14 you're accumulating a lot of ice, you know, what should we do
15 about -- it's looking like it's getting a little bad or, you know,
16 if the weather -- for me, personally, like I -- a lot of guys will
17 wake the captain up. I don't much, like let the guy get his
18 sleep. So a lot of times, guys will wake the captain up if the
19 weather just starts coming from a different direction and you just
20 got a shitty course and you want to turn into it a little bit to
21 have it ride a little nicer.

22 I always took it upon myself to know where we're going,
23 adjust a little bit. That way old cappy isn't getting tossed
24 around in his bunk. You know, that's about it. I mean, a lot of
25 guys will wake him up for that, but other than that, no. No real

1 expectations other than going to check on the engine room. That
2 -- and that's actually on most boats, and it was on this one too.
3 Every half hour, I'd take a walk downstairs and, you know, walk to
4 the engine room. Make sure, obviously, we're not taking water
5 through the packing or anything like that, or just anywhere, crab
6 pumps.

7 Q. Okay. Mr. Lawler, I know we're at, at a scheduled break
8 time. Are you good to take a few minute recess and then --

9 A. Yeah.

10 Q. -- come back and resume?

11 A. It's your show.

12 CAPT CALLAGHAN: So let's, let's go ahead and take a -- it
13 says it's scheduled for 15. If you're okay, I'd like to kind of
14 just make it a five-minute recess and, and then we'll get -- this
15 way we can get some more valuable time from you following the
16 recess. So the time now is 1515. This hearing will go into a
17 five-minute recess and reconvene at 1520.

18 (Off the record at 3:15 p.m.)

19 (On the record at 3:21 p.m.)

20 CAPT CALLAGHAN: Okay. The time is now 1521. This hearing
21 is now back in session.

22 BY CAPT CALLAGHAN:

23 Q. Mr. Lawler, so I appreciate everything so far, and really
24 just -- so, at this point, I've kind of asked a lot of questions
25 to get -- kind of get us to the voyage itself. And, and now what

1 I'd like to do is ask you to kind of take us through your
2 experience. Take us through your account of the events from the
3 time the, the voyage began up until the mayday call. And I --
4 we'll -- I'll be happy to sit here and take notes as, as you kind
5 of replay the events for us please.

6 A. So, so starting from when now? Like from when we left the
7 harbor?

8 Q. Yes, please.

9 A. Okay. So it was the 30th. We took out of the harbor. Like
10 I said, we honked the horn on the way out. We, we were all
11 exhausted at this point. We'd been working three to four days
12 just on gear work, sleeping a couple hours a day, not even fishing
13 yet. And usually that's kind of something -- stuff that you do
14 when you're actually fishing. But excited to finally get some
15 seas underway, if you will. It really wasn't a whole lot going
16 on. A lot of movie watching, wheel watching, wheel watching,
17 wheel watching, pretty standard. You know, there -- really --
18 uneventful up until it wasn't uneventful. I mean, when I was on
19 watch, the waves were getting pretty big on my last watch, but the
20 boat was just kind of crushing through them.

21 I guess I'll just fast forward because there was really
22 nothing that particularly happen -- happening on the boat.
23 Everything seemed to be fine. I laid my bunk, I guess it would
24 have been the night of the 31st of what it would have been, and
25 picked a movie on. I remember, remember it like it's yesterday.

1 It was *Ford v Ferrari*, watching that movie. Dean actually gave it
2 to me on his computer. But just sitting there watching a movie
3 one night, and Dean comes in the room, hops up in his bunk, and he
4 was laying there for a little bit, bull shitting. I'm just about
5 to nod off and we, we were never like listing a little bit at all.
6 It was trim. Good to go.

7 But then all the sudden, I rolled into my bunk, and just this
8 sheer terror comes over me. Just I knew something was wrong. So
9 I, I ran upstairs and I look at Gary and said what, what the
10 fuck's going on? What's going on? And he goes, I don't know
11 what's going on. I said, I think we're fucking sinking. No
12 fucking shit we're sinking. Then I, then I look out the, the
13 windows; they're iced over a little bit, but not a lot. And I'm
14 just trying to figure out, how did it go from nothing to like the
15 boat's literally like leaving us now. And I yelled out to Dean, I
16 go, Dean, wake the fuck up, we're fucking sinking. And I can hear
17 him down there yelling at me, what? We're fucking sinking.

18 So he comes running up the stairs, and it's just -- I, I
19 don't know how to like tell you guys exactly. Just too much like
20 adrenaline going on. I, I don't -- like it was just pumping. I
21 -- the boat's rolling over. I'm trying to get the survival suit
22 on. No general alarm was going off.

23 I'm trying to like get to this part, but -- could we break
24 for a little bit please?

25 CAPT CALLAGHAN: The time is now 15 -- the time is now 1525.

1 This hearing's going to go into a short recess.

2 (Off the record at 3:25 p.m.)

3 (On the record at 3:32 p.m.)

4 CAPT CALLAGHAN: Okay. The time is 1533. This hearing is
5 back in session.

6 BY CAPT CALLAGHAN:

7 Q. So, Mr. Lawler, kind of got to the point where you had been
8 woken up and, and run up to the bridge. So in the immediate
9 moment when you got to the bridge, can you tell us who was up
10 there when you got up there?

11 A. It was, it was just Gary. He was the only one up there.
12 I'll -- going backwards, you know, at first, I thought we were
13 turning around. That's what it felt like. I got up there, and it
14 was just Gary. He was on the sat phone, satellite phone with
15 somebody, because I heard he had just queued it. You know, it's
16 an unmistakable sound. I mean, if you've been on a boat, you know
17 what a sat phone sounds like. He was the only one up there.

18 Q. And, and you said you, you, you mentioned waking up or, or
19 yelling down that -- to Dean at some point. Can, can you -- do
20 you remember how long, you know, how long it took for him to kind
21 of get up to the bridge?

22 A. Say that again.

23 Q. From the time you got up there until the time you notified
24 Mr. Gribble.

25 A. Oh, it was pretty much immediate. I mean, I looked at Gary

1 and I -- just that, that -- I don't know how to explain it to
2 anybody. Just that gut wrench that not -- this is not good. Like
3 this is -- there's no coming back from this. Like we are sinking
4 now. And I just kept yelling, just started yelling because
5 there's no alarm going off.

6 Q. And --

7 A. Oh, Dean was up there within seconds like -- because it
8 shocked him, too, because he felt the, the boat go too. But I
9 think he kind of felt we were turning around too. But I -- just
10 something clicked in my head that it wasn't right.

11 Q. And was there any, was there any notification to the rest of
12 the crew, or did the rest of the crew kind of get, get -- make
13 their way to the bridge at any point?

14 A. Can -- sorry. I'm, I'm having a hard time just concentrating
15 right now.

16 Q. For, for the rest of the crew, did the rest of the crew make
17 it up to the bridge?

18 A. I don't remember.

19 Q. From --

20 A. There was, there was people there. Like voices were there,
21 but I always tell everything that it's compared to like a -- if
22 you're familiar with the movie *Saving Private Ryan*, but when he
23 was on the beach at Normandy, and there's a shell shock, and it's
24 just, just white noise all around you. Just pure panic. It --
25 there were -- people were there. I couldn't tell you who was who,

1 was who.

2 Q. Okay. And, and you said you started putting on your
3 immersion suit at some point?

4 A. Yeah, I got -- so when I got -- went to the box to get my --
5 I knew where the box was, but it was dark in the wheelhouse. And
6 just -- I can't even -- to explain any of the feeling I had is
7 next to impossible. Like the fumbling around, trying to find the
8 latches on the box in the dark. But with the amount of adrenaline
9 that was going threw me, like I was just panicking. I couldn't
10 even get into the -- where, where the suits were kept. And
11 finally it just opened for me. I had enough, you know, fumbling
12 around in there. And I, I -- the only thing I do remember in that
13 moment was the green suit's the big one, and I need to move fast.
14 You know, I'm a big boy, too, but I just knew I could get to that
15 one the quickest, so that's the first one I pulled out and just
16 muscle, muscle memory. I, I don't, I don't know what it was. It
17 was just fight or flight.

18 Q. And, and then what, what did, what did you do after that?

19 A. I got my suit on. I was trying to get the zipper. Everyone
20 -- the people, to be honest, I'm hearing, "oh God, oh God" over
21 and over and over again, you know, from other people around me.
22 No one was using their words. It was just sheer panic. Like
23 there were no conversations of, of anything. I think, at one
24 point, I did hear Gary say something about like, I don't know what
25 to do, and I heard someone say, you need to call the Coast Guard

1 now. And as I'm getting my suit on, there's people around me. I
2 do remember looking up, and the throttles got pulled back on the
3 boat, and then it just -- it was downhill from there. The boat
4 started going fast. Like fast. After we lost the, you know,
5 forward momentum.

6 Q. And, and then once you had your suit on, can -- you know,
7 what, what did you do right after you got your suit on?

8 A. I got out. And the one thing that's burnt in my brain and I
9 can't get rid of is I stood over Mr. Rainey and was trying --
10 because it was -- the pitch of the boat was so steep that I was
11 hanging on to things and could hear shit crashing off, off the
12 shelves. And he grabs me by my suit and pulling on me and goes,
13 help me, Johnny, help me. And I didn't help him. He wasn't even
14 in his suit, he barely had his feet in, and I just knew I need to
15 leave the boat and I had to make the decision. I had to go.

16 And that's what I did. I went -- I got up to the port door
17 barely, like climbing onto things, and went out. And just the
18 wind hit my face, and I, I just kept telling myself in my head
19 that there's -- got to get the suit on, got to get outside.
20 Because I -- there's a history, too, and I worked on a boat called
21 the *Destination* (indiscernible) before, and I thought about those
22 guys all the time. I used to always play this back in my head,
23 how would I get out of a boat. You know, you can't get out of a
24 boat when it's upside-down and the location -- you know, and your
25 suit. So I just had to get out.

1 I got out, and I was outside, and I'm still trying to get my
2 zipper up. I couldn't get my zipper up. The wind's just howling
3 out there. There's ice all over the rails. And I just remember
4 hearing Dean yell at me, Johnny. Like loud. I mean, I'm not -- I
5 don't want to yell at you guys, so -- and I turn around, and he
6 goes, what are we doing? And I don't know what we're doing.
7 We're going for a swim, that's all I can say. And I told him I
8 couldn't get the zipper up, and he started freaking out, trying to
9 help me. But they just -- I couldn't help him. There was not
10 enough time to help anybody. Everybody had to help themselves
11 because it -- everyone's -- everyone froze.

12 Q. Can, can you tell us when, when you made it out the, the port
13 door there, kind of what happened after you got out -- outside the
14 door?

15 A. Well, I got out there and -- sorry.

16 Q. It's okay. Take your time.

17 A. Oh God. Honestly, I prayed. That's all I did. I just don't
18 know what's going to happen. And when Dean finally did come out,
19 he said, we should probably go up and try to get a raft started.
20 There's no way we were getting up there. They're out of reach. I
21 mean, not out of reach, but got hung up in the rigging. I'm just
22 forward think -- trying to forward think, you know. I was just
23 expecting to go in the water. That's all. And I was hoping
24 people were going to follow me out.

25 The recollections I have outside, if that helps you at all,

1 no alarms going off, like I said. And that's why I know Gary made
2 that mayday call after, after I was outside, because the alarm was
3 going off on the back of that mayday call. And the alarm didn't
4 start sounding, finally, until we listed hard enough over. So
5 what my theory is is that the mains, you know, auxiliary, they
6 lost engine oil pressure. Then they started running away. The
7 stacks were blowing black smoke out. And then you just felt the
8 whole boat shudder, and then the lights out, and all I could hear
9 was the ocean crashing from this. And you could hear -- you
10 couldn't really hear anybody inside anymore, which was the eeriest
11 thing.

12 Then they -- you know, a lot of people were up on the high
13 side with me, but when the boat listed over, I think they all just
14 slid right down the floor and smashed into the wall on the other
15 side. I just, I just, I just don't understand why they just go
16 out the same door. There was, there was an opportunity for
17 everyone to get out. It doesn't make any sense. I mean, I, I --
18 it's been ingrained in my brain for the last -- over a year now.
19 I sleep about it. I daydream about it. I playback over and over
20 and over again, try and change it in my head, but I don't know.
21 If you're going to ask me, I, I don't know.

22 Q. Well, sir, and, and it -- and it's -- and that's fine. It --
23 so I guess once your -- once -- so you said you were outside. You
24 can hear the sea and, and the wind.

25 A. Say that again?

1 Q. Once you were out in, in the water, can you, can you tell us
2 from the time you, you guys were outside and, and --

3 A. Oh, it was quick. From, from the time I left my bunk to the
4 time I was in the water, I mean, I don't have -- had a watch on
5 me, but I would have gauged ten minutes, we were in the water.

6 Q. And, and once, once you were in the water, what happened,
7 what happened next once you were in the water?

8 A. Well, before we went in the water, we didn't know we were
9 going in the water. And that's -- I reverted back to what I said
10 prior, you know, don't leave the boat; the boat leaves you.
11 Because there's been stories like that of you guys finding boats
12 that are sitting there barely bobbing and no crew to be found. So
13 I just stood on it as long as I could. I followed the boat
14 around. Sat on the superstructure, crawled around to the port
15 side, put my hand in one of the scuppers. And then, by then, the
16 water was halfway up my shins towards my knees.

17 And I heard Dean say, here, here it comes. So I look up to
18 the side, fucking wall of water just blew us off. And I had my
19 ladder blown up -- upside-down like a washing machine. I couldn't
20 breathe. I was sucking in seawater. And then finally I calmed,
21 you know, I had to calm myself down. I table it somehow, calm
22 myself down enough to where I could just loosen my body and just
23 breathe, like try and catch any pass of air I could get. That's,
24 that's all I have. I mean, I thought I was dead the whole time.

25 Q. And it -- was there a point after that once you, once you

1 were in the water, could you tell us what happened once you were
2 in, once you were in the water and, and could, could you see the
3 boat?

4 A. Yeah, finally, when I kind of got my bearings, I just
5 remembered seeing the bow of the boat was up. And you could hear
6 it too. I still hear it. It's just like you think something that
7 big would -- it wouldn't just get tossed around that hard. I
8 mean, we had water somewhere that -- it had to have been water
9 somewhere because it went down so fast. I sat up for a second
10 (indiscernible) steel. I remember it sounds so stupid, but it was
11 like the movies, swim away from the boat, and I remember just
12 looking at the boat, paddling backwards as hard as I could. Then
13 one second, just like a rocket, just down. Gone. Nothing but
14 silence, just me, the ocean -- I say the ocean like nicely; it
15 was, it was very violent that night.

16 Q. And can you tell us -- so from that point, can you tell us
17 what happened next with -- from that point on?

18 A. With what now?

19 Q. From that point on, can you tell us what happened next?

20 A. I was just accepting -- accepted that I wasn't going home. I
21 mean, the fact that the raft showed up, I don't know what to think
22 about that. The raft -- yeah, the raft -- as you know, I heard
23 Dean yelling at me. I barely had enough room to like look over my
24 neck, and here he was sitting in a raft, and I just couldn't
25 believe it. All I could do was swim as hard as I could to it.

1 It's not very easy to swim in those suits, as you know. And I got
2 in it. At that point, it was nice to know someone else was there.

3 Q. And were -- once you, once you were able to swim to the raft,
4 were you able to get in the raft?

5 A. Yeah, I got in the raft.

6 Q. Okay. And is -- were you -- so were you in the raft with
7 Mr. Gribble then?

8 A. Yes, sir.

9 Q. And once you guys were in the raft, could you tell us what
10 happened from the timeframe you -- when you guys got in the raft?

11 A. A lot of screaming still, like yelling out, hoping there
12 would be someone else. There was, there was nobody else. We knew
13 that. We wanted to believe, you know. It's just a waiting game
14 at that point, hoping somebody was going to come.

15 Q. From -- do you, do you remember how, how -- you can recall,
16 you know, when, when you first had sign of any -- anyone -- any
17 aircraft overheard or, or the Coast Guard in the area?

18 A. Say that one more time? I couldn't --

19 Q. Can you recall when -- you know, how long it took before you
20 heard an aircraft or saw the helicopter overhead?

21 A. It seemed like an eternity, but, you know, time is not
22 something that really registers right when you're out there in
23 that type of hell. I -- we, we were able to get to a bag and, and
24 get some flares out. I thought I'd, you know, wait a little bit.
25 The EPIRB got to kick the signal off. I don't want to start

1 firing flares off yet. You know, we were able to fire, fire some
2 flares off. It, it was a -- fired one off, two off, and then
3 waited. Then three, four, and no one ever came. But the wind was
4 so violent against that thing, I kept hearing -- I kept thinking I
5 heard the chopper the whole time. It was just playing games with
6 my head, the wind just beating that thing.

7 Every time there, there would be a -- a huge wave would roll
8 through, I don't know how we didn't -- that thing didn't capsize
9 multiple times. I think just the fact that all the water was
10 lodged in the bottom of it acted as some sort of stability for it
11 because it was not friendly. And we, we ran out of flares. We,
12 we had a flashlight from there. And that's in the report. And
13 then the light in our raft went out. And Dean, you know, we were
14 talking to each other for a while, trying to keep spirits up, you
15 know. We're going to be okay. We're going to -- we knew we
16 weren't going to be okay.

17 And then I'll never forget that moment when Dean just kind of
18 stopped talking. And I kept checking him, are you all right? Are
19 you doing okay? And I wasn't okay, but I just want to make sure
20 he's okay. And I think now, looking back on it, I didn't realize
21 how many hours we were out there, but becoming hypothermic, I
22 guess that's kind of what happens to you. You stop being
23 talkative, get ready for the long nap.

24 And then we had our eyes on the other raft, the other -- the
25 (indiscernible) deployed two. I kept poking my head up there just

1 looking for some sort of life, wondering, you know. It feels like
2 we've been out here forever. We have, but nothing. And then, on
3 one of my times looking out, I, I saw a light over by that raft,
4 and I thought it was another vessel. And I kept telling Dean,
5 Dean, I think I see something. I think I see something. There's
6 someone here. I swear there's someone here. Oh God, are you
7 sure, you sure? And then that light went from right about water
8 level and just shot up.

9 And next thing I knew there was a helicopter that came flying
10 out. You know, I was, I was shining my flashlight at it the whole
11 time, hoping that, you know, someone was going to see it. And we
12 didn't have a light in our canopy. And they must have saw the
13 light, because after they shot up, they were hovering over us, and
14 that's the most beautiful sound I've ever heard in my life, the
15 rotors on that copter, just the water spray coming out. I mean,
16 I, I wish I had -- I'm not a good story teller, and I have to
17 reiterate the story.

18 Q. Now -- and, and I appreciate what you -- what, what you've
19 been able to recall for --

20 A. If you need more detail --

21 Q. -- us, sir.

22 A. -- I can try and give it to you.

23 Q. I, I think what I'd like to do now is -- so now that we've
24 established -- we've got to the point where the, the helicopter
25 showed up, I'd like to take a five-minute recess, if that's okay

1 with you, and then come back and we can kind of do some follow-on
2 questions for you. That -- if that works for you?

3 A. Yeah.

4 CAPT CALLAGHAN: Okay. The time is 1554. We're going to
5 take a six-minute recess, and we'll resume at 1600.

6 (Off the record at 3:54 p.m.)

7 (On the record at 4:02 p.m.)

8 CAPT CALLAGHAN: Okay. The time is now 1602, and this
9 hearing is now back in session.

10 BY CAPT CALLAGHAN:

11 Q. Mr. Lawler, I want to thank you for taking the time to, to
12 get us through, get us through that. I know how difficult that
13 must be and certainly appreciate your time in, in highlighting
14 and, and bringing, bringing us through your experience. I have a
15 couple of questions I want to follow on related to that experience
16 and I'm -- it's going to kind of go back to just before you got on
17 your way. Was there any testing of the bilge or other high water
18 alarms before you got on your way that you witnessed?

19 A. No.

20 Q. And when you arrived to the vessel, did you, did you bring
21 any of your own survival equipment at all?

22 A. No, negative, sir.

23 Q. And, Lieutenant McPhillips, can you bring up Exhibit 4,
24 please, page 19? Sir, while that's coming up, so what I'm looking
25 to try and do is just kind of establish the location of your

1 stateroom in, in relation to the bridge.

2 A. Top, top left right there.

3 Q. The top left?

4 A. Yeah.

5 Q. And can you tell us, so where about -- what deck and, and
6 where that stateroom's --

7 A. That's the mid -- mid-deck. If you're, if you're heading up
8 the, the wheelhouse stairs, you take an immediate right. And when
9 you do, there's a (indiscernible) right in front of you and then
10 rooms to the right of you.

11 Q. Okay. Lieutenant McPhillips, can you scroll to page 18
12 please? Looking at that picture up in the top right, does that
13 resemble that aft door of the stateroom?

14 A. Yes, sir.

15 Q. Okay. Thank you, Mr. Lawler. And thank you, Lieutenant
16 McPhillips. You can bring that down. And then, Lieutenant
17 McPhillips, I'm sorry, if you can bring back -- Exhibit 4 again,
18 page 9. And, sir, sir, the bottom picture there, there appears to
19 be some immersion suits in the cabinet there. Can you tell us
20 where that's located?

21 A. That's in the wheelhouse towards the port side.

22 Q. And do you recall how many immersion suits were stored in
23 that location?

24 A. It was too dark to see.

25 Q. During the, the drills prior to getting underway, had the

1 immersion suits been in there? Were they put out of that location
2 or --

3 A. Just -- yeah, and this one was pulled on, the one that
4 (indiscernible).

5 Q. Okay.

6 A. Done.

7 Q. And then, Lieutenant McPhillips, can you take us to Exhibit
8 103 please? So, Mr. Lawler, so for reference purposes, I want to
9 establish, does this immersion suit look familiar to you?

10 A. That's my suit, sir.

11 Q. Okay. And can you scroll down? Keep going down. Sorry.
12 And, Mr. Lawler, is that you in that suit there?

13 A. Yes, sir.

14 Q. Okay. Thank you. Okay. You -- I'm finished with that
15 exhibit, Mr. McPhillips. Thank you So, Mr. Lawler --

16 A. Sorry.

17 Q. As far -- so from the time you starting observing icing -- so
18 on, on your last watch, had you observed any ice buildup at that
19 time on your last watch?

20 A. Just the -- like I said, a little bit on the chains and then
21 on the crab pot (indiscernible).

22 Q. Are you aware of any discussions for -- at, at any point for
23 anyone to go out and, and break ice at any point?

24 A. There was never a discussion about that.

25 Q. Okay.

1 CAPT CALLAGHAN: Okay. Sir, I, I truly appreciate your time,
2 and to, to make the best use of time, I'd like to offer this time
3 and turn over my colleagues at the National Transportation Safety
4 Board, Mr. Bart Barnum, to ask some follow on questions.

5 Mr. Barnum?

6 MR. BARNUM: Thank you, Captain.

7 BY MR. BARNUM:

8 Q. And I'm going to echo Captain's appreciate, you know, you
9 showing up today and talking to us, Mr. Lawler. Thank you very
10 much. I do have just a few follow-on questions. Prior to
11 departure, was there ever any talk of taking less pots because the
12 weather was forecasted to be foul?

13 A. No, the only discussion about pots was that -- between my --
14 myself and Art when I was asking him how many we were loading,
15 because we just kept putting them on, and it seemed like we were
16 good already. But then again, you know, I, I never worked on the
17 boat, so standard practice on the boat, I do not know.

18 Q. Okay. So there was no -- in reference to the weather and --

19 A. No.

20 Q. -- and, and taking less --

21 A. Negative.

22 Q. Leading up to the, the accident location and the, the journey
23 while you were standing your watches or -- and your crewmates were
24 also standing watches, did you maintain a steady speed or was
25 there -- did you reduce speed to lessen the effects of the weather

1 on the vessel?

2 A. I'm 99 percent positive the RPMs on the boat were the same
3 the whole time. You know, our speed, obviously, was lessened due
4 to us going into it, but it was clear quartering it a lot of the
5 times, but --

6 Q. Right. Thank you. Yes, that's what I meant, if you manually
7 reduced them.

8 A. We were trying to maintain, but --

9 Q. Okay.

10 A. -- the tide and everything else was all (indiscernible).

11 Q. You mentioned in the beginning of your testimony that you
12 turned on the bow heater prior to leaving Kodiak. Did that stay
13 on the entire journey?

14 A. As far as I'm -- I, I wouldn't see why we would have shut it
15 off, especially with the forecast. But as far as my knowledge
16 goes, it was, it was never shut off.

17 Q. Okay. Also during your wheel watches, you mentioned you did
18 a route of the engine room every half hour. Who was on the bridge
19 when you went down to do that?

20 A. Autopilot. That's how, how we usually practiced that.

21 Q. Right. During those rounds of the engine room, did you note
22 any -- note anything out of the ordinary?

23 A. There was just one thing, and I'm only going to offer this
24 just because I feel like it's something that they did, did in the
25 (indiscernible). You know, I, I told you how fast the boat went

1 down. And there's one thing I can add to that, too, even if we're
2 taking water. And one of the things I did notice on this boat,
3 that the watertight door that separates one part of the engine
4 room to the next, where those voids were, was always stuck open.
5 It was never dogged shut. And that's just -- I think -- actually
6 asked Art about that, and he said they always leave it open. That
7 could have probably bought us some time, too, just to have them
8 dogged.

9 Q. Okay.

10 A. In the downward flooding.

11 Q. Understood. Do you recall which side of the vessel that
12 hatch was on?

13 A. The center. If you go down the, the stairs to the engine
14 room, that means you're going toward the stern, hang a right and
15 then another right, and it went right in the center. It goes to
16 the main on each side.

17 Q. Okay. Help me understand this. You -- did you ever enter
18 that hatch?

19 A. Yes, because that's the, the only way you could put a visual
20 on all the bilges to make sure there's no water that shouldn't be
21 in the boat there.

22 Q. Okay. This is a different -- is this a different compartment
23 then the actual voids that run on either side of the vessel?

24 A. Say that again, sorry.

25 Q. My understanding there was two voids that ran port to

1 starboard the length of the vessel.

2 A. Do you have any pictures of the engine room? I -- maybe I
3 can better show you if you have one.

4 Q. I don't, I don't -- off the top of my head, I know we have
5 a -- Lieutenant, could you please pull up the -- maybe the
6 stability, stability report 2019. And members of the Board, if
7 you had a better suggestion for an exhibit, please come forward.
8 Thank you. So, Lieutenant, could you please bring up Exhibit 4,
9 page 28?

10 A. Right there, you can see it on the bottom right. That door.

11 Q. Okay. Yes. All right. Thank you.

12 A. Over (indiscernible) boats are required, so --

13 Q. And that was, that was a -- okay. But nothing, nothing else
14 to note during your rounds of the engine room? How were the
15 bilges?

16 A. They were clean and clear.

17 Q. Okay. You had mentioned that -- I don't know if this is a
18 direct quote, but -- earlier in your testimony that the ice that
19 you've seen accumulate on the vessel was nothing that ever -- that
20 ever would have concerned you. How much ice would concern you?

21 A. I mean, it's -- depends if you got a full stack on or you got
22 a bigger boat.

23 Q. Full stack.

24 A. When, when the web starts building ice, there's some problems
25 happening. I mean, I've been on a boat before where we've had

1 these suitcase pots, which that's where they're such ice cubes
2 that you -- the amount of time it takes to keep the door open and
3 get the line out, seconds can always count there. So we just sent
4 like a whole, you know, handful over, just never to be seen again
5 just to get rid of the weight. That's concerning there when you
6 start seeing it like that.

7 Q. Okay. And you had mentioned you'd seen some icing
8 accumulation on the, the chains. Did you ever see any during your
9 watch starting to, to accumulate or accumulating on the webbing or
10 any other -- any other parts of the pots?

11 A. I mean, just like -- like I said prior, little kind of fuzzed
12 up a little bit, but nothing, like I said, that, that I would be
13 concerned about.

14 Q. Just a couple more questions here, Mr. Lawler. Are you
15 familiar with a personal locator beacon?

16 A. Yes.

17 Q. Did anybody onboard have one of those?

18 A. No. They're cheap enough, everyone should have one, but I
19 don't see them honestly.

20 MR. BARNUM: That's actually all the questions I have for you
21 right now. Thank you very much. I'm going to turn it over to my
22 colleague at the NTSB, Paul Suffern.

23 MR. SUFFERN: Good afternoon, Mr. Lawler. Like my colleague,
24 I appreciate your time and, and your courage speaking with us
25 today. I just have a couple follow-up questions. Earlier during

1 your testimony you had mentioned you were listening to or watching
2 the weather channel during one of your watches. Was that the
3 radio or did you have the TV Weather Channel?

4 THE WITNESS: No, the, the WX channel on, on the VHF.

5 MR. SUFFERN: Okay. All right.

6 And then, Lieutenant McPhillips, could you bring up Number
7 026, Exhibit 026 please?

8 During your discussions before departure, did you or any of
9 your colleagues reference or look at any graphics like this that
10 you can recall?

11 THE WITNESS: No, negative. Not that I can recall.

12 MR. SUFFERN: Okay. Thank you. That's all the questions I
13 have for right now. Thank you, Mr. Lawler.

14 THE WITNESS: Sure.

15 CAPT CALLAGHAN: Okay. Thank you, Mr. Barnum.

16 Thank you, Mr. Suffern.

17 Mr. Lawler, at this time, I'm going to pass it to other
18 parties in interest for any follow-on questions.

19 And we'll start with Mr. Barcott. Any questions from you,
20 sir?

21 MR. BARCOTT: No. Mr. Lawler, thank you for being here. I
22 don't have any questions.

23 CAPT CALLAGHAN: Thank you, Mr. Barcott.

24 Mr. Stacey, any questions from you, sir?

25 MR. N. STACEY: No questions, Captain.

1 CAPT CALLAGHAN: Thank you, sir. We do have -- I've got a
2 few more questions and my colleague, Commander Denny.

3 So, Commander Denny, I'll, I'll pass it to you first.

4 CDR DENNY: Thanks, Captain.

5 BY CDR DENNY:

6 Q. Thanks, Mr. Lawler. So I just want to take a minute and, and
7 let you know that -- I apologize. Thank you. Technical
8 difficulties. So I just wanted to take a minute and, and just
9 thank you for, for speaking about this because I think that every
10 detail that we can get from you is going to help us really paint
11 this picture and get the best possible timeline on what happened.

12 So I am going to ask you some questions, and I'm going to
13 jump around a little bit, but it's because we want to get as many
14 details as possible. So if you need to close your eyes to try and
15 remember some things, that's okay. I promise that I'm not, I'm
16 not trying to upset you on purpose, but I just have a few
17 questions that will help us --

18 A. Right.

19 Q. -- better understand how things happened.

20 A. Okay.

21 Q. Okay. So I just want to get some clarification. You said
22 that you got hired for this voyage a little bit in advance, but
23 you said a few days, but you didn't give a timeframe. And then
24 the, the pre-employment drug testing that you took in Anchorage, I
25 believe the timestamp on that said December 23rd. Was that the

1 same day you got hired on or --

2 A. Yeah.

3 Q. -- a day later?

4 A. It would have been because they would, they would have asked
5 me to do it right --

6 Q. That day?

7 A. Yeah, because it was kind of like waiting on the, the word
8 that, good to go, and now it's time to start the process. So that
9 would make sense, I guess.

10 Q. Okay. So you took it that day. So the 23rd is the day -- on
11 or about the day that you, you --

12 A. Somewhere around there.

13 Q. -- got the word to get hired?

14 A. With -- within a, within a day or two.

15 Q. Okay.

16 A. I would say.

17 Q. And then you said that you were on the same flight as Art and
18 Brock?

19 A. Art and Brock, and Seth was with us too.

20 Q. And Seth was with you too. And so, and so you flew into
21 Kodiak?

22 A. Yes.

23 Q. And so do you remember what day that was?

24 A. I feel like it was the 27th. I mean, I, I don't want to be
25 (indiscernible) so don't quote -- don't hold, don't hold me to

1 that, but I'm pretty sure it was the 27th.

2 Q. Okay. And then you guys went straight from the airport,
3 grabbed your bags, and went straight to the truck -- the dock?

4 A. Yes, ma'am.

5 Q. Where? Dog Bay? In the Dog Bay area?

6 A. Yes, ma'am.

7 Q. Okay. So you mentioned that, you know, you, you met David
8 Cobban there, and he was --

9 A. He picked us up from the airport.

10 Q. Got you. So he picked you up. You guys all went to the
11 boat. You said that it was kind of in a state of -- it was a
12 little bit of a mess?

13 A. Yes.

14 Q. Because of all the steel everywhere. Do you remember
15 anything that stuck out to you about that steel?

16 A. Yeah, the --

17 Q. Is there anything --

18 A. It was pitted -- a lot of it was really pitted out, but --
19 and there was a lot of it. Enough for me to ask what was --
20 what's this from, you know. It's always a thing of interest. You
21 get on a boat and it has a bunch of cut out steel, so --

22 Q. Can you describe to me the size of the pieces that you were
23 looking at? Was it like one-by-ones? Was it --

24 A. Like one-by-one, yeah, one-foot-by-one-foot of squares,
25 triangles.

1 Q. Just --

2 A. Maybe --

3 Q. -- like scrap --

4 A. Yeah.

5 Q. -- kind of? So when you say that it was pitted, can you
6 describe that for me? Was it rusty? Was it like just visibly
7 scaled?

8 A. Scale, real, real scaly. Yes, ma'am.

9 Q. Is there anything else that you noticed on that steel?

10 A. I can't exactly -- no, just that. But I will note for you
11 that I had asked Art about that, and he gave me the, the whole
12 story like you guys have been through with the quick fix to the
13 weld and everything else. That's why my automatic thoughts about
14 why we went down was due to that area, but -- in other
15 conversation regarding that, he also mentioned to me that, when
16 the boat was down in the shipyard, on the way or, you know, on
17 land, that someone had punched through the hull with a needle gun.
18 And I asked him if they'd ever audio gauged it after he was done
19 because it's just what -- you should probably do that, right. He
20 didn't know. He had to ask David because I guess David was down
21 there at the shipyard helping out. And no one had an answer for
22 him there, so --

23 Q. Okay. Did you happen to look at the area that had been
24 repaired?

25 A. Just a glance of it, you know.

1 Q. How did it look to you?

2 A. A lot of paint. It'd been painted over because I put all the
3 -- you know, all the paint stuff was there. Just the goopy paint
4 all over it.

5 Q. Okay. And so when you guys stacked all that scrapped steel,
6 if, if you think about it, give me an average, your best guess,
7 about how tall was that stack? How big was that stack?

8 A. Two stacks that were probably a foot or more tall.

9 Q. Okay.

10 A. Quite a bit of it. It was quite a bit. It was enough that
11 it was getting annoying walking around all day.

12 Q. Okay. Okay. And then you said that you guys -- the ship's
13 crew ended up disposing of it by chucking it overboard?

14 A. Yes, ma'am.

15 Q. At the dock?

16 A. Yes, ma'am.

17 Q. Do you remember what side of the --

18 A. It, it would have been on the, the same side of the -- the
19 starboard side, the same, same side as where the repair work was
20 done.

21 Q. And, and do you recall how, how the vessel was tied to the
22 docks?

23 A. Tied up on the port side.

24 Q. Port side, okay. So on the outboard side you guys dumped --

25 A. Yes, yes, ma'am.

1 Q. Got it. Okay. I want to talk to you a little bit about,
2 about your experience level and, and also the, the level of work
3 that you had to do. I mean, you've been in the business for 12
4 years, and you -- so you've been on, on quite a few boats. So you
5 mentioned a couple things that, that seemed like they might have
6 been peculiar to you. And I don't want to put words in your
7 mouth, so I just want to talk about that a little bit.

8 You said that when you got to the, the boat, you know,
9 nothing was set up and that you guys had to set up all the pots,
10 you had to rig all the pots and -- with the triggers, that that
11 took a really long time and that you guys were working 18-plus
12 hour days. At one point, you said 20 hours in that day and well
13 into the night. I want you to, to think about when you were at
14 the dock at Trident and tell me how you felt. Was, was it cold
15 out? I mean, obviously, I know that it's December in Alaska.

16 A. Yeah.

17 Q. But, but based on all of your experience, was it unusually
18 cold?

19 A. I, I would, I would say yeah. I remember when we left Dog
20 Bay to go over to the Trident Dock, you know, it was howling
21 pretty good through there. And it was enough to where everyone
22 came down on deck and like hid in the (indiscernible) because we
23 got a little heater in there just for that little crossing.
24 Trying to duck out of the, you know, a little bit of the weather
25 that, you know, we're just crossing the way, but why stay out and

1 freeze your face, you know.

2 Q. So for all of that rigging of the pots, you were out in the
3 weather, right? You were --

4 A. Yes.

5 Q. -- out on deck on --

6 A. On deck.

7 Q. -- on the dock?

8 A. Or on land.

9 Q. And so you were rigging and putting pots on, rigging and
10 putting pots on?

11 A. Yeah, and that part's nothing new. Rigging pots, I wasn't
12 trying to say that. I was just -- the -- our time -- or a lot of
13 time scheduled to rig over. We rigged over the whole stack. Like
14 there -- and we were trying to -- you know, have to get out of
15 town, so --

16 Q. So it seems to me --

17 A. That's not -- I mean, we'd fly out a few days earlier.

18 Q. So I'm getting the sense, so please tell me if I'm
19 misunderstanding, but it seems like you felt and that the other
20 crew members had a sense of urgency?

21 A. Well, yeah.

22 Q. It --

23 A. We're trying to make a fishery.

24 Q. And -- but who told you that, right? Like, where was that
25 sense of urgency coming from?

1 A. I mean, I didn't talk to Gary much, but like Brock and Art,
2 you know, we need to get these on and get going. So like I said,
3 it made sense to me. Like I said before, it would -- January 1
4 dump gear, last -- the year prior it was done by the 6th. So, you
5 know, we got so many days of travel before we can get out there
6 and even dump the gear, let alone make a trip out of it.

7 Q. And you know -- would you be able to say how many days of
8 travel you would have had before you could have gotten on the
9 grounds and, and dumped the gear?

10 A. Well, depending on the weather, I mean, three to four, three
11 to five, depending on how -- what we're doing.

12 Q. So if you guys -- so you guys left on the 30th. So if it
13 would have been even three days, you wouldn't have gotten there
14 until the 2nd or 3rd?

15 A. Yeah.

16 Q. Is that fair? Which would have given you three days to fish?

17 A. Yeah, that's -- you know, we got to get all the gear off
18 first, let it soak, and then we might have -- I mean, by way of
19 numbers, maybe had enough time to run through the gear once or
20 twice and that would, would have been it.

21 Q. Right. Thank you. So you're back at the dock and you're
22 working, and I'm just really trying to get a sense of what that,
23 what that weather and environment was for you. What do you
24 remember as far as your recollections about the weather? Was it
25 -- you mentioned it was howling on that short transit. Was it

1 raining? Was it just super windy and cold?

2 A. It was windy and cold. I think we had a little, little bit
3 of sleet going on one day, I believe.

4 Q. Okay.

5 A. It's hard --

6 Q. So --

7 A. -- to remember back that, you know, to, to that part of it,
8 but I mean, the, the part that's ingrained in my head is --

9 Q. I'm with you. So where I'm trying to go with this is do you
10 remember that while, while you were loading pots, what is your
11 recollection of the way that ice was either sticking to or, or not
12 to --

13 A. In town?

14 Q. -- pots in town?

15 A. It wasn't sticking to the pots.

16 Q. At all?

17 A. No.

18 Q. So there wasn't even a little bit of a glaze --

19 A. No.

20 Q. -- when you were in town?

21 A. None at all.

22 Q. So it was just super cold and -- but no ice accumulation of
23 any kind?

24 A. Right, there wasn't the spray to really make that happen.

25 You know, the -- we're not traveling, you know, and bumping into

1 it, having the spray kick up from the sea.

2 Q. But not enough from the sleet or the temperatures to be cold
3 enough to ice anything up?

4 A. Yeah, no.

5 Q. Okay. So you mentioned Mr. Gamby was on the crew originally.
6 When did he get in, do you remember?

7 A. He, he flew in with us. So (indiscernible).

8 Q. Oh, he did?

9 A. So there -- yeah, he flew in with us too. There was a --
10 everyone flew in except for David. David lived there.

11 Q. Okay. So it was you, Art, Brock, and Dillon, and, and David
12 came and picked all four of you up?

13 A. Yeah.

14 Q. Okay. Got you. So about -- after you guys flew in, about
15 how many days was it before Mr. Gamby no longer was employed on
16 the vessel?

17 A. I believe that was on the 28th when that happened. I believe
18 Mr. Gribble came in on the 29th, the next day.

19 Q. Okay. Okay. So then you mentioned that, for three to four
20 days straight, you were working 18- to 20-hour days, and you were
21 -- I believe your comment was like, you, you were, you were dog
22 tired, you were very tired because you had said that -- that's,
23 that's the kind of hours you pull when you're underway and
24 fishing.

25 A. Right.

1 Q. During the transit from after you left Kodiak and during the
2 transit before the accident, do you -- did you feel more rested?
3 I know that you were doing wheel watch --

4 A. Well, it was --

5 Q. -- a little bit more relaxing.

6 A. -- when we left, Gary, you know, navigating. It's his boat,
7 he's going to navigate out. That, that -- a lot of this, it's six
8 to eight hours of sleep, so the math of that, good to go for my
9 watch.

10 Q. Okay. So you got six to eight hours of down time, which was
11 good, and then it was your watch timeframe. And then I just want
12 you to take just a minute or two to just think back to that very
13 first watch so that we could get a good sense of the weather
14 conditions that you remember. So just take a minute and think
15 back to that first watch.

16 A. It was nasty out on -- even on the other side there. Even
17 though we were a little (indiscernible), but it was still nasty
18 out. It was just like Gary said it was going to be. It was going
19 to be shitty, and it's going to get shittier. Essentially that's
20 pretty much close enough to what he said, so -- and, and he -- and
21 his reference to that was on the -- you know, being on the --
22 having some cover, then being out in the open.

23 Q. When you were up on the bridge, do you remember, do you
24 remember looking at any of the, the equipment onboard the, the
25 bridge to ascertain where you were? Could you give me a rough

1 estimate of where you were, where the vessel was in relation to
2 other islands? Did, did you look at that or were you just, like,
3 I'm -- I'm steering a course?

4 A. Well, I always look at it. I believe on my first watch the
5 -- Kodiak was on the port, stern, you know, miles back. And then
6 the next watch we were out in the open, probably three quarters of
7 the way to Sutwik. That area.

8 Q. Okay. And so, on your second watch, how had the weather
9 conditions -- to the best of your recollection, how had the
10 weather conditions changed?

11 A. Bigger seas, starting to see some -- a little bit of ice
12 buildup, but like I said, nothing I was worried about. The one
13 thing that concerned me a few times laying in my rack was with
14 that weather, I kept feeling what -- it's a new, it's a new
15 boat -- or a new boat to me, but I -- and I, I worked on a
16 schooner before. And when you're in a following sea, you got to
17 shudder the hull. Does that make sense? Am I making sense here?
18 It, it shudders when, you know, it picks it up and comes down.

19 And I was feeling that on this boat when it started getting
20 bigger weather. And now thinking back on it, I don't know if
21 that's the general way that that boat rode or, or if we had
22 already accumulated some water in the hull somewhere where it was
23 that slack feeling in that void because it should shudder. And
24 then it'd pick us up and shudder again.

25 Q. From your experience, based on your experience, what would

1 you, to the best of your recollection, say the sea state was on
2 that second watch?

3 A. The what now? Sorry.

4 Q. The sea state. Like you, you know, you're describing that
5 the waves got bigger.

6 A. Oh.

7 Q. The sea state got bigger.

8 A. No, we were --

9 Q. What were you estimating?

10 A. Twenty-five, 30.

11 Q. Twenty-five, 30 foot --

12 A. Foot.

13 Q. -- seas?

14 A. Yes.

15 Q. Okay. And what do you remember about the wind?

16 A. It was blowing towards the starboard side or kind of
17 quartering us a little bit. All, all the weather was coming,
18 picking up to the starboard bow, but just (indiscernible) quarter
19 into it.

20 Q. Do you remember if the *Scandies Rose* had any equipment
21 onboard the bridge that would tell you how strong the winds were?

22 A. I did not see that on there, no.

23 Q. Okay. But from your experience, it was --

24 A. There's, there's not --

25 Q. -- more wind?

1 A. You, you can -- no, I mean, I, I couldn't give you an exact
2 number, but you hear it against the house and like you kind of
3 -- over the years, you get kind of a gauge. I'd say it sounded
4 like it was whipping 50, 60 out there.

5 Q. Okay. I'd, I'd like to kind of get a sense of -- you know, I
6 think everybody has a relative term of what's a lot, what's a
7 little, especially when it comes to ice accumulation. So I'd like
8 to get an exhibit pulled up so that you can tell me, to the best
9 of your recollection, if it was about the same, a little less, a
10 little more, that -- okay.

11 A. Well, when I say a little, it's because it hadn't coated
12 everything.

13 Q. Okay.

14 A. It was just on a little bit here, a little bit there, and a
15 quarter, quarter inch, if that. Enough to just be able to
16 visually see it finally.

17 Q. Okay.

18 A. That it just started to, you know, show its face a little
19 bit.

20 Q. Okay. So do you recall if, when you were standing out there,
21 you're standing on watch, you're looking at everything -- you said
22 that there was a partial obstruction based on the configuration of
23 the pots. Could, could you see all the way to the bow?

24 A. If you're in the captain's seat, yes, you can.

25 Q. And do you sit in the captain's seat when you're on watch?

1 A. Yes, ma'am.

2 Q. So, so you were able to see down to the bow and the weather,
3 there was no precipitation? It was just super windy, but you
4 could see all the way? It wasn't like --

5 A. Yes, ma'am.

6 Q. -- the weather was restricted or the visibility was
7 restricted. Is that a fair statement?

8 A. The, the visibility you said?

9 Q. Was the visibility restricted because of, let's say, snow or
10 sleet or anything like that?

11 A. Not on my last watch, no. I could see every -- I could see
12 the whole entire boat as -- in its entirety.

13 Q. Okay. But it was still very windy?

14 A. Yes.

15 Q. And you estimate, you know, 50, 60?

16 A. Yeah.

17 Q. Okay. Lieutenant McPhillips, could you actually pull up the,
18 the pinnacle images?

19 CAPT CALLAGHAN: Lieutenant McPhillips, I believe it's --

20 CDR DENNY: And so --

21 CAPT CALLAGHAN: -- 093.

22 THE WITNESS: Nothing like that.

23 BY CDR DENNY:

24 Q. Okay. So you're saying a lot less than this?

25 A. A lot.

- 1 Q. Is that fair?
- 2 A. Yes, ma'am.
- 3 Q. Okay. Can we scroll down a minute? I just want to see if
4 there's -- how about that? If you're --
- 5 A. Zoom in on that --
- 6 Q. From the bridge, is that --
- 7 A. -- please?
- 8 Q. Go ahead.
- 9 A. So the way that, that block looks over there with the
10 (indiscernible) and everything --
- 11 Q. Let's zoom in on that for Mr. Lawler. Let's zoom in.
- 12 A. It was less than that on, on the gear, on, you know, the
13 working gear on the side of the boat, and the pots looked about
14 like, like that pot in front of us, maybe like that there. That's
15 about sprinkles.
- 16 Q. Okay.
- 17 A. The forward of that boat looks like there's a lot more ice
18 than the one on -- and on the port side way than I thought I saw.
19 We had nothing like that.
- 20 Q. Okay. And to the best of your recollection -- so we're
21 talking about the second watch, right? Still the second watch.
22 You're telling me that what you remember seeing at -- on, on the
23 pots was something like that for your second watch?
- 24 A. My last watch.
- 25 Q. For your last watch? Okay. Do you remember if it was even,

1 if that was your observation --

2 A. No, because --

3 Q. -- across the pots?

4 A. -- it wasn't even like that. There was a little bit on the,
5 the chains that were laying over and then a little bit on -- you
6 know, because we were taking close to the weather to the, the
7 starboard side and just kind of dispersed throughout the stack,
8 like on the, on the cross bars and --

9 Q. So --

10 A. Well, I could have scraped it off with, with my thumbnail,
11 you know. Like, like just -- if that makes sense. I, I don't
12 know how to explain it. It wasn't -- you -- even if you went out
13 there with an ice mallet and you hit it, it's not really going to
14 do anything at that point.

15 Q. Okay. So you've been, you've been a fisherman for, for 12
16 years and you said you owned your own boat. If you were the
17 captain of, of the *Scandies Rose* and you had seen the ice
18 accumulation that you saw -- we can go ahead and take that down,
19 thank you -- that you had seen that the accumulation that you
20 observed, as a captain, would you have -- what would your decision
21 have been? Would you have been like, okay, crew, let's get out of
22 there and break some ice, or what would you have thought in that
23 regard?

24 A. I would have done some mitigation before we left town, but
25 what I saw out there -- well, on my last watch, I would -- it

1 would have been more of a hazard to the crew to send them out
2 there in that weather than the ice was. So there was like not
3 enough to -- especially with no alleyway like we spoke about
4 earlier. Climbing over the stack, everything, and there's barely
5 enough to beat off the grablock. It's not worth the time going
6 out there at that point.

7 Q. Okay.

8 A. With what I saw. I don't know what happened, you know. I
9 saw -- it was so quick when we actually went down that, you know,
10 I don't know how much more it had actually grown. As you know
11 from past experience, it can happen really quick too.

12 Q. Okay. That's fair. We're just -- again, just trying to
13 understand and get as many details as possible for a timeline of
14 how this happened. So you, you did just say something that I, I
15 wanted to ask you about. You said you would have mitigated before
16 you got out of town. What do you mean by that?

17 A. Well, I -- there's some people that believe in tarps and
18 stuff, some people that don't. My friend happened to send me a
19 picture of their whole boat with their whole stack completely
20 tarped off, and they were over in the -- I think they were over in
21 King Cove. And, you know, that's like a sign of what we were
22 heading for. So I'm not in charge, though.

23 Q. But you did say that you mentioned it to Captain Cobban?

24 A. I had, yes.

25 Q. And you showed him the picture you said?

1 A. I did, yes. Yes, ma'am.

2 Q. Okay. I want to take us back to, to when you said that, you
3 know, you guys were waiting to get underway because, you know, you
4 were waiting for the tide. You said that only Mr. Gribble donned
5 the immersion suit.

6 A. Yes, ma'am.

7 Q. Is that normal on -- based on your experience working in
8 different fishing vessels?

9 A. Generally, yeah, there's one guy that gets picked out and
10 it's always like, you know, he got picked. I didn't get picked.
11 We get to watch him out in the --

12 Q. Okay. And then you mentioned that -- and I think I may have
13 misheard you, but you mentioned that Art was spending a lot of
14 time in and out of the engine room. Do you know what he was
15 doing? Did he mention?

16 A. Just probably general engineer stuff. He didn't mention, but
17 I would imagine -- you know, we'd just got back to town. He --
18 went and -- laid the boat up. Maybe he hadn't got his oil changes
19 in yet, so maybe he was working on those. Hard, hard to say. I
20 can't really tell you what he was doing, honestly.

21 Q. Okay. I just was wondering if he was going in and out, maybe
22 you saw him in the galley or like if you heard some conversation?

23 A. No. I mean, we, we would talk, but just not any -- about
24 anything that he was currently doing in the engine room.

25 Q. Okay. So when did you did talk, did he seem perturbed or

1 concerned about anything?

2 A. No, just that one thing that, like I said, we got to town. I
3 was asking about the steel. He was a little thrown off that they
4 had to, you know, fix it again for -- the whole story was that
5 they tried to make a fix, and then it leaked again. And he -- I
6 think he just mentioned that he hopes that it's actually
7 successful this time.

8 Q. So did Art sound -- when he told you that story, did he sound
9 like he was part of that temporary fix?

10 A. I, I don't recall if he sounded like he was part of it. He
11 knew about it. He was in the know.

12 Q. Oh, I was just wondering if you remember if he was telling it
13 in the third person or if it -- like I was part of this or --

14 A. Oh, I --

15 Q. -- I, I, I --

16 A. I imagine he was telling it first person, but, you know, it
17 happens a lot on boats. Like sending someone to go fix something
18 and then talk about -- everyone talks about that guy fixed that,
19 but didn't really get fixed, you know.

20 Q. Okay.

21 A. That seems to be a big problem for -- need to be things
22 checked, double checked.

23 Q. Okay. So -- okay. I, I need to ask a couple of hard
24 questions. So when you were in your rack, did you have top or
25 bottom rack?

1 A. I had the bottom rack.

2 Q. Okay. And then you said that Dean came in. You, you -- he
3 relieved you?

4 A. Yes, ma'am.

5 Q. Right? So Mr. Gribble relieved you. And did you do an
6 engine room round at the end of your --

7 A. Yes, I did one in the middle and one in the end. Yes, ma'am.

8 Q. Okay. And do you remember seeing anything out of the normal
9 on your engine room round when you, you know, got off watch?

10 A. No, ma'am. The boat was trim, no water in the bilge. Well,
11 I mean, there's always usually just a little bit right below the
12 shaft there.

13 Q. Do you remember hearing anything that was abnormal, see
14 anything leaking that was abnormal?

15 A. No, just that -- like I told you, laying in my rack that
16 night, some time during that bad weather, you could -- I don't
17 know how to explain the sounds, but riding up and then coming
18 down, you'd, you'd feel the (indiscernible). And then, you know,
19 first time on the boat, maybe that's how it rides normally. You
20 know, boats make different noises. The way they ride, they all
21 ride different.

22 Q. Okay.

23 A. But it could have been something similar, so I'm, I'm not
24 going to throw that out the door.

25 Q. So then about -- you said you stood an hour, hour watches, so

1 about an hour later, Mr. Gribble came back to your guys' room and
2 you were watching the movie on, on the computer?

3 A. Yes, ma'am.

4 Q. So you guys -- so then you -- did you give Mr. Gribble back
5 the computer and you were -- you said because you were nodding off
6 at, at that point?

7 A. Yeah, no, he came in -- no, I, I -- that was my computer. He
8 gave me an SD card to put the movies on. But he stepped up to go
9 up to his bunk and just the usual, hey, man, how was your watch,
10 you know. Just banter. And then we laid there and we talked for
11 a second and then just nodded, nodded off. I don't think it was
12 -- I think I just nodded off because I was going --

13 Q. Okay. Did -- do you remember if Mr. Gribble mentioned how
14 his watch went?

15 A. There was nothing of significance that he talked to me about
16 and just Gary's up and out. That was it. I think I asked --
17 because I think I did ask. I was like, who -- is Gary up there or
18 who's up there now? And I think I do remember him telling me
19 that. But I already -- that was the list. That's the way the
20 list went.

21 Q. Okay. And remind me again, did, did -- when you got off your
22 third watch, was there any list at all that you recall to the
23 vessel?

24 A. We never had a list the, the whole trip other than that one
25 right at the beginning when we were leaving where I picked -- we

1 were just transferring some fuel.

2 Q. Okay. And did Mr. Gribble mention any list at all --

3 A. Not to me.

4 Q. -- when he came on?

5 A. No.

6 Q. Okay. So when you felt that really hard lean over, tell me
7 what you did hear -- and you jumped out of your rack and you said
8 that you ran up to the bridge. Tell me what you did hear.

9 A. I didn't hear anything. I just knew. Just a feeling. I --
10 the pit in your stomach. And the door was closed, and when I
11 opened the door, it was swung open, you know, smashed the side of
12 the, the other wall because it -- we were leaning over so hard.
13 Then I, I ran up the stairs sideways, you know, climbing like
14 this. And I was, I was out of my rack and up in the wheelhouse
15 within -- I'm a pretty big guy, but I probably would -- two
16 seconds I was up there. I mean, I, I flew out of my bunk because
17 I just knew. It was obvious that something was not right.

18 Q. And you said that, that Captain Cobban had just keyed up the
19 mic to the sat phone, to the sat phone?

20 A. Yeah, he was talking to Austin (ph.) on the, the, the civic
21 sounder. I only know that because I remember hearing him say
22 Austin's name.

23 Q. Okay. Did he say Mr. Loan's (ph.) first name or last name?

24 A. His first name.

25 Q. And, and you know Mr. Loan from previously or --

1 A. Yes.

2 Q. -- from the industry?

3 A. Like the whole thing, like out in the industry. And people,
4 people know names even if you don't know them personally. You
5 hear about people.

6 Q. So you heard Captain Cobban say Mr. -- Captain Loan's name.
7 Was there any other conversation at all? Did you hear any other
8 part, any other words that he said?

9 A. No, just the name on the first one and then -- trying to
10 remember back. I'm pretty sure I remember him -- which was
11 confusing to me, you know. I get that he's trying to talk to
12 someone, but he said -- he had said -- I don't remember the exact
13 words he used, but he, he -- in, in a few words, he basically let
14 Austin know that something was not right. And I don't remember
15 what the exact sentence was. So he was communicating through the
16 sat phone about our current state, which our current state was
17 there was no coming back from it. I mean, you've been on boats
18 long enough, you know that once you get to a certain degree, it's
19 not coming back. It's time to go.

20 Q. So you're saying that like you knew, deep inside you, you
21 knew already at that point?

22 A. Oh, it's like I got punched in the gut, and I just lost all
23 wind.

24 Q. Were all the lights off on the bridge?

25 A. Yeah, that's how we travel.

1 Q. At night?

2 A. You got to be able to see out the window. I mean, you can
3 turn your red lights on.

4 Q. Were the red lights on, do you remember?

5 A. They weren't, no.

6 Q. Okay. Do you remember hearing the generators or the engines
7 at all when you were up there on the bridge? Could you hear --
8 and I'm just trying to --

9 A. That, that, that --

10 Q. -- get a sense --

11 A. That hum, yeah.

12 Q. Did you hear anything?

13 A. But I mainly heard them when we were outside and they ran
14 away -- I want to say run away, but the RPMs just spiked and
15 started smoking up the stack.

16 Q. Okay. So --

17 CAPT CALLAGHAN: Commander Denny, I'm, I'm going to ask for
18 just to -- sorry to interrupt. I'm going to ask that we take a
19 quick, quick recess, maybe two minutes and then come back at 1655
20 and sort of wrap things up.

21 (Off the record at 4:52 p.m.)

22 (On the record at 4:57 p.m.)

23 CAPT CALLAGHAN: Okay. The time is now 1658. The hearing's
24 back in session. At this time, I'd like to ask Lieutenant
25 McPhillips if you could bring up Exhibit 046 please. And can you

1 scroll down to the second page, Lieutenant?

2 LT McPHILLIPS: Sure.

3 BY CAPT CALLAGHAN:

4 Q. Mr. Lawler, the -- and maybe the first page is probably -- or
5 no, that's good. The, the bottom picture is good. Mr. Lawler,
6 looking at that bottom picture there, so if, if you were in the
7 wheelhouse and, and your visibility down the starboard side and,
8 and forward, would you be able to see the extreme port side
9 forward of the pots from your, your vantage point?

10 A. No, sir.

11 Q. Okay. Thank you. Lieutenant McPhillips, you can bring that
12 down. Earlier, you made a comment regarding some -- an incident
13 with a needle gun being mentioned to you. Can you maybe tell us
14 more who you got that from and, and where they indicated that,
15 that incident had taken place?

16 A. I heard from that from Art Ganacias, and the -- he said that
17 had taken place down south. But I think -- well, I don't think, I
18 was told that also David was calling up, probably pissed off too
19 about the whole situation. Just like my own detail I heard, so --

20 Q. Did, did he happen to indicate where in the, where in the
21 hull that it might have happened?

22 A. I can't say to that.

23 Q. Okay. No, thank you.

24 A. Under the waterline somewhere.

25 Q. And so once you, once you guys got back to land and you got

1 to the hospital, who, who met you at the hospital?

2 A. It was Gerry Cobban.

3 Q. Okay.

4 A. Well, she had showed up and the, the nurse came in and asked
5 if it would be okay if, if she came in.

6 Q. Okay. And had you met her before?

7 A. No, sir.

8 Q. And, and what capacity was she, was she there visiting?

9 A. She -- sorry, I don't know what --

10 Q. Do you know what capacity she was there visiting?

11 A. She just asked to visit us, and I assumed it was she wanted
12 the story of what happened, and I, I was not thrilled with --
13 obviously not thrilled, you know, but I just didn't want to be the
14 guy that delivered the, the news.

15 Q. Okay. And, and when you're at the, the hospital, aside from
16 the doctors looking you over there, did anything else occur while
17 you were at the hospital?

18 A. Just the IV that I had been given. I -- it's not really
19 relevant, but I had a blood clot in my arm after that that I had
20 to go to the hospital for upon returning home.

21 Q. And that, that was after you returned home from that?

22 A. Yeah, but it, it occurred out there. That's the only
23 occurrence that I can think of that would have taken place in the
24 hospital or on the way to the hospital.

25 Q. Okay. And at any point did -- were you asked to take a drug

1 or alcohol test following the incident?

2 A. Yes, sir.

3 Q. Lieutenant McPhillips, can you bring up Exhibit 80 please?

4 And, Mr. Lawler, does -- do you recognize this?

5 A. Yeah, it's -- this is it.

6 Q. Does that resemble the test that you were asked to take?

7 A. Yes, sir. I believe she -- well, she, she had asked if we
8 needed anything, and clearly we needed something to wear because
9 we didn't have any clothes on. Everything was soaked, so the
10 clothes -- little clothes we did have. And then she had showed
11 back up to the hospital with two Target brand drug tests and said
12 that we had to pee on them.

13 Q. Okay. And do you remember what the results were there?

14 A. Mine passed. There I can see two lines all the way down.

15 Q. Thank you. Lieutenant McPhillips, you can, you can bring
16 that down. Thank you, Mr. Lawler. So, at this time, I want to
17 ask you -- and, and so this is not the easiest question to answer,
18 but it's something that's very important for us to get out of
19 this. As a survivor, are there any specific training items or
20 experiences that you would attribute to you being able to don your
21 immersion suit and, and get out of the vessel?

22 A. Well, I have plans to write you guys a whole list on things,
23 and I just don't really want to go into that right now. But I got
24 to stop talking about -- I mean, if I had any piece of advice to
25 give, just to keep moving. Don't freeze. I, I don't -- I'm just

1 as human as everyone else. I'm, I'm sure that, you know, some
2 extensive training or, or some sort of training would help where
3 it becomes muscle memory over time. I mean, that's what the
4 military does for people, and it becomes second nature. And a lot
5 of that stuff that happened to us is not second nature. It
6 doesn't happen until it happens, and then everyone's surprised.

7 Q. So along those lines, is there anything from, from your
8 perspective as, as a survivor who went through this horrific
9 incident, is there anything -- any, any questions that you think
10 we didn't -- we failed to answer, but that we -- that should be
11 brought to our attention here during this hearing?

12 A. No, I think you guys are doing a really thorough job. And,
13 and like I said, I have some things on, on my mind, and I'll
14 probably pass over to you later, but at, at this point, no.

15 Q. Okay. And, and then my follow-on to that is, are there any
16 recommendations -- and, and I know this is not easy, but are there
17 any recommendations that, that you would make that might help
18 prevent such an incident in the future?

19 A. Verbally, right now, no. But like I said, I'd, I'd be more
20 than happy -- I do have things in my head that I'd like to share
21 later. This is too much right now.

22 Q. And, and we would certainly welcome that, and we certainly
23 appreciate that. And, and as I mentioned, as a survivor, you
24 know, we have a, we have a unique opportunity to learn from you
25 and your experience so that we can do the best we can to complete

1 the most thorough investigation possible so that we can make the
2 most informed recommendations to improve safety of life at sea
3 for, for the rest of the fishing fleet and -- so we don't have
4 just tragic incidents with loss of life. And --

5 A. Yeah, and, and I'll say, I, I have -- and, and I can see
6 what's been happening and, you know, the, the hearings you're
7 doing is, is perfect. Like I've told a few people, I, I don't
8 want people to be saving face but rather saving lives. So if we
9 can keep on that course, I think that would be the best for
10 everybody.

11 Q. Absolutely. Thank you, sir.

12 CAPT CALLAGHAN: And, sir, Mr. Stacey, as, as counsel, I'd
13 ask that we just continue to, to follow up and if we can continue
14 that conversation and, and we can get any of those recommendations
15 from you as a follow up, we'd ask that you work through Lieutenant
16 Pels and, and we can make that part of the investigation.

17 MR. J. STACEY: Of course, Captain. As Mr. Lawler has
18 already said, he and Mr. Gribble are very anxious to help out in
19 any way that they can to help out the, the families, as well as
20 the Coast Guard and the future mariners. So anything we can do to
21 help, these, these gentlemen would be happy to do so.

22 CAPT CALLAGHAN: Again, sir, I, I can't begin to express
23 enough condolences to you and explain our gratitude enough for
24 your willingness to come here and share your story, not only to
25 us, but to the public so that everyone can better understand what

1 happened and that we can affect change down in the future. So
2 thank you. And again, we offer our deepest condolences on behalf
3 of the Marine Board here at the Coast Guard for the loss of your
4 shipmates and, and the experience that you, you went through.

5 So we are -- at -- this concludes our time -- our testimony
6 for you today. However, I anticipate that you may be recalled to
7 provide additional testimony at a later date. Therefore, I'm not
8 releasing you from your testimony at this time, and you do remain
9 under oath. So please do not discuss your testimony or this case
10 with anyone other than your counsel or members of this Coast Guard
11 Marine Board of Investigation. If you have any questions about
12 this, you may contact my legal advisor, Lieutenant Sharyl Pels,
13 through your attorney.

14 THE WITNESS: Yes, sir.

15 CAPT CALLAGHAN: Thank you very much, sir.

16 THE WITNESS: Thank you, sir.

17 CAPT CALLAGHAN: The record shows it is now 1708. We're
18 going to take a brief recess and come back at 1710. We'll
19 reconvene.

20 (Off the record at 5:08 p.m.)

21 (On the record at 5:11 p.m.)

22 CAPT CALLAGHAN: Okay. It's now 1711. The hearing's back in
23 session. I wanted to take this opportunity to come back from
24 recess and thank all of our witnesses for their testimonies today.
25 Again, for the record, all exhibits that were presented today will

1 be posted on the MBI website at, at -- upon conclusion today.

2 Again, as -- thanking all the witnesses today. I want to
3 recognize that this is a rare, unique opportunity for us as a
4 Marine Board to learn from a survivor and, and hear the tragic
5 events that occurred and just the experiences and learn as much as
6 we can.

7 So, at this point, it is now 1712 on February 24th. The
8 hearing will now adjourn for today and resume at 0800 tomorrow,
9 February 25th.

10 (Whereupon, at 5:12 p.m., the hearing was recessed.)

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CERTIFICATE

This is to certify that the attached proceeding before the

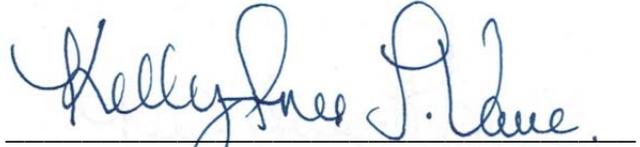
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: February 24, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Kelly Anne Treado Vance
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Thursday,
February 25, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: Good morning. It is 0800 on February 25th,
4 2021, and this hearing is now in session. Good morning, ladies
5 and gentlemen. I'm Captain Greg Callaghan, United States Coast
6 Guard Chief of Prevention for the 11th Coast Guard District. I'm
7 the Chairman of the Coast Guard Marine Board of Investigation and
8 a presiding officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 masks while seated to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table and whenever approached by another person. I ask that
18 anyone who is unable to maintain social distancing please keep
19 their masks on unless actively speaking into the microphone.

20 Due to the extensive technology used to support this hearing
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives on December 31st, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crewmembers who
7 were lost at sea. I note again that many of you are watching this
8 hearing on livestream due to COVID restrictions in place, and we
9 appreciate you being here joining us.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions, and recommendations to
12 the Commandant of the United States Coast Guard. Other than
13 myself, the members of this Board include Commander Karen Denny
14 and Lieutenant Commander Michael Comerford. The legal counsel to
15 this Board is Lieutenant Sharyl Pels. The recorder is Lieutenant
16 Ian McPhillips. Coast Guard technical advisors to this Board are
17 Mr. Scott Giard and Mr. Keith Fawcett. This Board's media liaison
18 is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB's *Scandies Rose* investigation, is here with us
22 along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witnesses and

1 respect their right to privacy.

2 The members of the press are welcome to attend virtually, and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the testimony that they have given after I have released them from
6 these proceedings. I ask that any such interviews be conducted
7 with full consideration of the COVID mitigation procedures that
8 the Marine Board has established.

9 The investigation will determine as closely as possible the
10 factors that contributed to the incident so that proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence of any act of misconduct
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed or credentialed person contributed to
15 this casualty; and whether there is evidence that any Coast Guard
16 personnel or any representative or employee of any other
17 government agency or any other person caused or contributed to the
18 casualty.

19 The Marine Board planned this two-week hearing to examine all
20 events relating to the loss of *Scandies Rose* and five crewmembers.
21 The hearing will explore crewmember duties and qualifications,
22 shore side support operations, vessel stability, weather factors,
23 effects of icing, safety equipment, the operations of the vessel
24 from the past up to and including the accident voyage, and survey
25 imagery of the vessel in its final resting place. The hearing

1 will also include a review of industry and regulatory safety
2 programs as well as the U.S. Coast Guard Search and Rescue
3 activities related to the response phase of the accident after
4 notification that the *Scandies Rose* was in distress.

5 The Coast Guard has designated parties in interest to this
6 investigation. In Coast Guard marine casualty investigations, a
7 party in interest is an individual, organization, or other entity
8 that under the existing evidence or because of his or her position
9 may have been responsible for or contributed to the casualty. A
10 party in interest may also be an individual, organization, or
11 other entity having a direct interest in the investigation and
12 demonstrating the potential for contributing significantly to the
13 completeness of the investigation or otherwise enhancing the
14 safety of life and property at sea through participation as party
15 in interest.

16 All parties in interest have a statutory right to employ
17 counsel to represent them, to cross-examine witnesses, and have
18 witnesses called on their behalf. Witnesses who are not
19 designated parties in interest may be assisted by counsel for the
20 purpose of advising them concerning their rights. However, such
21 counsels are not permitted to examine or cross-examine other
22 witnesses or otherwise participate in the investigation.

23 I will now read the list of those organizations and
24 individuals who I've previously designated as parties in interest.
25 *Scandies Rose Fishing Company, LLC*, represented by counsel who are

1 here in person today. Crew person Mr. Dean Gribble and Mr. John
2 Lawyer -- John Lawler, represented by counsel who are joining us
3 virtually today. Mr. Bruce Culver, not present at this time.

4 The Marine Board will place all witnesses under oath. When
5 testifying under oath, a witness is subject to the federal laws
6 and penalties for perjury for making false statements under Title
7 18 U.S.C. Section 1001. Penalties could include a fine of up to
8 \$250,000 or imprisonment up to five years or both.

9 The sources of information to which this investigation will
10 inquire are many and varied. Since the date of the casualty, the
11 NTSB and Coast Guard have conducted substantial evidence
12 collection activities, and some of that previously collected
13 evidence will be considered during these hearings. Should any
14 person have or believe he or she has information not brought forth
15 but which might be of direct significance, that person is urged to
16 bring that information to my attention by emailing
17 uscg.scandiesrosembi@gmail.com. This email address will be
18 continuously monitored throughout these proceedings.

19 Mr. Barnum will now say a few words on behalf of the NTSB.
20 Mr. Barnum?

21 MR. BARNUM: Thank you, Captain.

22 Good morning. I am Bart Barnum, Investigator in Charge for
23 the National Transportation Safety Board's investigation of this
24 accident. The Safety Board is an independent federal agency which
25 under the Independent Safety Board Act 1974 is required to

1 determine the cause or probable cause of this accident, to issue a
2 report of the facts, conditions, and circumstances relating to it,
3 to make recommendations for future -- and make recommendations for
4 measures to prevent similar accidents in the future.

5 The NTSB has joined this hearing to avoid duplicating the
6 development of facts. Nevertheless, I do wish to point out this
7 does not preclude the NTSB from developing additional information
8 separately from this proceeding if that becomes necessary.

9 At the conclusion of this hearing, the NTSB will analyze the
10 facts of this accident and determine the probable cause
11 independent of the Coast Guard. At a future date, a separate
12 report of the NTSB's findings will be issued, which will include
13 our official determination of the probable cause of this accident.
14 If appropriate, the Safety Board will issue recommendations to
15 correct safety problems discovered during this investigation.
16 These recommendations may be in advance of the report.

17 In addition to this, on behalf of the NTSB, I would like to
18 offer my deepest condolences to the families and those affected by
19 this tragic accident.

20 Thank you.

21 CAPT CALLAGHAN: Thank you, Mr. Barnum.

22 Yesterday, we heard from several professional engineers
23 discussing vessel stability. And in the afternoon, we heard a
24 moving description of the accident from surviving crewmember John
25 Lawler.

1 Today, we will speak to a representative from the Coast
2 Guard's Marine Safety Center and several fishermen who had sailed
3 on board the *Scandies Rose* or were in close contact with the
4 vessel before the incident.

5 At this time, we will now go to recess and resume at 0830.

6 (Off the record at 8:09 a.m.)

7 (On the record at 8:19 a.m.)

8 CAPT CALLAGHAN: The time is now 0820. This hearing is now
9 back in session. We will now hear from Mr. Andrew Lawrence from
10 the Coast Guard Marine Safety Center.

11 Mr. Lawrence, Lieutenant Ian McPhillips will now administer
12 your oath and ask you some preliminary questions.

13 Lieutenant McPhillips.

14 LT McPHILLIPS: Please stand and raise your right hand.
15 (Whereupon,

16 ANDREW LAWRENCE

17 was called as a witness and, after being first duly sworn, was
18 examined and testified as follows:)

19 LT McPHILLIPS: Please be seated. Please state your full
20 name and spell the last name.

21 THE WITNESS: My name is Andrew Lawrence. My last name is
22 L-a-w-r-e-n-c-e.

23 LT McPHILLIPS: Please identify counsel or representative if
24 present.

25 THE WITNESS: Lieutenant Commander Pecoske.

1 LT McPHILLIPS: Please have them state and spell their last
2 name as well as their company relationship.

3 LCDR PEKOSKE: Good morning. My name is Matthew Pecoske,
4 last name P-e-k-o-s-k-e, U.S. Coast Guard Judge Advocate, and
5 witness counsel to Mr. Andrew Lawrence.

6 LT McPHILLIPS: Thank you, sir.

7 Mr. Lawrence, please tell us, what is your current employment
8 and position?

9 THE WITNESS: I'm currently the naval architect advisor of
10 the salvage engineering response team at the Coast Guard Marine
11 Safety Center.

12 LT McPHILLIPS: What are your general responsibilities on
13 that job?

14 THE WITNESS: I work with a team of naval architects, all
15 commissioned Coast Guard officers, and we provide emergent
16 technical support for salvage operations the Coast Guard field
17 units. That usually involves vessel structure stability and
18 marine engineering. So, as the civilian naval architect on the
19 team, I provide training, quality assurance, and I do peer review
20 of each case.

21 LT McPHILLIPS: Can you briefly tell us your relevant work
22 history?

23 THE WITNESS: Yes. I have seven years of commercial marine
24 salvage experience including experience with fishing vessel
25 salvage in the Pacific Northwest and Alaska. I previously served

1 as a naval architect for the Coast Guard Marine Safety Center for
2 five years. And prior to that industry experience, I was a naval
3 architect doing plan review on offshore vessels and small
4 passenger vessels. And before that, I was an engineer on a Coast
5 Guard ice breaker for two years.

6 LT McPHILLIPS: What is your education related to your
7 position?

8 THE WITNESS: I have a bachelor's and a master's in
9 mechanical engineering.

10 LT McPHILLIPS: Do you hold any professional licenses or
11 certificates related to your position?

12 THE WITNESS: I do. I'm a licensed professional engineer in
13 the State of Virginia and in Washington State.

14 LT McPHILLIPS: Thank you. Captain Callaghan will now have
15 some follow up questions for you.

16 CAPT CALLAGHAN: Good morning and thank you, Mr. Lawrence.

17 I'm now going to turn over to Lieutenant Commander Michael
18 Comerford for the Coast Guard's initial questions.

19 LCDR COMERFORD: Thank you, Captain.

20 EXAMINATION OF ANDREW LAWRENCE

21 BY LCDR COMERFORD:

22 Q. Good morning, Mr. Lawrence. All my questions this morning
23 are related to the work of the United States Coast Guard in the
24 realm of the safety of commercial and fishing vessel operations.

25 First off, thank you for being on the line with us and

1 attending this hearing virtually this morning. And at any point
2 we ask a question that you don't understand or cannot hear because
3 of technical difficulties, please do not hesitate to say so and we
4 will repeat or rephrase the question, as necessary. We may take
5 breaks throughout the hearing, as necessary, but if you need to
6 take a break, please let us know.

7 Using this Zoom platform, we have the ability to share
8 exhibits virtually. The recorder, Lieutenant McPhillips, will put
9 any necessary exhibits up on your virtual desktop. If at any
10 point you need to point something out on an exhibit, do so
11 verbally to the best of your ability, and Lieutenant McPhillips
12 may highlight the described area for the benefit of the Board and
13 the livestream audience. If the area he indicates needs to be
14 adjusted, please let us know. When we look at these exhibits,
15 please take your time to refresh your memory or acquaint yourself
16 with the information.

17 Mr. Lawrence, could you -- as a previous staff engineer, what
18 type of duties and responsibilities were you given for your staff
19 engineer time?

20 A. I started in tank vessel and offshore branch of the Marine
21 Safety Center reviewing mostly inland tank barges for structure
22 instability and arrangement, and I moved on to offshore supply
23 vessels and offshore facilities. I did that type of work for
24 about two years at the Marine Safety Center. For my final three
25 years at the Marine Safety Center, I reviewed structure

1 instability and arrangement of small passenger vessels. And
2 during that time, I was also a duty officer on the salvage
3 engineer response team.

4 Q. Now, Mr. Lawrence, just to come back for some general
5 background questions related to your professional engineer
6 certification. When you initially certified, what were the
7 requirements to earning your professional engineer certification?

8 A. I initially got my PE certification in 2009, from Virginia.
9 I believe that required four years of relevant engineering
10 experience -- or I think it required five years of relevant
11 engineering experience, and I was able to exempt one year by
12 having an advanced degree, and it also required passing the first
13 test for a PE is to get you to be a -- to get you to be like an
14 apprentice engineer. I took that test at the Guard Academy in
15 2004.

16 And after the requisite experience, I submitted the
17 application to Virginia. That requires, I think, endorsements
18 from three professional engineers and a list of your work history
19 so that they can evaluate your experience. And then I took the
20 principles and practice test, which is an eight-hour test on, you
21 know, engineering, on naval architecture principles, and passing
22 that test got me the license.

23 Q. And what are you -- you said you are a professional engineer
24 for two states. What are the requirements for maintaining a PE
25 license in both states?

1 A. I had to renew -- I have to renew the licenses every two
2 years. Virginia has continuing education requirement of, I
3 believe it's eight hours every year, so 16 hours every two years.
4 Washington State does not have a continuing education requirement,
5 so I just have to pay the dues and I keep my license. There are
6 some other standards that are self-certified that you continue to
7 work in the industry and that sort of thing. But nothing I have
8 to provide, I just have to certify that I do that.

9 Q. Just in general brief terms, what ways do you meet these
10 continuing education requirements?

11 A. I usually take like a continuing education course, like for
12 this past license renewal period, I took a course on developing
13 vessel lines, plans using Rhinoceros. That's what I used to meet
14 that continuing education requirement.

15 Q. And lastly, do you have any requirements associated with your
16 certification to keep up to date on software and technology?

17 A. No. Nothing specific to software.

18 Q. Thank you, Mr. Lawrence. Now, you provided the Board with a
19 presentation regarding a review of the *Scandies Rose* stability.
20 We are going to share this presentation on the screen. Lieutenant
21 McPhillips, please bring up Exhibit 104. And while he brings this
22 up, Mr. Lawrence, I would like to provide you the opportunity to
23 walk us through your presentation and your findings. Please
24 indicate, please indicate to us if you need to advance a slide or
25 play any animations, and take your time. When you're ready and

1 the exhibit is showing, begin at your -- when you're ready.

2 A. Okay. I don't see it yet.

3 Q. It will be up in one second. We had to reopen the document.

4 A. No problem. Okay, I can see it now. You can advance to the
5 next page, please. There is a note line in my presentation, I can
6 skip the education and background section because I've already
7 covered that. But generally, these are the topics that I will be
8 covering in this presentation, so you can advance to slide number
9 four please.

10 But, before discussing analysis results specific to *Scandies*
11 *Rose*, I want to outline the general steps to perform a stability
12 -- a regulatory stability analysis on commercial fishing vessels.
13 These requirements are contained within 46 C.F.R. Part 28 Subpart
14 E, and they require calculations by a qualified individual
15 selected by the owner. A qualified individual, defined in the
16 regulations, is an individual or organization with formal training
17 in and experience in matters dealing with naval architecture
18 calculation. So this qualified individual evaluates the weight,
19 center of gravity of the ship, by conducting a stability test, and
20 then all conditions of operation of the vessel must meet stability
21 criteria for water on deck, intact righting energy, and severe
22 wind and roll stability.

23 So, to be clear though, the Coast Guard review -- the Coast
24 Guard does not review and approve these calculations. And we are
25 not required to do by the regulations. And all work described

1 here is post-casualty work as requested by the Marine Board of
2 Investigation. We did not see any documentation on the *Scandies*
3 *Rose* prior to the casualty.

4 Advance the slide please.

5 So the necessary steps to perform a regulatory stability
6 analysis are computer modeling, a stability test and evaluating
7 operating conditions and developing stability instructions.

8 Next page please.

9 The first step is computer modeling. Computer modeling a
10 ship is not described within the regulations because it's not
11 explicitly required. A stability analysis could be done by hand,
12 but it's so computationally intensive that modern naval architects
13 almost always create a computerized hydrostatic model. Modeling
14 can be performed with several different software packages. For a
15 complete model, ship drawings are referenced to create buoyant
16 volumes, tanks and windage.

17 You can advance the slide please.

18 A stability test determines the weight of the empty ship when
19 it is complete. So it's just the weight of all material,
20 superstructure, permanent machinery like the main engine,
21 generators, and cranes. The regulations recommend using
22 procedures laid out in ASTM Standard F 1321, but it's not a
23 requirement.

24 A stability test has two major parts: a lightweight survey
25 and an inclining experiment. During the lightweight survey part,

1 freeboards and drafts the vessel and measures to determine the
2 weight. For the inclining experiment, weights are shifted and the
3 heeling of those measured to determine the vertical center of
4 gravity. For small ships, including the *Scandies Rose*, the light
5 ship weight is by far the largest single weight on board. And
6 because of this, light ship weight has a significant impact on
7 stability.

8 Next page please.

9 As the final step in regulatory stability analysis, the
10 regulations require a qualified individual selected by the owner
11 to provide stability instructions for the master so that the ship
12 can be loaded and operated safely. Simplified instructions
13 typically include tanks, it must be empty or loaded; fuel tank
14 burning sequence; maximum drafts; and cargo capacities. By
15 following the simple stability instructions, the crew should be
16 able to keep the vessel in compliance with all regulatory
17 stability criteria.

18 Next page please.

19 So that's the summary of the three major steps to perform a
20 stability analysis, so computer modeling, stability tests,
21 evaluation of operating conditions. And my technical report
22 documents these three steps in detail and how MSC independently
23 conducted calculations for each one, but I'll now provide a
24 summary of how our results compare with the stability results that
25 were provided to us and were provided as stability instructions to

1 the *Scandies Rose*'s master.

2 Starting with computer modeling again, significant
3 differences were identified between the provided hydrostatic model
4 and the one that we created based on drawings. On the screen is a
5 profile or side view of the computer models overlaid onto a
6 picture of *Scandies Rose* with five tiers of crab pots on board.
7 The provided model's on the left, MSC's model is on the right, and
8 the significant differences we found are documented on the next
9 slide.

10 So Letter A, reserve buoyancy is shown in yellow here. The
11 provided model has much different poop and fo'c'sle volume than
12 shown in the pictures. So compared to our model, the volume is 20
13 percent greater and the fo'c'sle is 28 percent smaller than our
14 models.

15 Letter B, the bulwarks shown in red here were not modeled in
16 the provided models, so the required water on deck criteria could
17 not be evaluated with the provided model.

18 Letter C, the provided model has windage of superstructure in
19 crab pots that is much less than shown in the pictures and is
20 highlighted here in blue. For five tiers of pots, the windage of
21 the provided model is 25 percent less than our model.

22 Letter D, downflooding points are not in either of the
23 provided stability documentation or the provided computer model.
24 Our model indicated downflooding through port and starboard engine
25 room events shown by the white arrow and that could occur in

1 heeling angles as low as 30 degrees.

2 Letter E, because the windage is so different, icing surface
3 areas are also very different between the provided model and
4 MSC's. For the full load of pots, our model indicates icing
5 weights are 25 percent greater than the provided model.

6 The Letter F, tank capacity is different between the provided
7 model and the tank capacity plan, specifically, the large aft wing
8 fuel tanks and the freshwater tanks in the provided model. They
9 are different from the capacity plan by about 10 percent each,
10 which is about 1,000 gallons for each of the four tanks. So in
11 our model, we set the capacities of each tank to match the tank
12 capacity plan.

13 Okay. Next page please.

14 So our report also compares the result of stability tests,
15 and we found out, for the 1988 stability test, our calculated
16 light weight differed from the private results as shown in this
17 table. We independently calculated vessel weight using the test
18 notes from 1988, and we identified some mathematical errors in the
19 test notes that account for some of the discrepancies, but not
20 all, because the calculations were documented by test notes,
21 though we have a moderate level of confidence in accuracy of our
22 results, independently recalculated from the 1988 test notes. Our
23 level of confidence, though, is limited because the
24 recommendations listed in that ASTM guide were apparently not
25 fully incorporated in this test.

1 For the 2019 stability test, the provided test notes don't
2 support the provided lightweight and center of gravity in
3 stability documentation. Because the test notes were limited, we
4 have low confidence in the accuracy of the weight/center of
5 gravity calculated from this test, and that level of confidence
6 supplies both to the provided weight and the one that we
7 independently calculated by using the parts of test notes that we
8 had.

9 Next page please.

10 Our confidence in the 2019 weight is also low because, if
11 it's true, it indicates an excessive amount of weight growth from
12 1988. It's about 47 percent more than calculated in 1988, and
13 it's an order of magnitude greater than what we considered typical
14 weight growth on a ship.

15 Next page please.

16 So an accurate stability analysis requires accurate modeling
17 and stability test results. Because of the differences I noted
18 between the provided stability test results and our calculations
19 and our resulting low confidence, we used a high and a low range
20 of stability test results in our analysis. The provided stability
21 test results are the low light weight values, and the ones that
22 MSC calculated are the high light weight values. So, in this
23 table, the provided light ship is reference B on the table and
24 ours is MSC.

25 So you may notice two light ship weights. We used three

1 different hydrostatic models, so the three models were the model
2 provided to us, and we made our own model as small crab pots and
3 our model with large crab pots so that we used six combinations of
4 model and light ship weight for each loading condition in our
5 evaluation.

6 To use the provided stability model for analysis, we actually
7 had to add downflooding points, and by doing that -- by just doing
8 that alone, we found that four of the 2019 sample loading
9 conditions failed regulatory stability. And that's using the
10 provided model and the provided light ship weight. And that's
11 shown here in the first red and white column on the left.
12 Dramatically worse results were obtained when using our model.
13 Nearly all the simple loading conditions fail to meet stability
14 criteria. You can see that of these 11 loading conditions are
15 re-evaluated, only two passed with our model. Those are the white
16 columns there. And those only passed when using the low provided
17 light weight. It doesn't pass with the higher light weight that
18 we calculated from our test notes.

19 Next page please.

20 The estimated loading condition during the accident voyage
21 was provided to us, and that loading condition was 195 crab pots
22 on deck with holds two and three full, hold number one empty,
23 20,000 pounds of bait, and fuel tanks full -- or fuel tanks full
24 with the exception of the number one weight tanks. So that is
25 results in two loading conditions that are shown on this table.

1 And these conditions are really close to satisfying the documented
2 stability instructions. The only exception is that the freeboards
3 are -- have a minimum six-inch requirement the freeboard has
4 exceeded when ice is present.

5 But prior to ice accumulation, the models all indicate that
6 these loading conditions satisfy the instructions for the master.
7 And for reference, when icing is added in these conditions, the
8 minimum freeboard is about four inches when using heavier light
9 ship values. Despite nearly satisfying those provided stability
10 instructions, all the models indicate that their casualty loading
11 conditions failed regular stability criteria.

12 Next page please.

13 My final conclusion is that regulations require icing be
14 applied to all surfaces with 1.3-inch-thick ice on horizontal
15 surfaces and 0.65-inch-thick ice on vertical surfaces. That
16 results in asymmetric ice loading which causes the vessel to sit
17 heavier and lower in the water, but it doesn't necessarily cause
18 any heel angle. Asymmetric or one-sided icing would cause a heel
19 angle, and that would further diminish the righting energy even
20 lower than we show with our analysis.

21 Next page please.

22 Just a summary of my conclusions. Number one, we found
23 significant differences between documentation of drawings and the
24 provided stability model. Number two, we identified differences
25 in our calculation of the light ship characteristics and the

1 provided ones, and we had little confidence in those 2019 results.
2 To address the low confidence, we used a high and a low range for
3 light ship weights in our analysis. Number three, in doing that,
4 we found that many of the sample loading conditions failed
5 regulatory stability criteria. Number four, the estimated loading
6 during the accident voyage apparently did not meet regulatory
7 stability requirements regardless of the model or the light ship
8 weight used. And number five, actual icing likely differed in
9 magnitude and symmetry from that prescribed by the regulations.

10 And that's the conclusion of my presentation. I'll be happy
11 to answer your questions.

12 Q. We thank you, Mr. Lawrence. Just a few follow-up questions
13 directly with your presentation. For clarity, you said the
14 provided model in your presentation. Did you receive that digital
15 file from Mr. Bruce Culver from the -- or NOAA? It's the file
16 that Mr. Culver was using to develop his stability report in 2019?

17 A. Yeah, I believe it is. It does not have any written
18 information in it that would suggest that it was his model, but it
19 was provided to me by Lieutenant Ready of MSC Kodiak.

20 Q. And you mentioned during the presentation, and forgive me if
21 I misstate this, but considering downflooding points, you found
22 that they would occur at approximately 30 degrees; was that
23 correct?

24 A. That's correct.

25 Q. Okay. Is that typical for a vessel or meet the requirements

1 for a vessel for downflooding?

2 A. Normally, I think the regulations expect downflooding to
3 occur after 30 degrees. Many of the stability civilian
4 regulations reference the energy requirements between 30 degrees
5 and 40 degrees for flooding, so it's clear from the regulations
6 that they anticipate the downflooding occurred somewhere after 30
7 degrees.

8 Q. And then just two numbers I heard from the presentation, and
9 I just want to make sure I heard them right. You said that the
10 windage of the vessel was approximately 25 percent less in the
11 provided models versus MSC's analysis?

12 A. That's correct.

13 Q. And the icing weights were approximately found to be 25
14 percent greater under your MSC model?

15 A. That's correct.

16 Q. Thank you. I'm going to step back for a minute. I would
17 like -- Lieutenant McPhillips, could you bring up Exhibit 062,
18 page 31, please? Mr. Lawrence, this is the -- from Appendix C of
19 the final MSC technical analysis of the *Scandies Rose* stability,
20 and the page shown I believe is righting arm plot for the large
21 pot analysis you conducted.

22 For this next question, for the benefit of the public, if you
23 would like us to move to a different page of any of your reports,
24 please let us know, and we can display for you. But I'd like to
25 start here. Could you take a moment to just give us a basic

1 rundown of stability, maybe to include what righting arms tell you
2 about a vessel's stability?

3 A. It can get pretty technical. When a boat is floating
4 upright, the center of buoyancy and the center of gravity are in
5 line, and we call that in equilibrium condition. At the center of
6 gravity is the point where all the weight -- the average weight of
7 the ship acts, so that includes light ship weight, items that the
8 vessel might be carrying, liquid loads. And if that cargo is
9 secured and the tanks are not slack, then that center of gravity
10 remains fixed in its location on the vessel. It's normally on the
11 centerline, and it stays in place after the boat heels.

12 The center of buoyancy is the geometric center of displaced
13 water volume. So if you were to pull the boat from the water and
14 the water remained in place, the center of buoyancy would be that
15 center of volume that the boat is essentially pushing out of the
16 way. So the difference between the center of gravity and the
17 center buoyancy, the center of buoyancy actually does shift
18 relative to its location on the boat, as the -- as the boat heels
19 over, because you can imagine, if the boat is heeling over the
20 starboard, more of the starboard side is now underwater, and the
21 center of buoyancy shifts to the starboard side.

22 The righting arm relates the center of gravity and the center
23 of buoyancy to each other. The bigger the distance is, you know,
24 those -- you want those to be vertically in alignment, to be at
25 equilibrium, but as those shift away from alignment, the bigger

1 that distance is between the center of buoyancy and the center of
2 gravity, the more the vessel wants to go back -- the harder it is
3 pushing to go back toward equilibrium. If it's only a very small
4 amount of distance between center of gravity and center of
5 buoyancy, then it's -- its only pushing back a little bit and
6 that, that distance between center of buoyancy and center of
7 gravity is the righting arm.

8 It's kind of equivalent to using like a cheater bar if you
9 were undoing a nut on a stuck bolt. You know, you would use a
10 longer pry bar to get more leverage on that. So the longer pry
11 bar would be representative of a bigger righting arm, whereas if
12 you gripped your cheater bar really close to where your socket is,
13 you're not going to get very much -- you don't have very much of a
14 lever arm there, so your righting arm would be really small.

15 And that's basically a description of righting arms. It's a
16 hard concept to understand because it's something measured in
17 feet, but it represents, it represents the energy that the vessel
18 has to come back upright.

19 Q. All right. Thank you. Lieutenant McPhillips could you
20 display Exhibit 059, page 9 please? All right, Mr. Lawrence, when
21 this comes up, it's a -- this is from your technical report and
22 will be -- page 9 shows an overlay of some ships drawings with the
23 whole form of the *Scandies Rose*. Could you just briefly describe
24 what's being shown in that diagram, the picture?

25 A. Sure. Like I described in my presentation, this is our

1 attempt at defining early reserve buoyant volumes of the poop deck
2 and the fo'c'sle deck. Shown here is the lines plan of the
3 vessel, which is typically used to develop the stability model,
4 the hydrostatic model, and is usually used to represent, you know,
5 a 3D representation of buoyant volume of the vessel.

6 You can see here, when compared to the picture, the lines
7 plan doesn't quite match, especially on the transom area where the
8 picture shows some (indiscernible) it shows the transom inclined
9 at an angle where the lines plan, highlighted in yellow, does not.
10 And the bigger volume piece that's different is the forward end of
11 the poop deck, that's the middle arrow, is much further forward on
12 the lines plan than it is in the picture. And, you know, the
13 third piece is the fo'c'sle, the height and the length apparently
14 different.

15 Q. Lieutenant McPhillips, can you go to the next page, page 10
16 of the technical report please? Mr. Lawrence, same thing. Just a
17 quick description of what this is showing.

18 A. This is a structural profile plan of *Scandies Rose*, and in
19 this picture, in the structural profile plan, you can see the
20 transom does match the picture of *Scandies Rose*. However, that
21 volume forward of the poop is still, still there. The wheelhouse
22 looks very different as well over that right block. And the
23 fo'c'sle is still a different height from the picture, and it's
24 hard to tell where the aft end of the fo'c'sle ends on the
25 structural plan compared to the picture.

1 Q. Just in general terms, Mr. Lawrence, if you were building the
2 model for this vessel and you saw these two plans -- and what I'm
3 seeing is that they have misalignments with the whole form of the
4 vessel in different ways, like the two plans have different
5 separations from what we see -- what would be the prudent next
6 step for a naval architect to resolve these for the model?

7 A. I think --

8 Q. Let me rephrase.

9 A. -- normally, building a stability -- okay.

10 Q. Let me rephrase. Like from your perspective as a naval
11 architect and your experiences, what would you take the next
12 steps?

13 A. Normally, when building a stability model, the naval
14 architect is only referencing the lines plan. When a lines plan
15 doesn't have enough definition, other plans are frequently
16 referenced. As part of a forensic stability analysis, we spent a
17 lot of time reviewing pictures of *Scandies Rose* to really make
18 sure that the drawings were, were correct.

19 But I don't think, from the lines plan as it was, it would be
20 readily apparent that there were mistakes. And you don't normally
21 transpose a picture of the vessel on the lines plan. And if a
22 third party was doing the lines plan separate from a naval
23 architect, I'm not sure that you would detect a difference at
24 first, unless you came across something like -- that wasn't
25 matching.

1 In the case of *Scandies Rose*, I think, you know, carrying
2 crab pots is important to the function of the vessel, and having
3 the main deck area correctly modeled for the number of crab pots
4 carried is certainly a very important part of its function. So
5 knowing that main deck dimension, that's probably where you would
6 first detect an issue when looking at this plan is that the main
7 deck dimension is much different than as shown in the plan.

8 Q. Lieutenant McPhillips, could you go to page 16 of this
9 report? When we get there, Mr. Lawrence, this is just from what I
10 read a little bit of information about resolving tank modeling.
11 Just briefly could you talk about what your findings here were?

12 A. So similar to using lines plan and the structural plan to
13 find buoyant volume, also using those plans to define tank
14 capacities. Tank extents usually, usually go from one frame to
15 another, so, so we can usually figure out, you know, this tank
16 extends from Frame 5 to Frame 13 or something, something of that
17 nature.

18 So using a tank capacity plan for *Scandies Rose* and mostly
19 the structural plan but some of the lines plan as well and like
20 the profile viewed and plan views, we were able to model the tank
21 volumes on *Scandies Rose*. But then there were still some
22 discrepancies between our model and the provided tank capacity
23 plan. To do that, we -- to rectify that, we, we changed the
24 permeabilities of our tanks. So we essentially changed how much
25 our tanks could hold to match the capacity plan.

1 So the tendency in MSC, permeability set to match capacity
2 plan column, that is where we changed it. And those could be
3 represented as a percent. So light, for the number one hold, our
4 permeability is about 86 percent, 85.9 percent. And for the holds
5 with lots of insulation on them, that, that's not an alarming
6 value for permeability. For some of the other tanks, the
7 permeabilities there are pretty significantly -- you ideally want
8 this to be close to 100 percent to one that you can see -- like in
9 the hydraulic oil tanks, which are very small tanks, our
10 permeabilities had to be set at about 50 percent.

11 So we were quite a bit wrong in our, our assumptions for what
12 side those were when building the model. But we set them to match
13 the capacity plan because the reasoning -- the engineering
14 reasoning behind that is because we wanted to match what the crew
15 would have observed in the tanks. And the thought was that the
16 capacity plan with a lot of handwritten notes and things on it had
17 the correct capacities. That was our assumption.

18 Q. And just for the -- like when you're saying permeabilities,
19 like one or two sentences, could you just summarize that?

20 A. So permeability is the amount of volume that's available to
21 fill up for the liquid. So if it was 100 percent, you would have
22 100 percent of that tank volume to fill up with a liquid. If it's
23 50 percent, only half of the tank can be filled with liquid before
24 it's full. So there is stuff inside the tank, like framing and
25 items like that inside the tank that -- insulation and framing

1 mostly that would prevent the tank from being full to, you know,
2 its 100 percent capacity. So the permeability takes into account
3 those things that take up space inside.

4 Q. And we can put this exhibit down, Lieutenant McPhillips. For
5 the downflooding points, could you briefly discuss what
6 downflooding points on the *Scandies Rose* you potentially
7 identified? And if you'd like a photo, we could bring up a side
8 profile of the vessel. Just let us know what would be helpful.

9 A. If you could bring up page 21 of my report, I think that's
10 the only real photo I know that has the -- a picture of the
11 downflooding points as -- what we assumed as downflooding points.
12 It will be page 21 of the main report.

13 Q. Lieutenant McPhillips, I think it will be Exhibit 059.

14 A. So the structural plans refer to engine room vents being in
15 this location on the -- behind the pilothouse stairs. So this is
16 on the poop deck level, and on the outboard side but behind the
17 pilothouse stairs, it refers to engine room vents. So to operate
18 engines, you need fresh air, and this would be where the
19 structural plans say that the *Scandies Rose* got fresh air for the
20 engine room. And these would be considered downflooding points.
21 These were the only ones that we identified. We did find a tank
22 vent plan, and it indicated that all of the tank vents had check
23 valves that could not be -- you know, where downflooding would not
24 occur because the check valve would, would stop it.

25 Q. And, Lieutenant McPhillips, can you actually go to the bottom

1 of the next page, please? So this is page 22 to your technical
2 report. You have a foot note at the bottom about the GHS version,
3 General Hydrostatics version. Could you explain what this is
4 referencing please?

5 A. So GHS is the hydrostatic software used to model and to
6 perform the analysis, and we noted that the information provided
7 to us was all in GHS version 6. And I confirmed with the creator
8 of GHS that the version 6 was from 1995. We are using version 17
9 at this point, which I know is the most current version. I put
10 this footnote in because I wanted to be -- I wanted to make the
11 reader aware that, you know, there's a potential of software
12 differences between, you know, 25 years of development of a
13 software.

14 Q. Thank you. Lieutenant McPhillips, could you turn to page 35
15 of the report? So, Mr. Lawrence, on this page, it just discusses
16 standards for the stability test in 1988, and I think you also
17 discuss in your report the later stability test, but could you
18 just discuss some of the items that you identified about the way
19 the stability tests -- 1988, 2019 both -- how they were conducted?

20 A. I can. So these are referencing that ASTM manual, ASTM
21 guidance for performing a stability test on a ship. Again, it's
22 not required by the regulations. It is recommended. But it
23 provides guidance for, for essentially how to conduct the
24 stability test and eliminate the amount of error that you get in
25 doing that test.

1 So I identified areas where the stability test notes
2 indicated that the ASTM guide was not conformed to even though it
3 wasn't required. So those areas I listed here were, when
4 developing a water plan, only two freeboards and two draft
5 readings were noted, and the ASTM guide recommends five.

6 So longitudinal locational reading isn't noted here, but some
7 major reference features of a vessel could be inferred because
8 they are just noted as extreme aft, aft-most part of main deck,
9 and then at the draft mark locations. But as we discussed before
10 there, the aft-most part of the main deck is somewhat in question
11 if the lines plan differs from the pictures, differs from reality.
12 So by not noting the longitudinal location, there's a potential
13 for error there.

14 The freeboards do not note inclusion of combing heights or
15 depth thickness. Normally, you're using molded volume during a
16 stability test, which is the volume to the inside of the hull --
17 of the steel hull. So normally, you deduct those things like the
18 combing and the thickness of the deck. And it's not apparent
19 whether freeboards are reported on both sides of the vessel as
20 they are supposed -- you know, ASTM recommends doing that. And
21 that's just another way to prevent error as you're essentially
22 doing double check of your freeboards you are also recording. By
23 not doing both sides of the vessel, it precludes you from
24 recording the TCG of the vessel as well, the transverse center of
25 gravity. So it has -- essentially has to be assumed at the center

1 line.

2 And then, although draft marks may be a substitute, but
3 freeboards exact location of the mark should be verified in dry
4 dock is a recommendation of ASTM. I don't know if this was, was
5 recorded or not, but essentially, I could not verify that because,
6 you know, the vessel is not present. And freeboard and draft
7 readings do not appear to meet the recommended precision that
8 would have been an eighth of an inch. So they recommend that you
9 read your tape measure for that precision.

10 So those were the items I noticed in the 1988 stability test,
11 I believe this one is. And that's for the lightweight portion of
12 the stability test.

13 Q. In general terms, because your report clears it, but were
14 there similar comments or observations for the 2019 stability
15 test?

16 A. I believe there's different comments for the 2019 stability
17 test.

18 Q. Okay. We may circle around that, but in the interest of
19 time, I'd like to move on to the next part of questioning.

20 Lieutenant McPhillips, could you go to page 1 of Exhibit 36? When
21 the exhibit comes up, this will be the stability booklet provided
22 for the 2019 stability test. And while it's coming up, my first
23 question is, in any of those ASTM standards or other references
24 for conducting a stability test, is there any guidance or
25 recommendations of conducting a stability test before or after a

1 scheduled dry dock?

2 A. No, I don't believe dry docks are referenced at all.

3 Q. And in that sense, for clarification, would your personal
4 experience -- would it be more prudent to conduct the stability
5 test before or after a dry dock period?

6 A. There are no regulatory requirements for periodic stability
7 testing on commercial fishing vessels.

8 Q. Understood. Lieutenant McPhillips, can you zoom in a little
9 bit more? Mr. Lawrence, could you quickly read -- for the benefit
10 of the audience, read sentences number two, three and four of that
11 cover letter to the stability booklet, please?

12 A. I'm starting on sentence two. It can carry pots up to the
13 pilothouse windows as discussed without much difficulty. The
14 light ship weight was a bit heavier than I expected. There may
15 have been something in the holds that we missed, or it may have
16 gained some weight over the years. The tankage is a little
17 different between this boat and the *Patricia Lee*, and some things
18 may be done differently than when I first did this.

19 Q. And I'll read the last sentence. If you see anything that
20 should be changed, let me know and I'll revise it at no charge.
21 In general, Mr. Lawrence, would any of these comments kind of
22 raise their concern one way or another?

23 A. (No audible response.)

24 Q. And maybe I should rephrase it this way, Mr. Lawrence.

25 Earlier, you said that resolving models, if you saw a difference

1 in the deck area that related -- you would be reviewing the models
2 and maybe trying to resolve. And then just these seem to indicate
3 some differences in what Mr. Culver had done previously in this
4 new stability letter. So that's the base of the question. Would
5 that be something that would be of interest to you when conducting
6 the stability analysis for the *Scandies Rose*?

7 A. Yeah. I think this speaks to the, the weight growth that we
8 observed as well between 1988 and 2019. It's very, kind of -- in
9 precise language, I would say that the weight load certainly would
10 concern me as well. But, you know, performing a stability test,
11 you know, to the recommendation of the ASTM guide would ensure
12 that you properly survey every space on the vessel and note which
13 components belong to the light ship weight or not. So the fact
14 that there may have been something in the holds that was missed,
15 that is concerning. I think that that speaks to not fully
16 complying the ASTM guidance for doing the dead weight survey
17 portion of the test.

18 Q. And I'm going to be here. You said earlier the ASTM
19 standards while, in my own words, may be prudent, they are not
20 required for these types of vessels, correct?

21 A. That's correct. The regulations refer to them as a
22 recommendation.

23 Q. Okay. Thank you. This stability booklet was provided to you
24 previously. Are you familiar with the 2019 stability booklet?

25 A. Yes.

1 Q. In 46 C.F.R. Part 28, they have stability instruction
2 guidance, or worded as guidance, and they list some items that may
3 be in the stability booklet. From your memory, I'm going to go
4 through a couple items, and I'd like to know if you recall seeing
5 them in the stability booklet. So real quick, just yes or no, did
6 you recall seeing a simple loading diagram with instructions?

7 A. No.

8 Q. Do you recall a stability booklet with sample calculations?

9 A. Yes.

10 Q. Do you recall a general description of the vessel including
11 light weight data?

12 A. No.

13 Q. And how about a general arrangement plan showing watertight
14 compartments, enclosures, vents, downflooding angles, and
15 allowable weights?

16 A. None of those prior to the stability book, no.

17 Q. And then the last one, loading restrictions such as diagrams,
18 tables, descriptions, or maximum KG curves?

19 A. Yes.

20 Q. Thank you. And from your -- sorry. I want to word this
21 right. From your memory of the Code of Federal Regulations, these
22 are written more as guidelines for fishing vessels; is that a
23 correct statement?

24 A. Can you rephrase that, please? What are you referring to,
25 the regulation?

1 Q. Yeah. Hold on one second.

2 A. I have (indiscernible) here as well

3 Q. Right. I was going to have it pulled up, but I just wanted
4 to get the right page number for you.

5 A. I believe you're referring to 46 C.F.R. 28.500 stability
6 instructions.

7 Q. Yes. Lieutenant McPhillips, if you could pull up 040, I
8 believe it's page 45. And you have them in front of you,
9 Mr. Lawrence. If you are able to kind of summarize if it's a
10 requirement or guideline from your interpretation, that would be
11 appreciated. Namely the parts covered in 28.530, subparagraphs
12 (d) and (e).

13 A. About the last sentence of paragraph (d) is: The format of
14 the stability instructions may include, at the owner's discretion,
15 any of the following. And those are the items they listed. So I
16 believe the word "may" indicates that it's a, it's a suggestion,
17 not a requirement.

18 Q. Okay. Thank you. Lieutenant McPhillips, you can pull that
19 exhibit down.

20 And then this last line of questions is just about the ROV
21 footage and from the perspective of your duties as the technical
22 advisor to the salvage engineering response team. Lieutenant
23 McPhillips, could you bring up Exhibit CG009, the second day of
24 ROV footage, and start the video at three minutes and 28 seconds?
25 And in this video, you're seeing that aft section of the *Scandies*

1 Rose.

2 All right, Lieutenant McPhillips, that's good.

3 And, Mr. Lawrence, this is another screenshot of the ROV
4 footage at minute 9:47 on the second day, showing the stack. And
5 taking the video you just saw and this image, I would be
6 interested to hear your perspective on how the *Scandies Rose* may
7 have made contact with the sea floor when it sank, the orientation
8 of the *Scandies Rose* based on your experiences.

9 A. This wasn't really the subject of my, my review of *Scandies*
10 *Rose*, but judging from the pictures, it appears that it impacted
11 on the starboard quarter. It may have been in a capsized
12 condition where the stack may have hit first. To me, my
13 experience as a salvager, the damage occurred probably from
14 hitting the bottom or from waves hitting the vessel. I don't
15 believe this would have happened before stability was compromised
16 or the vessel sank. So I would think the stern first sinking on
17 the starboard side is indicated here.

18 Q. Thank you very much for your testimony, Mr. Lawrence.

19 LCDR COMERFORD: Captain Callaghan, that is the questions I
20 have for now.

21 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

22 BY CAPT CALLAGHAN:

23 Q. Mr. Lawrence, I have one quick question, and then I'm going
24 to pass over to the National Transportation Safety Board here.

25 Sir, at any time during your review, did you note the calculations

1 that were submitted in the two stability reports that you
2 reviewed, did you ever note that any of those calculations were
3 done with consideration of placement of additional sorting table
4 on top of the pots?

5 A. No. No calculations include that.

6 Q. How would that affect the vessel stability or the
7 calculations?

8 A. It would be additional weight, and the center of gravity
9 would be exceptionally high. So it would affect stability. The
10 extent to which I don't know.

11 Q. Thank you.

12 CAPT CALLAGHAN: At this time, I'm going to turn it over to
13 my colleague Mr. Bart Barnum with the National Transportation
14 Safety Board.

15 MR. BARNUM: Thank you, Captain.

16 BY MR. BARNUM:

17 Q. And thank you very much, Mr. Lawrence. A very in-depth
18 report, and your presentation summarized it well for myself and
19 I'm sure the public, so thank you very much.

20 I do have just a couple follow-ups from Commander Comerford,
21 his very thorough questioning, so please bear with me. First
22 question I have is from the conclusion for your report, so that
23 would be Exhibit 59, Lieutenant McPhillips, please, page 92. All
24 right, Mr. Lawrence, so this was in your overview of your
25 presentation as well. I was wondering if you could refresh the

1 conclusion number 4, please.

2 A. MSC's analysis indicated that the estimated casualty voyage
3 conditions, while nearly meeting all of reference (c)'s stability
4 instructions, failed to meet regulatory stability requirements;
5 this is the case for all combinations of hydrostatics modeling and
6 light ship weight characteristics.

7 Q. Excellent, yeah. Thank you for that. So I just want to
8 hammer down on this and get some clarification. So I remember in
9 your presentation you said it nearly met it. You know, did it
10 meet -- did it nearly meet it without the included calculation,
11 margin calculation for icing; are you aware?

12 A. It met the stability instructions when icing is not
13 considered. So in port, before departing, when no ice is present,
14 it would appear to meet all stability instructions. However, when
15 ice is added later, it does -- it narrowly fails those stability
16 instructions by about two inches on the freeboard requirement.

17 Q. Understood. So if the vessel was not operating in northern
18 zone where icing is calculated into the stability instructions, it
19 would have passed the accident voyage loaded conditions?

20 A. Yes, that's -- that's correct. And when the crew can verify
21 drafts in port before icing is present, it would have seemed that
22 it had more than six inches of freeboard.

23 Q. Okay. All right. Do you have a sense of, you know, how -- I
24 guess the -- we are under the impression, I think you stated
25 earlier, the vessel was in condition to -- with 195 crab pots on

1 board through the number two hold is full, number one hold empty,
2 number one fuel tank is empty, and then the rest of the fuel tanks
3 full. Do you have a sense of -- and here you indicate that it
4 fails stability, or it did not meet the condition. Do you have a
5 sense on how many pots could have been taken off from that 195 in
6 order to meet stability?

7 A. That wasn't part of the scope of my review --

8 Q. Sure.

9 A. -- to determine at what point it would have passed stability.
10 But there are some other sample weighting conditions that come
11 pretty close to what I think you're asking. So if you, if you
12 were to look at, I think it's Condition 6 of the 2019 --

13 Q. Okay. Can we bring that up? Just a second. That's Exhibit
14 36, Lieutenant. Is it Mr. Culver's condition or is it the
15 condition you have in your report, sir?

16 A. It's Mr. Culver's condition, but I evaluate it in my report.

17 Q. Sure. So Condition 6, Lieutenant, is on page 11.

18 A. So Condition 6, the loading condition is maximum consumables
19 in a tendering condition with all of the holds full. So that's
20 similar to the question you're asking, so -- but without any
21 weight high. So in that condition, the displacement is as close
22 as well, but the vessel fails regulatory stability in that
23 condition without a high weight. So I would, I would say that,
24 you know, it's more of the displacement weight of the vessel
25 that's causing it to fail rather than -- of course, it's a

1 combination of weight and center of gravity, but I don't think
2 that the weight and center of gravity of pots is necessarily
3 what's causing, what's causing failure. It's the displacement of
4 the vessel itself is too much.

5 It doesn't have enough reserve buoyancy, and that seems to be
6 like the righting arm curves are indicating by having low righting
7 energy. The GM, which is a measure of initial stability, would
8 normally be the indicator that your center of gravity is too high.
9 And in this case, the GM almost always passes for *Scandies Rose*.
10 It has -- initial stability is good, and that is basically what
11 the crew uses to feel stability, you know, because GM is really
12 related to rolling period of the vessel. So it can be felt by the
13 crew, and it would feel stable because the GM is acceptable or
14 passes the regulatory stability criteria for GM.

15 But it fails righting energy, which is what happens after
16 that initial stability fades. So once the vessel heels beyond
17 five to ten degrees, GM is no longer kind of the governing
18 stability. It's righting energy; how much energy does it have to
19 get back upright? And it has very low righting energy in almost
20 all conditions, regardless of whether pots are carried or not.

21 Q. Okay. Understood. And just to make sure I understand you
22 correctly, I guess, so in a tendering condition, potential
23 tendering situation with no pots on board, with the holds full,
24 the fuel full, it still fails stability?

25 A. Correct. Right. And that would presumably be the best

1 case --

2 Q. Correct.

3 A. -- loading condition for BCG, where the BCG is the lowest.
4 It has the most liquid weight and the least above deck weight, and
5 it still fails righting energy. So to me, that indicates that,
6 you know, the BCG isn't, isn't necessarily what's driving the
7 failure here.

8 Q. So in your experience, what would this vessel have to do in
9 order to meet stability, if something can be done?

10 A. To meet stability, it needs to carry less weight. So less
11 fuel or, you know, less holds full or some combination thereof.

12 Q. Okay. Thank you for that. And jumping back to the Exhibit
13 59, please, Lieutenant, page 94. Mr. Lawrence, I'll show you
14 Conclusion 5 here. If you could just briefly describe that one
15 and kind of the -- in your words please or you can read it?

16 A. So this has to do with asymmetry of actual icing. The
17 regulations require the naval architect to ice all surfaces of the
18 vessel, so that results in just adding, adding asymmetric weight
19 to the vessel, so it just sinks a little heavier in the water. It
20 doesn't heel over from icing in the regulatory requirement. In
21 actuality, we know that icing is a function of heading of the
22 vessel, wind speed, and other items that affect it asymmetrically.

23 And the danger with asymmetric icing is that it's having a
24 weight that's off-center, and off-center weight diminishes your
25 righting energy further than what I've shown in analysis where you

1 start from an upright condition. When you add an off-center
2 weight, it contracts the righting arm, curves toward the origin.
3 It's called a co-sin correction. It actually brings the magnitude
4 down and brings the range down, so it doubly negatively affects
5 righting, righting arms.

6 Q. Great. Thank you for that. Okay. Lieutenant, you can take
7 that exhibit down, thanks. All right. So just a couple more
8 broad questions for you, sir. Obviously, your analysis of that
9 *Scandies Rose* stability instructions contain many errors. It
10 failed virtually every loading condition that you looked at. Is
11 this typical for stability plan reviews of fishing vessels that
12 the MSC conducts?

13 A. So MSC is not required to conduct stability analysis, and the
14 only way that we see the stability analysis for fishing vessels is
15 through like the ACSA program where we are reviewing it on behalf
16 of the Officer in Charge of Marine Inspection. So we, we don't
17 have authority over fishing vessels to where they are even -- we
18 don't see them. When we do see them, it's because of a casualty
19 investigation like this. So I can't really comment on what would
20 be normal because we don't, we don't have that data.

21 Q. Okay. Yeah, understood. These type of uninspected
22 commercial fishing vessels that are not part of ACSA program that
23 are not load lined, they are not required to be reviewed by you,
24 and the only thing that prompts a review of those vessels by the
25 MSC is a -- something similar to this, the casualty. Is there any

1 other time where you may see or conduct a stability plan review on
2 one of these vessels that isn't a result of casualty?

3 A. We do oversight of authorized conservation societies like
4 ABS. And they do some work on behalf of the Coast Guard like
5 issuing load lines. So for newer fishing vessels for which load
6 line criteria applies, there may be instances where we do some
7 oversight of stability for fishing vessels.

8 Q. Okay. It's fair to say that very few per year are conducted
9 if non-casualty, non-casualty vessels in this class that are not
10 inspected, non-ACSA or non-ABS load lines?

11 A. Correct.

12 Q. Okay. All right. So just in general, then, I don't want to
13 beat this -- beat the horse too bad here, but, you know, not
14 considering uninspected commercial fishing vessels, if this vessel
15 had a load line, and it was required, and there was the potential
16 that it -- you know, through your oversight of ABS that you may
17 see this come across your desk or others similar to it, would this
18 one be alarming or have you seen others that have failed your
19 analysis this badly?

20 A. So performing oversight of ABS, we would expect, you know, a
21 level of review to already have been conducted by ABS. So I
22 think, from an oversight perspective, seeing something like this
23 would be very alarming. However, doing plan review, you know, I'm
24 having to go back 10-plus years here to when I was a plan reviewer
25 for small passenger vessels, but we frequently did encounter

1 vessels that had issues in their initial analysis, and we would
2 work with the naval architect to correct those deficiencies. So
3 I'm not sure if that answers your question.

4 Q. Yes, sure. No, it's good. Thank you very much. We were
5 talking -- Commander Comerford was talking about recency of
6 stability instructions earlier. In your experience with -- you
7 mentioned small passenger vessels and other, you know, fleets that
8 were required to have stability instructions, is there any recency
9 within those fields for -- to have a more recent stability
10 instruction?

11 A. No, there's no periodic stability testing requirements that I
12 know of. I think there may be some coming into play with
13 Subchapter M for towing vessels, but they have a much different
14 regulatory scheme, and I'm not 100 percent familiar what those are
15 for periodic stability testing.

16 Q. Okay. Just one last kind of line right now, line of
17 questions here for you, sir. Yesterday, we spoke to four separate
18 PE naval arcs that have done a lot of work in this field, and they
19 all, they all expressed that the regulations were not very
20 conservative -- were not conservative enough when pertaining to
21 icing, in particular icing on crab pots. Have you heard these
22 sentiments before from the industry or from within your office?

23 A. Yes. I -- yeah. I think most naval architects are very
24 unsatisfied with what the regulations say about icing, especially
25 on crab pots. We are still making assumptions that crab pot icing

1 affects them as a surface, but I don't think crab pots really
2 represent a surface. So in the regulatory sense, if you're
3 required to put ice on a surface, I'm not sure that we are even
4 doing it correctly from what is envisioned in the regulations
5 because it's not a surface. It's a mesh kind of thing, tubes
6 deal.

7 Q. Understood. Yeah, that seemed to echo their sentiment as
8 well. You know, in your professional opinion, how would you feel
9 -- what would you like to see that could better -- that could help
10 you better do your job in assessing ice accumulation on these crab
11 pots?

12 A. I don't generally review icing on crab pots.

13 Q. Are you aware of any studies that have been ongoing or maybe
14 currently that are looking into -- whether it be a Coast Guard or
15 another organization looking into icing accumulation effects on
16 these crab pots?

17 A. I would say, out of this investigation, no.

18 Q. That's great.

19 MR. BARNUM: That's the last question I had for you, sir.
20 Thank you for you work on this. It's been very helpful for myself
21 and for our investigations. Thank you.

22 THE WITNESS: Thank you.

23 CAPT CALLAGHAN: Thank you, Mr. Barnum.

24 At this time, I'm going to pass the questions over to some
25 parties in interest.

1 So, Mr. Stacey, any questions from you, sir?

2 MR. STACEY: Good morning, everyone.

3 BY MR. STACEY:

4 Q. Good morning, Mr. Lawrence. Very, very briefly, I'd like to
5 talk to you a little bit, Mr. Lawrence, about the ROV video that
6 you looked at with Lieutenant Commander Comerford at the very end
7 there. And did I hear correctly that, based off that, you believe
8 the vessel went down stern first?

9 A. That's what it appears from -- what impacted first, yes. It
10 seems to have gone through the water column stern first.

11 Q. And was it your opinion that this damage that was done was
12 done after stability had been compromised aboard *Scandies Rose*?

13 A. Based on my salvage experience, yes, that's what it seems
14 consistent with.

15 Q. And with that, with your salvage experience, would that be
16 consistent with damage done from hitting the ocean floor?

17 A. Yes, I believe so.

18 Q. And do you have any position or opinion about how quickly the
19 vessel would have had to go down in order to result in that kind
20 of damage?

21 A. No. That was outside the scope of my review to determine the
22 velocity at which it would have been traveling through the water
23 column.

24 Q. Understood. Thank you, Mr. Lawrence.

25 MR. STACEY: Captain, those are all the questions I have.

1 CAPT CALLAGHAN: Thank you, Mr. Stacey.

2 And I'll now pass it over to Mr. Barcott. Any questions from
3 you, sir?

4 MR. BARCOTT: Yes. Thank you, Captain. Can everyone hear me
5 all right?

6 CAPT CALLAGHAN: Yes.

7 BY MR. BARCOTT:

8 Q. Mr. Lawrence, can you hear me?

9 A. I can hear you.

10 Q. Great. So, Mr. Lawrence, I'm Mike Barcott. I represent the
11 owners of the *Scandies Rose*. So thank you so much for the work
12 you have done here. It's very helpful. How long did that work
13 take? How long did it take for you to do what you did?

14 A. I don't have the number of hours that it took, but it
15 occurred over the period of probably nine months of work, so I
16 forget the amount of times.

17 Q. And you said this was a forensic analysis; there was an
18 accident, and you were looking to see what role the stability
19 study may have played?

20 A. That's correct.

21 Q. Okay. In the conclusions you have come to, would you expect
22 an owner or operator to look at the stability booklet prepared in
23 2019 by Mr. Culver and appreciate the problems that you have found
24 in that data?

25 A. I don't know what an owner would be looking for in the

1 stability book. I know that they work with the naval architect to
2 develop the criteria, to develop the things they want in loading
3 condition. If it did vary from what the owner wanted as a loading
4 condition, I would, I would expect them to disagree with them.
5 But in terms of the analysis itself, I wouldn't expect a normal
6 vessel owner to be able to look at that analysis and say that it
7 was correct or not.

8 Q. All right. And you looked at the computer models that
9 Mr. Culver used, and you had some line exhibits showing how his
10 lines didn't match the real lines of the *Scandies Rose*. Would you
11 expect an operator of a vessel to do an analysis of the computer
12 modeling that gave rise to the stability study?

13 A. No. An operator wouldn't have access to that stability
14 model.

15 Q. Right. Let me talk about downflooding for just a minute. I
16 want to be sure I understand. If this vessel is heeled over 45
17 degrees to the starboard, is there downflooding? And can you
18 explain so that the public understands what that means, we're
19 heeled over 45 degrees starboard?

20 A. Downflooding is also dependent on the starting draft of the
21 vessel. So if it, if it were to start at a draft of 13 feet,
22 which is about where a similar vessel load line would be, then
23 heeling over 45 degrees would submerge the starboard engine room
24 vent. And that's an important marker for stability analysis
25 because, as I mentioned, we need righting arm curves to evaluate

1 the stability of a vessel.

2 But righting arm curves are only applicable at one
3 displacement of the vessel, so as soon as the vessel gains some
4 weight, the righting arm curve is no longer applicable. So
5 really, you should truncate your righting arm curves right at the
6 downflooding point. So downflooding is just what it sounds like.
7 If the vessel were heeled 45 degrees, water would be pouring
8 through that vent and flooding the engine room.

9 Q. So we heard testimony yesterday, Captain referenced it, from
10 Mr. Lawler, and although he didn't have details, he felt sure that
11 there must have been water in this vessel when she sank. So if it
12 was watertight but heeled over 45 degrees because of icing, would
13 she be getting water in her engine room at that point, pouring
14 into the engine room?

15 A. Yes. Downflooding points are points that are not weather or
16 watertight.

17 Q. Okay. So can you tell us -- I mean, this boat fished for
18 years from the 1988 starting onward, it fished, it didn't have a
19 problem. How is it, with all of these errors in the stability
20 study, that it didn't flip 20 years ago?

21 A. I can't speak to how the vessel was operated in the past.
22 All I can speak to is what the sample loading conditions were and
23 what the accident voyage loading condition was as provided to me.

24 Q. Are there margins of safety built into the stability
25 criterion? And by that I mean, if an owner is told he can carry

1 208 pots, and he puts 208 pots and the sorting table on top of the
2 crab pots, would you expect that to cause the vessel to flip?

3 A. Can you rephrase that about the -- regarding the margins and
4 the stability?

5 Q. Yeah. I guess what I'm saying is, if the owner is provided
6 instructions, these are acceptable operating conditions, but does
7 mean that when you cross the operating condition even slightly
8 that your boat is unsafe, it's going to capsize if you cross those
9 slightly, or are there margins of safety built into the regulatory
10 requirements?

11 A. It depends. If the naval architect has put the, you know,
12 loading condition exactly at the exact limit of the regulatory
13 criteria, and if you add something, it would clearly not meet the
14 regulatory criteria. There are margins of safety built in for the
15 regulation that would prevent the vessel from -- you know, just
16 by, just by crossing the regulatory threshold is not an indicator
17 that the vessel will immediately capsize, no.

18 Q. That's exactly what I was getting at. Thank you. I'm just
19 curious about -- I want to go to the GHS model 6, and GHS model
20 17. So as I understand it, in 2020, there's a GHS model 17, but
21 for Mr. Culver's study, he used a GHS model 6. Do you know if you
22 can even run the GHS model 6 on a modern computer?

23 A. I was told by the manufacturer that it does not run on the
24 newest versions of Windows, no.

25 Q. Just one moment. You have looked at this stability booklet,

1 and do you -- what do you understand Mr. Culver advised the owners
2 of the *Scandies Rose* the number of crab pots that this boat could
3 carry in icing conditions?

4 A. I believe he said, in icing or non-icing conditions, it could
5 carry 208 pots in the maximum condition.

6 Q. And you've used the number 195 pots. Where did you get that
7 number please?

8 A. That was provided by the Marine Board as to the loading
9 condition that they wanted me to analyze for the casualty
10 condition.

11 Q. So if it was 195 pots or 192 pots, as far as being in
12 compliance with the letter that Mr. Culver produced or created,
13 this vessel was in compliance with its letter, even for icing
14 conditions, right?

15 A. It was almost in compliance. With icing conditions, it
16 failed the -- he set a limit of six inches of minimum freeboard,
17 and it appears that with icing -- with regulatory icing, the
18 freeboard, in some of the models, when you use much heavier light
19 ship weights, is about four inches. So it's less than they
20 required in the stability instructions.

21 Q. But as far as what the operator was told about how many pots
22 he could carry in icing conditions, he was in complete compliance
23 with 195 pots. Whether that failed or not is another issue, but
24 as far as his instructions, he was in compliance, right?

25 A. Yeah, 195 pots is less than 208.

1 Q. Right. And as I understood your testimony -- this is really
2 important. The regulatory basis for the icing conditions in a
3 stability study appears to me, and tell me if I've got this, to
4 have two serious flaws. The first is the regulation assumes an
5 even coat of ice 0.6 inches approximately on vertical surfaces and
6 1.3 inches on horizontal surfaces, and that is spread evenly in
7 the shape of a shoebox over the top of the crab stack; is that
8 correct?

9 A. That's correct. It's supposed to be applied to surfaces. So
10 if the crab pots are assumed to be surfaces, then that would be
11 how you would apply it.

12 Q. Right. Do you know enough from what you've seen and what
13 you've -- the conclusions you've come -- in Conclusion Number 5,
14 that simply does not match reality in the Bering Sea; does it?

15 A. I think there's plenty of pictures indicating that it doesn't
16 match reality.

17 Q. So do you have any suggestions for how an agency or
18 organization or maybe a cooperative effort between the government
19 and industry would go about getting accurate data on what real
20 icing does?

21 A. I don't have any suggestions for that. I haven't really
22 thoroughly considered what, what happens in actuality and how to
23 set up a study to evaluate that.

24 Q. And the other problem for the *Scandies Rose*, in addition to
25 the fact that the icing regulations used what I will call an

1 unrealistic assumption, is that Mr. Culver made some mistakes,
2 right?

3 A. I know that we identified differences with what Mr. Culver
4 did and what we did based on our assumptions. We did identify a
5 couple of mistakes like mathematical errors and the lack of adding
6 downflooding points.

7 Q. Thank you, Mr. Lawrence. We appreciate this. Thanks very
8 much.

9 MR. BARCOTT: Those are all the questions I have, Captain.

10 CAPT CALLAGHAN: Thank you, Mr. Barcott.

11 Mr. Lawrence, if you don't mind, what I'd like to do is I'd
12 like to take a two-minute recess and then come back with any
13 follow-up questions for you. Is that okay with you, sir?

14 THE WITNESS: That's good, Captain. Thanks.

15 CAPT CALLAGHAN: Thank you. So we are going into a
16 two-minute recess.

17 (Off the record at 9:50 a.m.)

18 (On the record at 9:54 a.m.)

19 CAPT CALLAGHAN: Okay. The time is now 0954, and the hearing
20 is now back in session.

21 Mr. Lawrence, we've got just a few follow-on questions for
22 you, and I'm going over to Commander Karen Denny who has got a
23 couple of questions for you, sir.

24 BY CDR DENNY:

25 Q. Good morning, Mr. Lawrence. So just a few questions.

1 Earlier on in the testimony, you mentioned that the tank vents had
2 check valves in them. For the benefit of the public, could you
3 just very simply explain how a check valve works?

4 A. So I noticed that that there was a drawing that indicated
5 check valve-run tank vents. I'm not sure if there were physically
6 actually check valves there, just a drawing indicating it. But a
7 check valve is -- basically it's a -- usually a plastic ball that
8 sits in the end of a vent pipe, and if water were to come toward
9 that vent pipe, it pushes the ball into the pipe so that it seals
10 it off. But normally, when water isn't pushing against the
11 plastic floating ball, the pipe is open so that air can go into
12 the vent.

13 Q. So from your professional opinion, is it possible that, if
14 the check valves with this ball were frozen in the open position,
15 could flooding have occurred if it was at an angle -- if the
16 vessel was at such a heel angle that the water would then be able
17 to be there?

18 A. Yes. If the check valves were not operational, flooding
19 could go through the vent.

20 Q. Okay. Then my last question is, generally speaking, when
21 stability tests are conducted, where does the naval architect get
22 some of the information to develop the light ship conditions? For
23 example, assumption of the crab pot weight or other things of that
24 nature.

25 A. Help from operator.

1 Q. Thank you, sir.

2 CDR DENNY: That's all I have, sir.

3 CAPT CALLAGHAN: Thank you, Commander Denny.

4 At this time, Mr. Lawrence, I just want to take the
5 opportunity to thank you for your testimony today, for the
6 thorough report and the presentation to explain that report not
7 only to the Marine Board but to the public at large. So thank you
8 for that.

9 I will ask, based on our discussion today, based on your
10 analysis, is there anything that you think that the Board did not
11 bring up in our discussion today that you think would be relevant
12 to this investigation?

13 THE WITNESS: No, Captain. I think you have been very
14 thorough.

15 CAPT CALLAGHAN: Thank you, Mr. Lawrence. Again, I want to
16 thank you on behalf of the Board for your appearance today. At
17 this time, you are now released as a witness from this formal
18 hearing. Thank you for your testimony and your cooperation. If I
19 later determine that this Board needs any additional information
20 from you, we will contact you through your counsel. If you have
21 any questions about the investigation, you may contact the
22 investigation recorder, Lieutenant Ian McPhillips.

23 Thank you again.

24 THE WITNESS: Thank you, Captain.

25 (Witness excused.)

1 THE WITNESS: I am currently the chief engineer on fishing
2 vessel *Aleutian Mariner*. And for the record, I am not a captain
3 yet. I do have a master's application being processed, but --

4 LT McPHILLIPS: Thank you for the clarification. What are
5 your general responsibilities in that job?

6 THE WITNESS: I use and operate and maintain all the
7 mechanical equipment on board the vessel. From engine systems --
8 engine systems, hydraulic systems, electrical, everything --
9 everything that makes the boat run.

10 LT McPHILLIPS: Can you briefly tell us your relevant work
11 history?

12 THE WITNESS: I began fishing, I believe, in 2010 on factory
13 trawlers. I moved from there to Mattsen Management. I was a
14 deckhand and engineer on fishing vessel *Amatuli* for a short while
15 there, and then I moved to *Scandies Rose* in, I believe, 2012.
16 Since that, I -- let me see, my last -- last trip on the *Scandies*
17 *Rose* was 2018 opilio season, so I believe I got off in March.

18 I started engineering in the summer on fishing vessel *North*
19 *American* in 2017. I took over the master's spot on the *North*
20 *American* for summer salmon tendering in 2018/2019. And this last
21 year, 2020, for the summer, I was also on the *Aleutian Mariner* as
22 a chief engineer.

23 LT McPHILLIPS: Thank you. What is your education related to
24 your position?

25 THE WITNESS: Well, as far as mechanics, I have no formal

1 education. All been on-the-job training and just experience
2 turning wrenches growing up. I have since got some education, of
3 course, all my required classes for my master's licenses to
4 include hydraulic instructor certification, stability, and fire.

5 LT McPHILLIPS: Do you hold any other professional licenses,
6 certificates related to your job?

7 THE WITNESS: No.

8 LT McPHILLIPS: Thank you. Captain Callaghan will now have
9 follow-up questions for you.

10 THE WITNESS: All right.

11 CAPT CALLAGHAN: Thank you, Lieutenant McPhillips.

12 Thank you, Mr. Fanning. I'm going to now turn it over to
13 Commander Karen Denny for further questions.

14 THE WITNESS: All right.

15 EXAMINATION OF CORY R. FANNING

16 BY CDR DENNY:

17 Q. Good morning, Mr. Fanning. Thank you so much for being with
18 us today. We appreciate your virtual attendance. If at any point
19 we ask a question that you don't understand or cannot hear because
20 of technical difficulties, please don't hesitate to say so, and
21 we'll repeat the question or rephrase. And vice versa, if
22 technology cuts us off and we can't hear you, we'll ask you to
23 repeat the question [sic].

24 A. Okay.

25 Q. If at any point you need to take a break, let us know and --

1 are you -- just to confirm, you are calling us on sat phone
2 because you are still on the vessel and underway?

3 A. That's correct.

4 Q. Okay. So because you're on the satellite phone, we won't be
5 able to share exhibits with you. So throughout the course of our
6 testimony here, I'll ask that you describe things in as much
7 detail as possible, especially on your time on the *Scandies Rose*.

8 A. Okay.

9 Q. So Lieutenant McPhillips asked you some questions about your
10 fishing vessel experience, and I'd like to ask you some questions
11 as you have served as a captain on a salmon tender before, as well
12 as your significant experience as a senior member on a fishing
13 vessel as the chief engineer. Can you talk about how, in your
14 experience, you obtained weather information to make decisions on
15 when to voyage plans or go out to sea?

16 A. Well, obviously we have the VHF weather station that we'll
17 listen to. There's also an app called Windy that I use
18 frequently. It's become actually my go-to, go-to source for
19 weather.

20 Q. Okay. So you mentioned the Windy application. Do you use it
21 on your cell phone or tablet or on the regular computer?

22 A. You can use it on all three. Typically, I just look it up on
23 my phone. Our KVH system is pretty good on this vessel.

24 Q. Can you just tell me a little bit about what are the most
25 useful features for you on that application?

1 A. You can pinpoint specific area for wind direction, wind
2 speed, as well as swell height and swell direction. So between
3 the wind and your wave heights and direction, it's -- I find it
4 pretty useful.

5 Q. And between the VHF radio weather report that you get and
6 this Windy app that you referred to, do you find that to give you
7 a pretty good picture of the forecast for weather including the
8 warnings for inclement weather?

9 A. Yes.

10 Q. Are there any other sources of weather information you've
11 routinely used in Alaskan waters?

12 A. Those would be the main -- the two main sources that I use.
13 I do occasionally look at the NOAA site if I have my tablet out
14 and, of course, other fishermen in the area for also references.

15 Q. Okay. So would you say that that's a fairly common practice,
16 at least for you or on the boats that you've sailed on, to talk to
17 other fishermen as well to find out what weather they are
18 observing?

19 A. Yes.

20 Q. Thank you. Mr. Fanning, were you or are you aware of
21 communication issues with Coast Guard communication systems along
22 parts of the Aleutian chain?

23 A. Yeah, there -- I suppose there are a few blank spots. That's
24 gotten less and less these days though.

25 Q. Okay. Okay. So I'd like to shift topics a little bit with

1 you, and also from the perspective of having a lot of experience
2 and being a senior member of, you know, a fishing crew, I'd like
3 to talk a little bit about icing.

4 A. Okay.

5 Q. As a vessel chief engineer, can you talk about how you know
6 if you're having issues with your vessel's stability? What are
7 the physical signs?

8 A. I guess the major physical sign I suppose would be when you
9 start feeling a sluggish role. Trying to think of how to describe
10 it. We are currently very far north and have been experiencing
11 icing. Slow roll. The boat generally feels heavy. You know, for
12 me, it's a feeling. You just feeling the boat reacting a certain
13 way. And the more ice you build, the more that changes,
14 obviously, similar to if you had a full payload versus a light
15 payload. I don't know if that answers the question.

16 Q. No, it's great. You're helping us understand it better.
17 I'll add some more questions. You mentioned that you took a
18 stability course while you were working on your captain's license.
19 Can you tell me about what kind of information was provided?

20 A. A lot of it focused on, you know, inaccuracies I guess and
21 vessels with, you know, existing stability reports that had not
22 been updated frequently. Talked a lot about, you know,
23 modifications to the vessels over the years that had not been
24 taken into account with their current stability report. And
25 surprising to me was the small things that add up to, you know, to

1 make a big difference. Then, of course, we get calculations on
2 payload and whatnot.

3 Q. Okay. And about how long -- about how long was that
4 stability training?

5 A. Well, in my master's class, we focused on the calculations
6 for a payload and that for -- I don't know, three or four days.
7 Then I took a separate stability class that was, was one day.

8 Q. Okay. And was there discussion on icing and how that affects
9 stability during either of these classes?

10 A. Yes. To be honest, I don't remember the calculation for the
11 square foot of ice and the weight at the moment.

12 Q. That's okay.

13 A. But it was surprising how little ice -- I remember thinking
14 it was very surprising to me how little ice it takes to affect the
15 vessel.

16 Q. Okay. So let me shift the question just a little bit. On
17 the vessels that you have sailed on and including the *Scandies*
18 *Rose*, do you recall if they had stability instructions or
19 documents talking about the vessel's stability?

20 A. I have a fairly, a fairly good stability report and
21 accompanying book on this vessel. I do not know if the *Scandies*
22 *Rose* had -- I do now know if it had a stability report, but I'm
23 not sure what it looked like. I never saw it.

24 Q. Okay. From your other experiences on other vessels if you've
25 looked at the documents that talk about stability, do they

1 specifically talk about crab pot weights?

2 A. This one does. And it may be because they just had a new
3 report issued for the boat, and our pot weights have changed since
4 the last one was done. These pots that we fish today are far
5 heavier than when the last report was done.

6 Q. Okay. So let's talk about that icing. You mentioned that
7 you're on a boat right now, and you're far enough north that you
8 guys are experiencing icing conditions. Based on your experience,
9 how frequently does that happen during fisheries that are open in
10 the winter?

11 A. Well, my almost ten years fishing, I -- it's been an issue --
12 a significant issue twice in my career, this year being one of
13 them.

14 Q. Okay. So what are the type of variables you take into
15 consideration when you decide what to do about ice?

16 A. We look at if it's building on one side of the boat or if
17 it's building on both sides. Keep an eye on, you know, how fast
18 it's growing, this is increasing. And along with that, it becomes
19 how often do we break it off. What kind of pot load do we want to
20 put on, you know, depending on the distance and course we may be
21 running, you know? We -- this year, we've essentially just
22 decreased our running speed to limit spray as much as possible, as
23 well as keeping, keeping a small stack load.

24 Q. Okay. So let me give you a scenario. The scenario is, when
25 the forecast calls for icing conditions, as a fisherman that has

1 significant experience, what do you do if you notice ice starting
2 to accumulate on the topsides of your vessel?

3 A. Well, initially, you're just going to monitor it. Yeah, seen
4 what kind of, what kind of growth rate you're looking at. If it's
5 looking like it's going to be significant, you know, there may be
6 a speed adjustment you should make or a course adjustment, try to
7 limit your spray. Our rule of thumb always is, you know, knock it
8 off before it gets -- you know, if you knock it off early, that's
9 really the best plan.

10 Q. Okay. All right. Mr. Fanning, I'd like you to, you know,
11 kind of put yourself back -- go back a few years to when you were
12 a crewmember on board the *Scandies Rose*. You indicated that you
13 participated in winter crab harvesting. What would you say the
14 worst weather you encountered was while sailing on the *Scandies*
15 *Rose* and can you describe that?

16 A. Yes. I don't recall the year. It's been several. I believe
17 the worst weather I experienced on the *Scandies* was during a
18 (indiscernible) season several years back, and it was -- I never
19 saw it, 25-foot seas. And we shut down and jogged through it when
20 it got to that point.

21 Q. To the best of your recollection, how, how bad was the icing
22 in that scenario that you were in and then how did the *Scandies*
23 *Rose* ride, to the best of your recollection?

24 A. I'm sorry. In that situation, there was no icing. It was
25 just extreme weather, and the *Scandies Rose* rode -- that instance,

1 rode like she always did. It was -- the boat was an incredible
2 fishing platform. It rode very well in large seas.

3 Q. Okay. So along those lines, what was your general impression
4 of the material condition of the *Scandies Rose*?

5 A. As far as just general overall mechanics you mean?

6 Q. Both the mechanics and then the whole condition.

7 A. Okay. Well, the company always put quite a bit of effort in
8 the maintaining of the boat. It was always -- the mechanics were
9 always gone through. But still it was, you know, like every other
10 crab boat in the fleet, it was 40-plus years old. While I was
11 there, I know we -- I don't think we had replaced any steel on
12 anything major. There were some reconfigurations around the
13 hydraulic station out by the bow, but overall, the boat I felt was
14 being in good shape.

15 Q. Okay. So you were the chief engineer on board that boat for
16 multiple seasons throughout several years; is that a correct
17 statement?

18 A. Yes.

19 Q. Okay. And so how well do you feel you knew that vessel in
20 terms of the knowledge of the layout?

21 A. I knew that vessel very well. Aside from my CE duties, I
22 also participated in several lengthy shipyards in Seattle. I knew
23 that boat very well.

24 Q. Okay. So speaking of that, I'd really like to get a sense
25 for your observation about those dry docks. Based on your

1 observation while working on the *Scandies Rose*, did you feel like
2 the owners and management prioritized material condition of the
3 vessel or did you ever observe pushback on conducting certain
4 maintenance?

5 A. Yeah, I think it was prioritized. I never observed any, any
6 pushback on any kind of maintenance. If there was an issue, it
7 was generally addressed relatively quick. You know, in between
8 seasons is when you try and get most of your, most of your
9 maintenance work done, so sometimes your limited seasons run close
10 together. But yeah, generally, I would say maintenance was always
11 well addressed.

12 Q. Okay. During your tenure on board the vessel, did you ever
13 either observe or hear about any previous or historical issues
14 with the bycatch chutes? Any kind of metal wastage or watertight
15 integrity problems?

16 A. (No audible response.)

17 Q. Mr. Fanning, do you copy?

18 A. (No audible response.)

19 Q. Mr. Fanning, are you there?

20 CDR DENNY: I believe we are experiencing some technical
21 difficulties.

22 Mr. Fanning, are you still on the line with us?

23 THE WITNESS: (No audible response.)

24 CAPT CALLAGHAN: The time is now 1058. We are going to take
25 a two-minute recess to try and troubleshoot the technical

1 difficulties, and we will reconvene once we have it figured out.

2 (Off the record at 10:57 a.m.)

3 (On the record at 10:58 a.m.)

4 CAPT CALLAGHAN: The time is now 1059, and the hearing is now
5 back in session.

6 BY CDR DENNY:

7 Q. Okay, Mr. Fanning, thank you for bearing with us on that
8 little technical difficulty. Did you hear my last question about
9 the -- did you ever hear or observe any issues about the chutes?

10 A. Yes, (indiscernible). And -- on the starboard chute, that's
11 -- I don't have any -- of what that condition was. I just --

12 Q. Mr. Fanning, so your last response came in broken. Did you
13 guys change heading? Could you go back to the original heading
14 you were going?

15 A. Yes, ma'am. Hang on.

16 Q. Thank you. Thank you, sir.

17 THE WITNESS: I'm breaking up, Herb (ph.). Go back to the
18 course that we've been on.

19 CDR DENNY: Sorry and thank you.

20 THE WITNESS: The answer to that question, yes, I knew that
21 there had been work done on the starboard chute. I don't really
22 have any knowledge as to how in-depth it was or what the condition
23 of the steel replaced was.

24 BY CDR DENNY:

25 Q. And how did you find out about that?

1 A. I spoke with Art Ganacias.

2 Q. Okay. Mr. Fanning, I'd really appreciate it if you could, to
3 the best of your recollection, tell us about how you came to find
4 out about that information and what the circumstances behind that
5 conversation were with Mr. Ganacias.

6 A. Well, I don't honestly recall how it came in the
7 conversation. We were just kind of BS-ing before the season
8 began. He was in Kodiak at the time; I was stuck in the airport
9 at Anchorage. And we kind of went over -- both of us being
10 engineers, the conversation usually turns to what's going on on
11 your boat. I kind of ran through my list of things that we had
12 going on. I asked him about, you know, his, and he implied that
13 they had done some work on the chute and got rid of some bad steel
14 but that was about the only thing significant he thought, you
15 know, needed to be done. And had been done. So he was feeling
16 pretty good about the season.

17 Q. Okay. And did Mr. Ganacias sound concerned, or did you have
18 a sense that he was concerned about anything with regards to
19 either that work or any other work?

20 A. No.

21 Q. Okay. And when you said they replaced the steel, did
22 Mr. Ganacias happen to say whether they, the ship's crew, or they,
23 somebody else?

24 A. He did not mention that.

25 Q. Okay. Was there -- when you were the chief engineer on board

1 the *Scandies Rose*, was there, was there a specific protocol in
2 dealing with stability when it came to tank loading or tank
3 configuration?

4 A. I'm sorry. Can you repeat that?

5 Q. Yes. Absolutely. When you were on the *Scandies Rose*, can
6 you tell me about if there was a protocol for how to load tanks,
7 if you had to do it in a certain order or if certain ones had to
8 be pressed or had to be empty?

9 A. Yeah, for crab fishing operations, we generally loaded the
10 aft tank first. Standard operating procedure I guess would be the
11 aft tank and mid tank would be flooded, and the forward tank would
12 be dry. We would put crab in the aft tank first, then move to the
13 middle. Then I would flood it up forward and we would go in
14 there.

15 Q. Were these written policies or was that just verbal?

16 A. That was verbal.

17 Q. Okay. And I think you already answered this question because
18 I think you said that you didn't look at the stability book, but
19 do you recall if any of that information was in the stability book
20 for the *Scandies*?

21 A. I wouldn't know. I never saw the stability on the *Scandies*
22 *Rose*.

23 Q. Okay. To the best of your recollection, can you, can you
24 describe -- or if you recall if there was ever a time that Captain
25 Cobban was concerned about stability or about pot weights? And,

1 if so, can you tell me about that please?

2 A. I don't know how concerned he was, but I do know in 2017,
3 maybe, we did have, have Coast Guard in Dutch Harbor in to weigh
4 some pots, just to see how -- weight it was after -- that we
5 didn't, and that was for opilio. So, you know, opilio was the
6 heaviest our pot would get because of line length.

7 Q. So do you remember what happened after those pots were
8 weighed by the Coast Guard, what did Captain Cobban do?

9 A. Well -- carry -- to 180 pots total. Before it had been 200
10 or 195 or something like that.

11 Q. Captain, I'm sorry, you were broken -- I'm sorry,
12 Mr. Fanning, you were broken. Can you, can you just repeat that
13 please?

14 A. We limited our carry. I believe he -- they limited us to 180
15 pots, whereas I could have -- could easily get 200 pots on board,
16 you know, he limited that.

17 Q. Okay. Mr. Fanning, where were you and when did you hear
18 about the sinking of the fishing vessel *Scandies Rose*?

19 A. I was in the Anchorage airport waiting to fly to Dutch
20 Harbor.

21 Q. Okay. I'd like to talk to you a little bit about the crew of
22 the *Scandies Rose*. Can you tell me about who you spoke to most
23 often?

24 A. Well, I frequently messengered, you know, via Facebook or a
25 text even, I probably conversed mostly with Art and Brock.

1 Q. Okay. And you said that you talked to Mr. Ganacias prior to
2 the sinking of the *Scandies Rose*. Was he the only one you spoke
3 to or did you speak to anyone else?

4 A. I spoke to him as well as Brock. I believe it was the 29th.

5 Q. Okay. And did either of these gentlemen indicate that they
6 had any kind of concerns about the watertight integrity or
7 structural integrity of the vessel or anything, any concerns? Did
8 they express those to you?

9 A. No. Neither of them had any concerns.

10 Q. Okay. I'd like to take a few minutes with you to get a sense
11 for the crew of the *Scandies Rose* as you had several years of
12 fishing with them. I'd really like, to the best of your
13 recollection, for you to tell me about how experienced they were
14 and what your impression of their judgment was with respect to
15 them being on a commercial fishing vessel. You mentioned
16 Mr. Ganacias a few times. Would you mind telling me about what
17 you knew of his experience level and his judgment?

18 A. Yeah, his experience was -- I mean, he had been fishing for
19 nearly 30 years. Art was a very, very competent deckhand and as
20 well as an engineer. It was always, always pretty mellow, very
21 levelheaded. Wasn't a guy that got excited when things went
22 wrong. Yeah, he was a solid deckhand, very competent mechanic.

23 Q. Okay. And how would you describe Mr. Rainey, his experience?

24 A. Brock had been fishing a long time also, 20 years, mostly
25 smaller boats. He had fished Dungeness crab off the coast for

1 many years. And he had worked on the *New Venture*, Gary Cobban and
2 Dan Mattsen's other boats, had fished cod and brown crab on the
3 *New Venture* prior to coming over and fishing opillios on the
4 *Scandies Rose*. Brock was a solid deckhand, a little goofy,
5 lighthearted, but now it comes from -- that fisherman -- he was a
6 good deckhand.

7 Q. And with respect to his judgment, any observations with
8 respect to his judgment professionally?

9 A. Yeah, he could -- I don't know how to describe it. He could
10 be a little, little over the top on some things. But that was
11 balanced out well by myself or Art. Art and -- Gary had a pretty
12 good way of calming him down too. So Brock was always very full
13 of energy.

14 Q. Okay. Can you tell me about the experience level and
15 judgment of Mr. David Cobban please?

16 A. David -- I'm sorry, David is tough for me to talk about.
17 David had turned into a pretty solid, pretty solid deckhand. Took
18 him a long time to get there. I think he was like the only
19 six-year bait boy in existence, but he finally, finally came
20 around. He had, you know, slowly picked everything up, and once
21 he had it, he, he had it down pretty good. I believe last time I
22 talked to Gary, he told me that David had even started running
23 hydraulics. Would be a big step from where he was when I met him.

24 Q. Thank you, Mr. Fanning. Did you know any of the other
25 crewmembers on board the *Scandies Rose* at the time of the

1 accident; Seth, or he went by Thorn (ph.)?

2 A. No, I didn't know Seth.

3 Q. Did you know or have experience working with Mr. Dean
4 Gribble?

5 A. No, I had no experience working with Dean. I met him a
6 couple times. That's about it.

7 Q. Do you have any work experience with Mr. John Lawler?

8 A. No, I do not.

9 Q. Okay. And finally, can you talk to me a little bit about
10 Captain Gary Cobban and his level of experience and his judgment?

11 A. Well, Gary had been around a long time, you know, fishing his
12 whole life, so since he was 12 or 13 or something like that. Gary
13 worked hard. The crew worked hard. He maybe twists too hard
14 sometimes, but he was somebody that he wanted to be the best at
15 what he did no matter what that was. You know, maybe it, at
16 times, didn't make the crew so happy, but, you know, he was an
17 incredible fisherman.

18 In hindsight, maybe there were times he pushed a little too
19 hard, but, you know, being on deck and knowing how hard we worked,
20 I always admired the fact that I knew he was sitting in the chair
21 working just as hard for us. And, I mean, as far as breaking ice
22 for mechanical things, he was -- Gary had a very good feel for
23 that boat I always felt. He knew just how to, how to push her
24 and, you know, when to pull back on the reins, I guess, so to
25 speak.

1 Q. So, Mr. Fanning, I have two more questions, and then I'm
2 going to pass it over back to Captain Callaghan. From your
3 experience and observations, you know, you mentioned that
4 sometimes he pushed a little bit. How do you think Captain Cobban
5 managed risk? Do you -- based on your experience having worked
6 with other captains, do you consider him very prudent or
7 overzealous?

8 A. I suppose I would say he's not the biggest risk-taker I have
9 worked for, but he'd tend to push it.

10 Q. Okay. And then last question for me, based on your
11 experience and knowledge with at least part of the crew, do you
12 think they would have been willing to voice concerns about safety
13 of the vessel to Captain Cobban?

14 A. I'm sorry. Can you repeat that?

15 Q. Yes. Based on your experience with part of the crew, with
16 Mr. Ganacias and Mr. Rainey and Mr. David Cobban, do you think
17 that they would have been willing to voice concerns if they had
18 any about the safety of the *Scandies*?

19 A. Yes. David maybe not so much, but Brock certainly, if he had
20 concerns, would not hesitate to tell Gary so.

21 Q. How about Mr. Ganacias? Would he have, would he have said
22 something if he was concerned about an issue?

23 A. I believe so. Art was a much more, much more relaxed
24 personality than Brock. So I believe if either of them had
25 concerns, it would most likely be brought to Gary's attention by

1 Brock first just because that was his, his personality. He would
2 have zero problem telling Gary if he had any worries about
3 anything.

4 Q. Okay.

5 CDR DENNY: Mr. Fanning, thank you so much. I have no
6 further questions. At this time, I'm going to turn it over to
7 Captain Callaghan.

8 THE WITNESS: All right.

9 CAPT CALLAGHAN: Thank you, Commander Denny.

10 BY CAPT CALLAGHAN:

11 Q. Mr. Fanning, a question for you with regards to the crew of
12 the *Scandies Rose* that you had worked with previously. And not
13 looking for you to name any names here, but can you tell us if you
14 are aware of any of the crewmembers that you have previously
15 worked with having any medical issues?

16 A. No, not that I'm aware of.

17 Q. Okay. Thank you. And just in terms of you kind of said that
18 Captain Cobban would sometimes kind of be a hard charger, and so
19 to that extent, would you -- were there any times that perhaps, as
20 a crewmember there, the crew was worked to the levels in terms of
21 causing harmful fatigue to any of the crewmembers?

22 A. Harmful fatigue. I'm sorry. I don't really know how to
23 qualify that. You know, he had been on a -- the best of my mind,
24 currently, I would consider pretty soft and probably by most
25 standards, there's work long hours.

1 Q. In most terms, what would you say your, your work hours were
2 on at *Scandies*?

3 A. A typical day on the *Scandies* was 20 hours. Yeah, most days
4 were -- we would run, haul gear for 20 hours, then take a six-hour
5 nap.

6 Q. So a 20-hour workday. So upon completion of that 20-hour
7 workday, are there other things you do that -- aside from going
8 right to the rack?

9 A. I mean, yeah, sit down, have dinner. The engineers going to
10 transfer fuel and check oil. In that 20-hour workday, that's not
11 all work time. It never is. There's runtime between strings,
12 whether it be 15 minutes or an hour, hour-and-a-half. So there
13 was always a little bit of down time. Most runs in between
14 strings was typically when I, me personally, when I did my engine
15 checks and fuel transfers so that I didn't have to do it at end of
16 the day.

17 Q. Okay. Well, thank you for that clarification.

18 CAPT CALLAGHAN: Mr. Fanning, at this time, I'm going to turn
19 over questions to my colleague at the National Transportation
20 Safety Board.

21 Mr. Barnum?

22 BY MR. BARNUM:

23 Q. Yes, Mr. Fanning, I'm Bart Barnum, NTSB. Thank you for
24 talking to us. Just a couple questions here before I hand it off
25 to my colleague. But the fuel tanks for the *Scandies Rose*, were

1 they interconnected in a way that they would have -- that would
2 allow them to gravitate from one tank to another or potentially
3 allow them to do that?

4 A. It would, yeah, potentially. They were -- you know, the fuel
5 tanks were manifolded. There was a valved manifold on the port
6 side in the engine room. If a -- if you had a pair of valves or
7 multiple valves left open, then fuel absolutely could migrate,
8 possibly.

9 Q. In your experience and time as a chief engineer on these
10 boats, is it something that you have seen before?

11 A. No, I've never had a passive transfer. I have opened the
12 wrong valve and actively transferred to the wrong tank on
13 accident. And that happens if you're actively transferring fuel,
14 you notice, or at least I noticed, when the boat didn't lean the
15 way I wanted it to. So --

16 Q. Okay. So --

17 A. -- I've never, never had an issue with passive -- you know, a
18 passive migration of fuel.

19 Q. Okay. So on the *Scandies Rose*, as you say the passive
20 migration of fuel, how many valves would one need to accidentally
21 leave open or have open in order for fuel to passively move,
22 gravitate from one tank to another?

23 A. Minimum two. You would have to have a -- and even then, that
24 -- movement you would get would depend on fuel level and how the
25 boat trimmed prior to valves being open.

1 Q. Okay. At the beginning of your testimony, you mentioned you
2 were working on obtaining your captain's license. Could you
3 elaborate on that a little bit, you know, what tonnage is that
4 license?

5 A. It would be a 200-ton near coastal as well as a 1,600-ton
6 unrestricted fishing.

7 Q. Okay. To be clear, you wouldn't be required to hold that
8 license to operate your current vessel or the *Scandies Rose*, would
9 you?

10 A. I'm sorry. Can you repeat that?

11 Q. The master's license that you're working on obtaining, you
12 currently don't need that license to still captain on the *Scandies*
13 *Rose*, correct?

14 A. Yes. I understand that.

15 Q. Okay. You mentioned that part of that captain's license was
16 requirement to take some training and you took some training
17 classes. Within that training, there is some stability training,
18 and you were alarmed on how little ice was needed to accumulate in
19 order to affect the stability; is that correct?

20 A. That is correct.

21 Q. Okay. Do you feel like any of your fellow captains would
22 also be -- come to the same conclusion as you in respect to that
23 icing if they were to take the class?

24 A. Yeah. Perhaps -- most captains, depending on also the
25 destination, are acute (ph.) to be in tune to icing conditions.

1 This is why both of the seasons which I experienced heavy icing
2 conditions on board, we were -- the crew was always put to work
3 early to knock the ice off.

4 Q. Great. Thank you, Mr. Fanning.

5 MR. BARNUM: That's all the questions I have. My colleague,
6 Mr. Suffern, has a couple weather related questions for you.

7 Thank you.

8 THE WITNESS: All right.

9 BY MR. SUFFERN:

10 Q. Good morning, Mr. Fanning. I appreciate your time today. My
11 name is Paul Suffern. And just a couple of follow-up questions
12 related to your testimony earlier, specifically regarding the
13 Windy app that you were discussing reviewing both the wind and the
14 wave. Had you -- have you ever selected any other weather things
15 on that application?

16 A. I have. In fact, one of my hobbies is snowmobiling. I use
17 Windy also for snow prediction, to pinpoint areas for
18 (indiscernible).

19 Q. Okay. And as far as the other layers that are available on
20 them, have you ever clicked on or viewed the weather warnings
21 layer?

22 A. I'm sorry. The end cut out, sir.

23 Q. Yes. On the Windy app, there are -- as you know, there are
24 several layers. There is a layer that is called weather warnings.
25 Have you ever clicked on or used that particular layer?

1 A. Yes.

2 Q. Do you find that that information helpful or relevant?

3 A. I mean, usually, I already know there's a warning anyway
4 because I'm going to listen to the VHF. So it's all helpful. The
5 more information you can gather, I think, the better. You know,
6 whether it's NOAA or Windy, yeah, the more information I can get,
7 the happier I am.

8 Q. Okay. And what -- last question. What particularly about
9 the Windy app do you feel like provides more information? Is it
10 the color and air directions or other things or is it just because
11 it's another source of information?

12 A. Well, mostly it's another source of information. And it's --
13 you know, with our internet technology on board vessels these
14 days, it's easily handy. It's easier -- for me, anyway, it's
15 easier than working my way through the NOAA, NOAA page or, you
16 know, some of the other ones. There's a couple other ones. Yeah,
17 I don't know. Mostly it's just that it's more information and
18 it's easier to use.

19 Q. Okay. Thank you, Mr. Fanning.

20 MR. SUFFERN: I appreciate your time today. That's all the
21 questions I have.

22 CAPT CALLAGHAN: Thank you.

23 Mr. Fanning, now I'm going to open questions up to our
24 parties in interest.

25 And so I will start with parties in interest counsel

1 representing the two survivors, Mr. Stacey.

2 MR. STACEY: Good morning, Mr. Fanning. Thank you very much
3 for your testimony today. We have no questions for you, sir.
4 Thank you, sir.

5 THE WITNESS: All right.

6 CAPT CALLAGHAN: Thank you, Mr. Stacey.

7 I will now go to our parties in interest representing Mattsen
8 -- Scandies Rose Fishing Company. Mr. Barcott?

9 MR. BARCOTT: Thank you, Captain.

10 BY MR. BARCOTT:

11 Q. Good morning, Mr. Fanning. Can you hear me all right?

12 A. Yes, sir.

13 Q. Great. I just have a few questions. I have in front of me a
14 summary of an interview that you gave to the Coast Guard some time
15 ago, and I just want to confirm a detail of that. It appears to
16 me that in that summary you told the Coast Guard that the *Scandies*
17 *Rose* was like a battleship, and you loved that boat, and you
18 described it as a Cadillac. Is that still how you feel about the
19 *Scandies Rose*?

20 A. Yes, sir. That was incredible platform.

21 Q. Thank you. Let me take you back to that conversation you had
22 on the 29th. Did you talk to both Mr. Rainey and Mr. Ganacias
23 that day?

24 A. Yes, sir.

25 Q. And I'm not clear, was that on a phone call or were you all

1 present in an airport?

2 A. Most of it via Messenger that I spoke with Art, and Brock
3 Rainey was present. We were -- it was just before the season
4 jabbing mostly.

5 Q. Did either one of them express to you any concerns about the
6 weather that they were going to be headed into in a day?

7 A. No.

8 Q. And they told you about the repair that had been done on the
9 discharge chute as I understand it. Did they ever say anything
10 about needle gunning or pinhole leaks below the waterline on the
11 *Scandies Rose*?

12 A. No, they never mentioned it. I guess I probably would have
13 assumed that needle gunning and grinding would have gone on at or
14 below the line because of my familiarity with the layout of that
15 chute, but no, Art did not mention anything specifically in our
16 conversation.

17 Q. Right. And I'm now talking not about the chute but in
18 general, knowing Art as well as you do, can you imagine him doing
19 needle gunning below the waterline, perhaps finding metal wastage,
20 perhaps finding pinhole leaks, and just not addressing that issue?

21 A. No.

22 Q. And what's your level of confidence that Art would not have
23 just blown off needle gunning that revealed metal wastage below
24 the waterline?

25 A. He wouldn't have blown that off, not at all.

1 Q. Okay. Thank you. Now, you have some familiarity with the
2 *Scandies Rose* and using it as a platform for cod fishing. Would
3 the *Scandies Rose* be a good cod fishing platform for full season?

4 A. Well, as far as ease of fishing, yeah, it's not bad paycheck
5 wise.

6 Q. What about fuel burn?

7 A. The fuel burn is where the paycheck wouldn't be very nice.
8 *Scandies Rose* burn a lot of fuel, the price of cod --

9 MR. BARCOTT: I just lost Mr. Fanning.

10 CAPT CALLAGHAN: It does seem like we've lost Mr. Fanning at
11 this time. We are going to go into a short recess to try and
12 regain Mr. Fanning, and then we will resume at that time.

13 MR. BARCOTT: And I just have a minute or two more.

14 CAPT CALLAGHAN: Going to a quick recess.

15 (Off the record at 11:42 a.m.)

16 (On the record at 11:47 a.m.)

17 CAPT CALLAGHAN: Yes, Mr. Fanning, can you hear us?

18 THE WITNESS: Yes, I hear.

19 CAPT CALLAGHAN: Okay. Great.

20 Okay, it's 1147, and we're back in session.

21 Thank you, Mr. Fanning.

22 So back to Mr. Barcott, continue, sir.

23 MR. BARCOTT: Thank you, Captain.

24 BY MR. BARCOTT:

25 Q. Mr. Fanning, I've just got a couple more questions. Do you

1 have an understanding why a vessel like the *Scandies Rose* might
2 want to fish when it could in the cod season and then shift over
3 to opilios?

4 A. Yes. It's a pretty common practice. They do it so that the
5 boat has a catching streak. This is in anticipation of the cod
6 fishery eventually going rationalized with the quota system like
7 crab is as opposed to being a (indiscernible) fishery.

8 Q. Do you happen to know when the Bering Sea Aleutian Island cod
9 season ended in the year 2019 for vessels 60 feet and over?

10 A. I do not remember the exact date.

11 Q. If you were told that it was January 15th, would that be a
12 surprise to you if that'd be in accordance with what you were
13 told?

14 A. That would sound right to me.

15 Q. Just one last area. Did Gary on the *Scandies Rose* make sure
16 that the safety drills were carried out regularly?

17 A. Yes, we always did a safety drill before departing, whether
18 that be before departing Seattle or, you know, or wherever, we
19 always did safety drills. I always felt pretty good about Gary's
20 drills. He generally covered, covered stuff pretty well.

21 Q. Thank you, sir. I really appreciate you being here.

22 MR. BARCOTT: Those are all the questions I have, Captain.

23 CAPT CALLAGHAN: Thank you, Mr. Barcott.

24 BY CAPT CALLAGHAN:

25 Q. Mr. Fanning, I just have a few more questions for you. Based

1 on your experience fishing, with regards to drills, what's your
2 experience on the different vessels that you've worked on in
3 regards to drills in donning of immersion suits?

4 A. As far as information covered versus some of the other boats
5 I've been on, Gary was pretty thorough.

6 Q. And in your experience, is it usually just a random sampling
7 of crewmembers or is everyone usually required to test out and
8 dress out in immersion suits?

9 A. I have not been on a vessel where the whole crew was required
10 to put on their immersion suits.

11 Q. Okay. Great. Thank you for clarifying that. And to go back
12 to your comment about fuel burn on the *Scandies Rose*, could you
13 tell us -- or can you estimate the rate of fuel burn in terms of
14 number of days before refueling or conducting a -- you know,
15 transferring fuel?

16 A. As far as transferring fuel, transferring fuel would be a
17 daily occurrence. Refueling varied. The *Scandies* held a lot of
18 fuel, so that would vary greatly depending on, you know, what --
19 how many gallons Gary decided to put on. Typically, he would
20 maybe -- if it was start of season, if we were leaving Seattle, we
21 would start heavily on fuel, anticipation being that we would burn
22 that off on our way north. But fuel transfer would be a daily
23 thing.

24 Q. In terms of a period of, say, 24 hours, could you estimate
25 what that rate of burn would typically be?

1 A. Depending on rpm, *Scandies Rose*, 800 to 1,200 gallons a day.
2 Depending on the throttle.

3 Q. Okay. And so one more topic I wanted to cover. You had
4 mentioned you were stuck in the airport when you talked to some of
5 the other crewmembers. Can you tell us about why you were stuck
6 in the airport?

7 A. We were flying up to for our cod season. The *Aleutian*
8 *Mariner*, the boat I'm currently, on was already in Dutch Harbor.
9 It was a weather delay.

10 Q. It was a weather delay. And can you -- how long were you --
11 do you recall how long you were delayed?

12 A. It was three days.

13 Q. Three days. Okay. So was that kind of weather delay and
14 that kind of weather in the area, were you at all surprised to
15 hear that the *Scandies Rose* had left for the fishing ground?

16 A. No, I was not surprised that they left Kodiak. Again, I've
17 been in big weather on that boat -- no, I wasn't surprised.

18 Q. Okay, sir, thank you.

19 CAPT CALLAGHAN: That's all the questions I have, so I truly
20 want to thank you for your time today to answer our questions.
21 And in addition, I'd like to particularly thank the captain and
22 the crew of the *Aleutian Mariner* for facilitating this time with
23 us for you to call in while you are at sea and in the fishing
24 grounds. So please extend our thanks to the captain today.

25 But, again, thank you very much. Greatly appreciate your

1 time today and your willingness to be here on the phone with us to
2 pass this valuable information for us in this investigation. At
3 this time, Mr. Fanning, you are now released as a witness from
4 this formal hearing. Thank you for your testimony and
5 cooperation.

6 If I later determine that this Board needs additional
7 information from you, I will contact you. If you have any
8 questions about the investigation, you may contact our
9 investigation recorder, Lieutenant Ian McPhillips.

10 Thank you very much, Mr. Fanning.

11 THE WITNESS: Thank you.

12 (Witness excused.)

13 CAPT CALLAGHAN: Okay. It is now 1156. Our next scheduled
14 witness testimony is scheduled to begin at 1300. If for any
15 reason that changes and we are able to facilitate sooner, we will
16 update the time display on livestream.

17 At this time, we will take a recess and resume as scheduled.

18 (Off the record at 11:55 a.m.)

19 (On the record at 12:59 p.m.)

20 CAPT CALLAGHAN: The time is now 1300, and this hearing is
21 now back in session. We will now hear testimony from Mr. Dillon
22 Gamby.

23 Mr. Gamby, Lieutenant McPhillips will now administer your
24 oath and ask some preliminary questions of you.

25 LT McPHILLIPS: Please stand and raise your right hand,

1 Mr. Gamby.

2 (Whereupon,

3 DILLON C. GAMBY

4 was called as a witness and, after being first duly sworn, was
5 examined and testified as follows:)

6 LT McPHILLIPS: Please be seated.

7 THE WITNESS: Thank you.

8 LT McPHILLIPS: Please state your full name and spell your
9 last.

10 THE WITNESS: Dillon Charles Gamby. The last name is
11 G-a-m-b-y.

12 LT McPHILLIPS: Please identify counsel or representative if
13 present.

14 THE WITNESS: Present.

15 LT McPHILLIPS: Do you have a counsel present with you?

16 THE WITNESS: Oh, I do not. No, sorry.

17 LT McPHILLIPS: No problem, sir. Please tell us what your
18 current employment and position is.

19 THE WITNESS: Currently I'm a line cook at a restaurant
20 called Denarius (ph.).

21 LT McPHILLIPS: As a deckhand on the *Scandies Rose*, what were
22 your general responsibilities in that job?

23 THE WITNESS: General responsibilities was -- I was the bait
24 man, and so I would bait each crab pot before they would go over
25 and, among other things, tying down crab pots, making sure the

1 deck was clean and, among other things, doing basically anything
2 that was asked of me.

3 LT McPHILLIPS: Can you briefly tell us a relevant work
4 history as a deckhand?

5 THE WITNESS: As a deckhand on this specifically or all of
6 the boats I have worked on?

7 LT McPHILLIPS: The boats that you have worked on previously.

8 THE WITNESS: Okay. So I've worked on about five different
9 boats. This is my first -- *Scandies* here was my first crabbing
10 position. Before that, I was a gill netter on several boats.
11 Would you like me to name the names of the boats?

12 LT McPHILLIPS: No, that's okay, sir.

13 THE WITNESS: I was a deckhand on several different
14 schooners, and then I also did gill netting in Bristol Bay two
15 different seasons, and for the schooners I did that for about two
16 seasons as well. And I was a tender on a boat as well.

17 LT McPHILLIPS: What was your education related to those
18 positions?

19 THE WITNESS: Just the training I had on job.

20 LT McPHILLIPS: Do you hold any professional licenses or
21 certificates related to those positions?

22 THE WITNESS: Just general -- just a fishing license that you
23 need to work on a boat. And then I am also crane certified.

24 LT McPHILLIPS: Thank you, Mr. Gamby. Captain Callaghan will
25 now have follow-up questions for you.

1 THE WITNESS: Thank you, Mr. McPhillips.

2 EXAMINATION OF DILLON C. GAMBY

3 BY CAPT CALLAGHAN:

4 Q. Good afternoon, Mr. Gamby, and thanks for being online with
5 us and attending this hearing virtually today. If at any point we
6 ask a question that you do not understand or can't hear because of
7 any technical difficulties, please don't hesitate to say so, and
8 we'll repeat or rephrase the question, as necessary. If at any
9 point you need a break, please let me know, and we can take a
10 break for you.

11 Using this Zoom platform, we have the ability to share
12 exhibits virtually. So in that event, the recorder, Lieutenant
13 McPhillips, will put any exhibit up on the monitor in front of
14 you. If at any point you need to point something out on an
15 exhibit, Lieutenant McPhillips can highlight the area for the
16 benefit of the Board and livestream audience.

17 All the questions I'm going to ask you today are set in the
18 timeframe leading up to and including the accident date of
19 December 31st, 2019.

20 So, Mr. Gamby, can you tell us any previous history -- any
21 previous employment you may have had on the *Scandies Rose* or with
22 *Scandies Rose Fishing Company*?

23 A. With the -- working on the *Scandies Rose*, that started all
24 for me on the -- around September 10th of 2019. And that was the
25 first time I had worked for Gary Cobban or the company -- Gary

1 Cobban, Jr., that is. And before that, I had just heard about the
2 boat. I'd seen the boat and always respected, you know, Gary as a
3 captain and knew of him but hadn't met him. And I just started
4 working as a -- whenever I asked for a position as a deckhand, and
5 that was in early September. Then he called me up around
6 September 10th, roughly, and I started working around that date.

7 Q. Okay. So you say you always respected Captain Cobban. In
8 general terms, how did you gain that -- how did he gain that
9 respect from you; was it word around the industry or your
10 experience hearing about him?

11 A. Word around the industry and his -- he's a second-generation
12 fisherman. His father was a fisherman in the Kodiak area and the
13 whole way-out to Dutch Harbor and in between. And his father was
14 a legendary fisherman, and there was kind of even like -- I don't
15 know if they are stories or tales, but I had heard about Gary
16 Cobban, and whenever I actually started working for Gary Cobban,
17 Jr., I was under the assumption that him and -- I didn't know his
18 father and him were two separate people. So whenever I started
19 working for him, I had heard tales about both of them and kind of
20 had to find out by talking to him and the crewmembers about which
21 one was about his father or him. So just word among other
22 fishermen and in the industry.

23 Q. Okay. And in your -- as the bait man for that trip in
24 September, in regards -- were there any other responsibilities
25 that you held in regards to, say, regular watch schedule on board?

1 A. Yes. I was assigned an hour and -- I think it was an hour
2 and 30 minutes on wheel watch when we are traveling, and that was
3 from Kodiak to Dutch Harbor then back. And we would -- that was
4 the only time we'd do wheel watch, and usually Gary would take us
5 out around the island, and I believe another crewmember would help
6 him. Sometimes his son would drive, but usually that was -- Gary
7 would take us around the island, and then whenever we got out into
8 straight water, we'd start doing an hour-and-30-minute regiment of
9 wheel watch per deckhand. And everyone would do wheel watch
10 except for the engineer, Art.

11 Q. Okay. During that wheel watch, was there any instructions
12 for you, any standing orders from the captain on your duties
13 during that watch period?

14 A. Yes. I was briefed essentially on just the, you know, the
15 function of each computer and the GPS and the autopilot and also
16 the radio and the -- just there was, you know, the alarm system
17 that was directly behind, behind you to your left, maybe five feet
18 away, and I was instructed that, you know, if anything would
19 happen to -- if anything would happen then right away to pull that
20 if it was an emergency.

21 And there was also a phone that was right in the wheelhouse
22 seat right to your right that you could call any of the rooms
23 from. And you can also call the captain and you could call any
24 other deckhand, and that's how we would communicate to switch from
25 wheel watch. So we would never have to leave the chair; we could

1 just call the room and say, hey, it's your time to do wheel watch.

2 Q. Okay. Was there any expectation or -- I'm sorry. Was that
3 in writing anywhere or was it passed just directions verbally from
4 the captain?

5 A. It was verbally from the captain and from other crew. And
6 then the only, the only writing was every day before we'd start to
7 -- I mean, I did sign a contract, and the contract was extensive,
8 and there were my duties in there, I believe. And I'm not -- I
9 can't quite recall if that was in the contract at all, but I did
10 sign a contract, so it may have been, or it may not have been.
11 But the only writing that would happen, you know, kind of during
12 the wheel watch was he'd write the schedule out for the wheel
13 watch. So he would always -- you always knew what time you were
14 on, what time you were off, and who was next so you could call the
15 next person to come take the duty.

16 Q. Okay. And as part of the wheel watch, at any point, were you
17 -- did those instructions include making rounds to the engine
18 room?

19 A. After your, after your wheel watch, you were supposed to go
20 down to the engine room, and then, when someone else had taken
21 their duty, before you went back to bed or whatever, you would go
22 down to the engine room and take a look around everything and make
23 sure that nothing was -- you know, that, you know, there's no
24 excessive water or none of the engines were smoking or even look
25 for strange sounds and -- yeah, you would always do that. And, of

1 course, the, the -- if you would see anything, you would go to the
2 engineer and let him know, and then he would take it from there.
3 But that I never had seen, you know, I never had a problem with my
4 -- yeah, with doing that. So --

5 Q. Following in wheel watches and any of those routes to the
6 engine room, had you ever had to contact the engineer as a result?

7 A. No, I did not.

8 Q. Again, on that previous trip back in September, any issues --
9 were there any issues experienced on board?

10 A. Not during my trip, there were no issues. There was talk
11 about a leak that they had had during their, during their tending
12 trip, because in the summer, before they do the king crab
13 season -- what are they part of? They do a tend -- they tend to
14 the other boats for the summer in Kodiak, and I was not a part of
15 that.

16 So there was some talk about a leak that they had had that
17 they had fixed, and I never talked -- you know, I didn't talk
18 extensively. I was just working through that and kind of
19 overheard that. So I -- but during my trip, I had never heard of
20 any problems with, you know, with the engines or anything, so --
21 and I never noticed anything on my -- for my personal observation.

22 Q. And during that trip, did you experience any heavy weather or
23 heavy seas during that trip?

24 A. No. Going out there, it was the -- probably the calmest trip
25 I've had going out that way because I, I go out that way through

1 Falls Pass to go up to Bristol Bay. So it was the calmest weather
2 I had had during that trip. And when we were out there, we never
3 -- actually fishing, we'd -- you know, I experienced some waves
4 but nothing, nothing more than ten -- you know, five to maybe ten
5 feet waves. And it was never choppy. There was never much -- I
6 don't think -- I don't even think it was any rain, and the weather
7 was very fair, and you could -- you'd work in a -- if you wanted
8 to, you could wear short sleeves when you're on deck. It was that
9 warm and fair. So --

10 Q. How did the *Scandies Rose* handle those types of seas?

11 A. I mean, I -- like I said, I never really experienced the
12 rough weather. The fair seas, I mean, it was kind of business as
13 usual. Whenever we were out fishing, you know, it was always --
14 it was Gary or his son David, he would be on duty, you know,
15 driving the boat and, you know, I know Gary would, you know, Gary
16 would drive the boat a lot, and it never seemed -- it didn't seem
17 like things were -- we ever changed. You know, it didn't seem we
18 ever had to kind of prepare for any type of weather, you know.

19 I -- there weren't many waves that would come over -- like we
20 had wave walls, and then on the starboard side, we had one -- kind
21 of a short wall where we'd throw the crab pots over. And, you
22 know, I don't ever remember a wave coming over, what we call white
23 water, green water, you know, there's a couple of sprays of white
24 water, but never green water would come over where there's thick
25 heavy waves. So we never experienced much weather at all on that

1 trip.

2 Q. During your wheel watches, did you experience the vessel
3 listing at any time?

4 A. I did not.

5 Q. Okay. During that trip in September, do you happen to
6 remember the other crewmembers who you worked with on board the
7 *Scandies Rose*?

8 A. Do I remember if they had experienced a list or not?

9 Q. No, just who they were.

10 A. Yeah, I remember them very well.

11 Q. Can you tell us who else was on board during your trip in
12 September?

13 A. Yes. I may not be able remember all their last names, but I
14 know there was Art was the engineer, and then there was Thorn,
15 also known as Seth, and he was the -- another new crewmember that
16 year. And then there was obviously Gary Cobban and his son David
17 Cobban. And then there was Brock Rainey, which Brock Rainey had
18 been on the boat for years and worked with Gary on other boats.
19 And then there was Art, and I can't remember Art's last name, but
20 he was the engineer. And then there was also a Joe, which Joe had
21 joined the boat right before we left for -- just like me, three or
22 four days before we left Kodiak to go on the actual trip. And,
23 you know, he was our last filling-in crewmember, and that was Joe.
24 I can't remember his last name now. I apologize.

25 Q. Okay. And have you ever -- prior to that trip, have you ever

1 worked with any of those crewmembers before?

2 A. I had never worked with any of the crewmembers before, no.

3 Q. Okay. And so I'm going to kind of move forward a little bit
4 and towards the -- talk about closer to December. At what point
5 were you contacted, or did it come up in conversation about
6 returning to the vessel for the cod/opilio season?

7 A. So I -- I think we went home around -- you know, finished up
8 with king crab and we went home, and at the end of my job or the
9 end of that season, I kind of felt that I was, you know, was new.
10 I was inexperienced. So I kind of felt like my position wasn't
11 completely confirmed. So around -- and then we went home for
12 December, for the holidays, and we were home for about a month.
13 And a little bit before Christmas, I had called Gary just to make
14 sure that my job was confirmed and that I was still going. And he
15 let me know maybe -- maybe a week-and-a-half prior to me actually
16 flying up around December 26th, he let me know that I was -- that,
17 yeah, I should get a plane ticket and I should come up. And so,
18 that was around the time I knew I was going to come back and
19 return to the vessel.

20 Q. Okay. And did you work with anyone back at the company
21 regarding the contract or anything prior to that time?

22 A. Prior to which time? Do you mean before -- what do you mean?

23 Q. Prior to flying out.

24 A. Prior to flying out, no. Flying out, I -- at the end of king
25 crab season, near the end of November, I had flown out of Kodiak

1 back to Maryland to see my family. I spent time with my family.
2 Did not work at all. And then I flew back on the 26th, and I
3 think I arrived the 27th. And that was the -- that was the first
4 time I had come back to work for the Scandies Rose Company or
5 Gary.

6 Q. Okay. And did you -- when you flew into Kodiak, was there
7 anyone else who -- from the crew who flew in with you?

8 A. They all flew in around the same time, and I did not see any
9 of them until the airport in Anchorage. And in Anchorage we
10 actually all -- there was a bit of delay because of the weather.
11 The weather was really bad, and so I had a flight that was
12 canceled -- two flights that were canceled. And then, finally,
13 the flight that I had arrived on Kodiak on was a flight with -- I
14 think it was Seth, Brock Rainey, and Art, and then Johnny Lawler
15 was also there. And that was the first time I met Johnny, and
16 that was all the crew. And then we all went to Kodiak and flew
17 from there, and we all flew on the same flight from Anchorage.

18 Q. Okay. And then once you arrived to the vessel, what kind of
19 duties did you have once you got to the *Scandies Rose*?

20 A. Well, we had tied up before we had left, and we had --
21 whenever you tie up your boat for a period of time, whenever
22 you're going to be leaving it, you do a lot of extra kind of
23 safety, you know, mechanisms. So you tie up a lot of lines, slack
24 lines. And so our duty -- one of the first things we did when we
25 got there was put our bags away and clean off the deck, and there

1 was some debris on the deck from, I guess, some work that they had
2 done while we weren't there, so we were -- we cleaned that up, and
3 also our duty was kind of being -- clean the boat up, make sure
4 everything looks right, and -- which, for me, wasn't doing much.
5 You know, I didn't have much responsibility, you know, the
6 engineer -- engineering or anything. I was just kind of like
7 cleaning everything up, make sure everything is clean.

8 And then the final thing we did was we -- not the final
9 thing. The final thing we did when we first got the boat was to
10 untie the boat. And the weather was, I guess, foul, so whenever
11 we got back to the boat, I had some trouble tying -- one of the
12 lines had tightened up, and I apparently had tied off -- I had
13 tied the boat off kind of in a strange way, so one of the lines
14 had tightened up in a way that I couldn't get it undone without
15 help. So we -- me and Art spent a time prying, prying it off the
16 (indiscernible).

17 So then, after that, we moved over to the -- I believe it was
18 the cannery, and that was where we were -- we started working on
19 pots, putting pots on the boat. And then, yeah, that was our
20 responsibility from there on was kind of getting the boat ready to
21 go by loading up pots and -- but I, you know, I wound up quitting
22 shortly thereafter.

23 Q. Okay. You mentioned kind of cleaning up some debris. Can
24 you talk about the debris that you guys cleaned up?

25 A. I will. That debris was on the -- near the front of the boat

1 kind of near the starboard side, near our launching pad. And it
2 was, it was a lot of metal, and it was very thin, rusty metal that
3 had obviously been replaced. And we actually saw -- there was
4 something called a -- pardon my French, was called a shit chute,
5 and it's where you kind of throw the unwanted crab, and there is
6 one on each side of the boat.

7 And there's one on the starboard side, and that is where the
8 work, I was led to believe, had been done. And we -- oh, there
9 was even a -- there was a little tiny metal hatch that shuts it
10 for safety, and you can open it, but we always kept that one shut.
11 But it was open whenever -- I believe it was open when we got
12 there. And we could see where the new welding had been done, and
13 it looked -- you know, I'm not a welder, so my untrained eye, it
14 looked nice and new. And then I was led to believe that this
15 metal was from there and they did the surrounding area. And it
16 was, you know, maybe a half-inch to, in some places, a
17 quarter-inch thick. It was pretty worn down and not -- obviously
18 not the kind of metal you want on a boat that you're taking out to
19 sea.

20 And it had an epoxy that had -- called Splash Zone that you
21 use a little on a fishing boat for all sorts of different things.
22 But, you know, kind of lives up to its name called Splash Zone;
23 you kind of keep it where you want to keep water out of. And so
24 there was a lot of that on there, and it was so thin and pliable,
25 it kind of felt like wood almost. You know, not like metal

1 should. So that was definitely -- I was -- I felt -- whenever I
2 saw it, I kind of felt -- you know, I was like, well, I'm glad
3 that's not on the boat anymore, you know. And we -- there was
4 also some, some metal, I guess, that they had used to weld, and
5 that was on the deck. It's these bars of iron that are about, you
6 know, anywhere from a foot to three feet long. And they are on
7 deck. So we were in charge of putting that away.

8 And then we disposed of the, the metal. For the life of me,
9 I can't remember what we did with the sheets of metal -- with the
10 thin sheets of metal. I don't know if I was involved in that. I
11 know I was really involved in putting the rebars away, so I could
12 have been not involved in cleaning that part up, but I had heard
13 that it was tossed over the side of the boat. I'm not sure if
14 that's true, but -- I didn't witness that at all, but that's what
15 I had heard had happened. And that was later on. I didn't hear
16 about that on the boat.

17 Q. Okay. And had you ever seen Splash Zone used before?

18 A. Yeah, I had seen Splash Zone used on several different boats.
19 I was very -- you know, I have used it. I had been, you know,
20 trained by several. Each captain kind of has their way of using
21 it, and we had used it in the crab holds to cover up all the nuts
22 and bolts to kind of round off the edges of them all so we
23 wouldn't hurt the product, the crab. Because once you -- once
24 crabs start dying, they kind of -- you get this thing called dead
25 loss. So we were trying to prevent that from, from happening with

1 the Splash Zone, so each nut and bolt we covered with Splash Zone
2 and -- yeah, on several other boats, I had used it for the same
3 thing and also for, you know, covering up, you know, parts of the
4 boat that was above the waterline to kind of keep, you know, water
5 out, from splashing in.

6 But yeah, I had never, I had never used Splash Zone for
7 the -- the kind of -- for the structural integrity of a boat. I
8 had never done that before. And I had never kind of seen that
9 done, but I, I don't know where -- I know that that metal that had
10 the Splash Zone on it was above the waterline I believe, so I kind
11 of saw that as living up to its purpose in a way --

12 Q. Okay.

13 A. -- as a temporary fix.

14 Q. So, in general, your interaction with the other crewmembers,
15 how was the atmosphere of the crew at the time when you guys all
16 arrived and started getting -- preparing for the voyage?

17 A. It was kind of business as usual. A lot of joking. A lot
18 of, you know, kind of, you know, messing with each other, kind of
19 having fun. And, you know, it was really cold, and there was a
20 lot of snow coming down, so it was a lot of kind of instructing to
21 me that this was different, you know, that this was not like the
22 king crab season, that this was going to be -- you know, it was
23 kind of this -- Brock would say, you know, I will respect you once
24 we get through -- once we get to an opilio season, you know,
25 that's when you'll earn my respect.

1 Because opilio season is, you know, it's different. And
2 that's what they kind of led me to believe was like this was going
3 to be -- you know, it's not a walk in the park. It's not a salmon
4 summer camp, as they called it. This is like the real deal. And
5 it was my first winter fishery, so they were really kind of laying
6 into me to kind of get me prepared for what was to come.

7 Q. And, I mean, in comparison to previous, was there an
8 increased intensity -- you said it kind of -- they were kind of
9 teasing you on, but as far as just overall intensity, you know,
10 from the other crewmembers, was it kind of increased compared to
11 other previous experiences?

12 A. Not really. It was -- you know, the only, the only thing was
13 it was kind of, you know, a lot of, a lot of just teaching what
14 was kind of different. And also, there was the -- the only thing
15 that was kind of intense which happens a lot in fishing was we
16 need to get this work done as, you know, as soon as possible so we
17 can get out of here as soon as possible so we can get fishing.

18 And so that was definitely kind of the atmosphere of like,
19 you know, whenever I had trouble with that getting the line off,
20 the whole boat was waiting on me to untie the boat. So there was
21 definitely the intensity of, you know, this needs to kind of get
22 moving here, you know, we need to get this done quick so we can
23 get fishing. And that was the -- that's kind of a common thing to
24 fishing, so --

25 Q. Okay. And then, so from the time you guys started doing the

1 pots, tell me about, you know, your experience and kind of
2 ultimately, you know, what kind of helped you make up your mind
3 on, you know, that you weren't going to sail?

4 A. So I -- so we had untied the boat, moved over to the cannery,
5 tied up, secured the boat, and we started moving crab pots on the
6 boat. And there are already some crab pots on there, but we had a
7 lot of crab pots in the parking lot of the cannery. It's kind of
8 where like the storage area -- it's not really a parking lot, it's
9 more of a storage area for fishing gear and for people who work
10 for the cannery. And so we had gone there to work on crab pots,
11 and it was just snowing the whole time. And you -- for some of
12 the crab pots, you'd have to lay on your back and deal with it
13 all. When you, say, be on the ground in the snow, and I -- there
14 was a point in time where we were moving the crab pots off of a
15 flatbed. We'd pick them up off the ground, put them on this
16 truck, and move them over to the, to the boat.

17 And I was on the flatbed, and Johnny was working the crane,
18 and I had told him to come down and -- which was a common thing
19 where you have two guys kind of holding the crab pot, bringing it
20 down, steadying it so they land on top of each other straight.
21 And I was just doing it like I had done it, but it had been a
22 month break, so I guess I was out of practice, and I was standing
23 in the way. So when he came down, it came down on top of my head
24 and kind of hit me. And I -- and it wasn't his fault. It was my
25 own fault for not moving out of the way. And I gave him the, you

1 know, the come down symbol.

2 And whenever it hit me, I kind of realized, if that would
3 have happened -- it hit me, and I kind of fell back and -- fell
4 back on the cab of the flatbed. Whenever I -- I realized, if that
5 had happened to me out on the water, it would have been a
6 life-threatening thing. It could have been, you know, could have
7 been an injury or death for me or others. So once that happened,
8 I kind of got in my mind -- and with everyone kind of teaching me
9 that this is different, this is intense, this is dangerous, you
10 know, this is not a walk in the park. And then that happened, and
11 it kind of made me realize that, if I go out there, there was, you
12 know, a chance that I might not come back or I might hurt others.

13 And, you know, it was no fear of -- I never feared the boat
14 going down. It was a fear of me falling off the boat or me
15 hurting someone else. So whenever I quit, I kind of quit for my
16 own protection and for the protection of my crew, you know, which
17 was kind of hard for me to do when I quit. But I was kind of
18 quitting to protect myself and others, so --

19 Q. Thank you for that. And in terms of the weather, you
20 mentioned a couple of times that it was snowing like crazy, and
21 you had a couple delays at the airport. Was there any concern by
22 any of the crewmembers or any talk about, you know, concerns about
23 weather and getting underway in that weather?

24 A. No, not, not really. They had talked about it like it was --
25 like it had happened before. Like this is kind of a delay, you

1 know. They, Art and Brock, had both been crabbing for years,
2 so -- a lot of these years were together, but I think Art had
3 crabbed for 30-plus years, so they were talking about years when
4 it was really bad and worse than what it had been. So there was
5 never any really concern about the weather.

6 I mean, there was definitely the, you know, the basic concern
7 of this weather will make things icy. Whenever you're walking on
8 deck or walking on pots, everything is going to be slippery,
9 everything is going to be icy. And you can't -- it's going to be
10 a risk. So there was that concern. But no, no concern about like
11 this is unseen or this is, you know, unprecedented. There was no
12 real concern about -- I know I never heard any talk about like,
13 you know, I hope no one goes down or I hope the boat is okay. I
14 never heard anything like that. Kind of seemed like, you know,
15 they were pretty confident, you know. At least that's what they
16 led me to believe, you know.

17 Q. Okay.

18 CAPT CALLAGHAN: Mr. Gamby, I really appreciate all this
19 information, and I know we got a tough timeline. I'm going to go
20 ahead, at this point, I'm going to pass it over to my colleagues
21 at the National Transportation Safety Board for any questions that
22 they have.

23 THE WITNESS: Okay. Thank you very much.

24 MR. BARNUM: Hi, Mr. Gamby. I'm Bart Barnum, NTSB. Thank
25 you for your time. I have no questions for you. My colleague

1 does.

2 THE WITNESS: Okay. Thank you, sir.

3 MR. SUFFERN: Good afternoon, Mr. Gamby. I appreciate your
4 time today and your testimony. It's been very helpful. Just one
5 follow-up question with relation to when you were taking watch
6 there during your September/October timeframe there. Did you ever
7 review or was there any weather information available for you
8 during your watch, and if so, did you review it or what was
9 available there for you?

10 THE WITNESS: I mean, I can't recall if there was any
11 information besides the basic. Gary had a -- on my phone, I would
12 get alerts on it, and I believe that's how he got the alerts, and
13 so he would always -- when we would take wheel watch, he would
14 always kind give us a rundown of what the situation was. You
15 know, what direction knots -- how many knots the wind were going
16 and what direction. And as a fisherman, you kind of get an idea
17 of, you know, which way the wind direction is just by looking at
18 the water. But I can't recall if there was any specific equipment
19 for weather. But yeah, I can't recall if there was or not.

20 MR. SUFFERN: Thank you very much, Mr. Gamby. I appreciate
21 your time.

22 THE WITNESS: I appreciate you guys doing what you're doing.

23 CAPT CALLAGHAN: Mr. Gamby, at this time, I'm going to ask to
24 our parties-in-interest, counsel representing the two survivors,
25 Mr. Stacey, if they have any questions.

1 MR. STACEY: Just very very briefly. Thank you, Captain.

2 And thank you, Mr. Gamby, for being here and talking with us.
3 Today, you -- my name is Nigel Stacey. I represent Dean Gribble
4 and John Lawler. You talked about the safety of the other
5 crewmembers, you know, that you worked with on your trips aboard
6 *Scandies Rose*. And I know you only worked with John Lawler for a
7 little bit of time, but in that time, did you consider him a good
8 deckhand?

9 THE WITNESS: I considered him a great deckhand. He was kind
10 one of the reasons I, I kind of felt like I wasn't -- kind of felt
11 like I wasn't qualified because he was -- you know, he got there,
12 he was ready to operate the crane, was ready to, you know, do, you
13 know, do everything. He was very up and at them. And, you know,
14 this is a guy who was, you know, older than me and he was also
15 bigger than me. You know, like he was -- Johnny is a big guy.
16 And so I kind of felt like I was just out of place. So I
17 considered Johnny a great deckhand. You know, that's one of the
18 reasons I kind of stepped away.

19 MR. STACEY: Okay. He wanted us to say hello to you -- he
20 testified yesterday -- so I'm going to keep my word to Johnny and
21 pass his hello and thanks to you, Mr. Gamby. And those -- that's
22 the only question I have. Thank you, sir.

23 THE WITNESS: I appreciate. You do the same to Johnny, okay.

24 MR. STACEY: Yes, sir. Thank you, buddy.

25 THE WITNESS: Thank you.

1 CAPT CALLAGHAN: Thank you, Mr. Stacey.

2 And now I'm going to ask -- pass it to counsel representing
3 the vessel owners, Mr. Barcott.

4 MR. BARCOTT: Thank you, Captain.

5 BY MR. BARCOTT:

6 Q. And for you, Mr. Gamby, I'm Mike Barcott. I represent with
7 *Scandies Rose* and the owners. Nice to meet you here this
8 afternoon.

9 A. Nice to meet you.

10 Q. So I understand you had worked on a schooner, you had worked
11 on gill netter, you had done some tendering and done king crab --

12 A. Yes.

13 Q. -- and you came to learn real fast opilios are different,
14 right?

15 A. Oh, yeah, opilios are different, yeah.

16 Q. Okay. Thank you. I had the same experience; I didn't go
17 either. I want to talk about safety drills for just a minute.
18 Did they -- when you were on the *Scandies Rose* for the two
19 seasons, did you do safety drills?

20 A. We did do safety drills. I was waiting for that question.
21 We did safety drills. We'd all meet in the wheelhouse and we did,
22 you know, all -- we all tried on the life suits and we did it
23 until we got it -- our life suits on under a minute. And then we
24 also went over the life raft, you know, we made sure that we
25 checked all the life rafts. And they had just replaced the

1 release. It's a release that never goes underwater, a release --
2 they had just replaced those. I think you have to replace them
3 every -- however so often. They had just done that. And Art
4 looked at them, made sure everything was good, and we kind of did
5 a rundown how they work and -- which I had done before, but we did
6 it again, then, as a crew.

7 And then we also went on what procedures of the radio,
8 whenever there would be an emergency, how we would call out, who
9 would call out, and we also -- there was a -- for each job, there
10 was a kind of a primary and a secondary person of like this person
11 is going to be a guy who does it, but if this guy can't, this
12 person is going to be the one that does it. And there was, for
13 everything from the radio to if someone would go overboard, who
14 would be the person to try to retrieve them and how that would all
15 work.

16 And yeah, it was, you know, a long list of -- and that's
17 almost about it. There are probably some things I'm forgetting
18 but, you know, those are -- that was mainly the safety drills was
19 radio, the life rafts, survival suit training, and -- yeah. Like
20 I said, there might be some things I'm missing, but that's about,
21 you know, what comes to mind.

22 Q. There is one thing. What about the EPIRB?

23 A. Oh, EPIRB, yes. The EPIRB, thank you for reminding me of
24 that. The EPIRB was on the, you know, back of the boat and, you
25 know, Gary, you know, came out and told us about the EPIRB,

1 basically said, you know, if, you know, the boat is going down, I
2 think he said -- you know, I forget who he designated. I think I
3 was his designation. He was going to deal with the EPIRB and make
4 sure that it went off. But he kind of said like, you know, if the
5 boat was going down, this is going to save your life, so make sure
6 that, you know, someone gets it and that you all tie yourselves
7 together, because if you don't tie yourselves together and you
8 don't have that, chance of you kind of get rescued are slim to
9 none.

10 Q. And did he take you out behind the house and show you where
11 the EPIRB was?

12 A. He did, yeah, he took us all out as a crew and showed us
13 where the EPIRB was, and I believe it was on the -- it was either
14 on the back rail -- I think it was on the back rail of the boat,
15 you know, right on the port side behind the wheelhouse.

16 Q. And he took the time to show you where it was and how to use
17 it and how important it was?

18 A. Yeah. He took the time to show us how it worked and
19 everything.

20 Q. Compared to other boats you have been on, can you compare
21 whether these safety drills were more thorough, less thorough?
22 Can you give us any assistance on that?

23 A. Probably, probably, you know, kind on par with a lot of them.
24 But, I mean, probably more thorough just because it -- the size of
25 the boat. Each boat I had worked on was a small vessel and --

1 yeah. He also -- another thing that went on over on the, the
2 safety drill was the Hyeon (ph.) system, I think it was. I'm not
3 sure if it was actually Hyeon, but it was something to extinguish
4 fire in the engine room. And went over the fact that everyone
5 needs to be out of the engine room, and we need a call-in system,
6 so we know that everyone is out and that the person in the
7 wheelhouse has the ability to do it. And I think there was
8 another way to do it maybe in the engine room, because the engine
9 room was kind of a two-part room. There was a back -- I mean
10 there was a forward one and then a back kind of workshop, and you
11 would -- there was a door, a hatch to close that off, and it's
12 watertight and everything. And it was -- I think you'd want to
13 shut that before you turn on the Hyeon system.

14 So that was one thing, I had never been on a boat that had
15 that before. So that was, that was another thing that we went
16 over. And so it was definitely more thorough just because of, you
17 know, it was more thorough, all these -- all kind of up to par on
18 everything like, you know, it seemed like it was the, the duty of
19 a captain to do that, and I feel like Gary definitely did his duty
20 whenever I worked on the boat.

21 Q. If -- I understand the opiliios are different -- reason for
22 your leaving, but you did work in the fall of 2019. Did you feel
23 safe on that boat?

24 A. I felt safe on the boat. I was led to believe that -- you
25 know, I would always call my mom, and on some boats I kind of

1 worked on, I knew things were somewhat dangerous, and I was always
2 -- I'd always say, you know, mom, you know, everything is fine;
3 everything is safe. But on this boat, I kind of felt truly that I
4 was like -- you know, I did feel safe, and I did kind of feel --
5 you know, I felt like everything was kind of, you know, up to par.

6 But I'm, I'm also not -- I'm not trained to look for certain
7 things, so from my untrained eye, everything seemed safe and good.
8 Of course, you know, I'm going to have -- I have, you know,
9 everyone around me telling me like, you know, this boat is like a
10 Cadillac is what everyone would say. It's a nice big boat. You
11 kind of don't think of a big boat going down. You kind of get the
12 idea that they're, you know, indestructible when you look at these
13 little guys and you're like, you know, I'm glad I'm on this big
14 guy. So yeah, I kind of -- I felt safe on that boat most
15 definitely.

16 Q. Thank you, Mr. Gamby.

17 MR. BARCOTT: Those are all the questions I have. I really
18 appreciate your making yourself available here today.

19 THE WITNESS: Yep.

20 MR. BARCOTT: Thank you, Captain.

21 CAPT CALLAGHAN: Thank you, Mr. Barcott.

22 BY CAPT CALLAGHAN:

23 Q. Mr. Gamby, we've only got a couple minutes left, but I wanted
24 to follow up on a couple of things with regards to those safety
25 drills and the EPIRB itself. At any time did you witness them

1 test -- the captain test the EPIRB at all during that drill?

2 A. Yes. Every boat owner, when they do this, where they take
3 the, they take the EPIRB out, and there's a little dial on it that
4 you'll turn, and it's kind of like a, you know, an on-and-off
5 switch, but you turn it on. And then there's a, a secondary
6 button that you hit, and whenever you turn it on, it starts to
7 flash, and the secondary button would kind of be the call button
8 to send out your coordinates.

9 And so, yeah, whenever I saw him, he turned it on, it
10 flashed, we saw it. And then he said, you know, and then the next
11 thing you'd do is you'd press that button. And, you know, of
12 course, you didn't press the button so they didn't think we were
13 going down at the dock. But, you know, he showed us how it worked
14 and everything and, you know, it seemed it was just like every
15 other EPIRB demonstration I had had.

16 Q. Okay. Thank you for that. Two more questions for you. When
17 you -- do you recall in the contract that you signed if it
18 included a drug and alcohol policy in there?

19 A. Yes, it did. You had to be clean of drugs and alcohol. You
20 know, you wouldn't be -- you couldn't sign on if you were drunk
21 and you would -- we'd actually -- we would get -- we got piss
22 tested upon -- before we went out and went fishing. So we all had
23 to be clean of drugs and alcohol.

24 Q. Okay. And the hatch that you talked about in the engine room
25 that you talked about, you know, with that -- you kind of

1 mentioned, hey, if you were going to activate the Hyeon, you might
2 want to close that. That hatch in the engine room, when you were
3 underway during your time on the *Scandies Rose*, do you remember if
4 that hatch was left in the open position or the closed position?

5 A. It was open.

6 Q. It was always open?

7 A. It was always open just in case, if it -- you know, because
8 you needed kind of to see what was in the engine room, and if
9 smoke was coming, you know, if the engine room was smoking, you
10 wanted to be able to know it and smell it and be able to kind of
11 be aware of what was happening in the engine room. And it was, it
12 was left always open, and it was under my kind of -- under my
13 belief that you only wanted to close that in the activation of a
14 Hyeon system or if directed to by either Art, the engineer, or the
15 captain.

16 Q. All right. I thank you for your time, and before I -- before
17 we close out for this session, I just wanted to kind of ask you,
18 in regards to this investigation and the questions here today, is
19 there anything in your opinion that we may not have covered that
20 you think would be in the interest for this investigation?

21 A. Give me a moment. I want to kind of rack my brain here.

22 Q. Sure.

23 A. Well, you know, the -- I think that we went over the metal on
24 the side of the boat and the weld job on the side of the -- you
25 know, there's a welding job on the side of the boat. I just want

1 to know, personally, if I had to like just to pull an answer for a
2 question I needed would be the, you know, was that weld job secure
3 and who did the weld job. And I'm not -- I'm untrained -- I'm an
4 untrained welder. You know, I have never welded in my life. So I
5 looked at that weld, it kind of looked -- and was like, you know,
6 that weld seems secure, you know. I kind of bet that someone else
7 looked at it and thought the same thing. So I just hope the -- I
8 kind of hope the weld job was secured but also would just, you
9 know, kind of, you know, I hope that you guys are looking at that,
10 you know.

11 And -- yeah, besides that, you know, I would like to say, you
12 know, everyone that I worked with including, you know, Gary and --
13 that everyone was professional and, you know, they -- everyone,
14 they were great fishermen. You know, the five guys who lost their
15 lives, and even Johnny, Johnny was a, you know, excellent
16 fisherman and, you know, it was an honor to work with and -- yeah.
17 Q. Thank you for that.

18 CAPT CALLAGHAN: And I do recognize -- you know, I want to
19 take a moment to recognize that you have worked with Captain
20 Cobban and a number of these other crewmembers who were lost as
21 part of this accident, so I do want to send my condolences to you
22 on the loss of some of your friends and shipmates.

23 And so thank you for being here with us. At this point, you
24 are now released as a witness at this formal hearing. Thank you
25 for your cooperation and taking the time today. If I later

1 determine that this Board needs additional information from you, I
2 will contact you directly. If you have any questions about this
3 investigation, you can certainly reach out and contact us through
4 our recorder, Lieutenant Ian McPhillips.

5 Thank you for your time today, Mr. Gamby.

6 THE WITNESS: Okay. Thank you guys very much, and, you know,
7 may the, may the truth be revealed, and I appreciate you guys.

8 CAPT CALLAGHAN: Thank you, sir.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 CAPT CALLAGHAN: The time is now 1348. This hearing will now
12 go into recess, and we will reconvene at 1400.

13 (Off the record at 1:48 p.m.)

14 (On the record at 2:00 p.m.)

15 CAPT CALLAGHAN: The time is 1400. This hearing is now back
16 in session. We will now hear testimony from Captain Peter Wilson.

17 Captain Wilson, Lieutenant McPhillips will now administer
18 your oath and ask you some preliminary questions.

19 (Whereupon,

20 PETER WILSON, JR.

21 was called as a witness and, after being first duly sworn, was
22 examined and testified as follows:)

23 LT McPHILLIPS: (No audio.)

24 THE WITNESS: Yes, sir.

25 LT McPHILLIPS: (No audio.)

1 THE WITNESS: Peter Wilson, Jr., W-i-l-s-o-n.

2 CAPT CALLAGHAN: Lieutenant McPhillips, can we take a quick
3 pause just for one second. We are just waiting for an audio.

4 (Pause.)

5 CAPT CALLAGHAN: Okay. Sorry about that. You can now
6 continue.

7 LT McPHILLIPS: My apologies, Captain. Please identify
8 counsel or a representative if present.

9 THE WITNESS: Negative.

10 LT McPHILLIPS: Please tell us, what is your current
11 employment and position?

12 THE WITNESS: My current employment is on the F/V *New*
13 *Venture*, and my position is captain.

14 LT McPHILLIPS: What are your general responsibilities in
15 that job?

16 THE WITNESS: Run the boat. Take care of the boat. You
17 know, make sure everybody is safe. Whatever, you know, basically
18 whatever needs to be done.

19 LT McPHILLIPS: Can you briefly tell us your relevant work
20 history?

21 THE WITNESS: I've been in the industry 40 years. Started
22 back in 1980. Started out as a processor, worked my way up,
23 started crabbing in 1985. I've been on vessels anywhere from the
24 gill netting all the way up to, you know, the crab or factory
25 processors. I've done deckhand, cooking and engineering, mating,

1 and as of right now, captain.

2 LT McPHILLIPS: What is your education related to the
3 position?

4 THE WITNESS: I just have a high school diploma.

5 LT McPHILLIPS: Do you hold any professional licenses or
6 certificates related to the position?

7 THE WITNESS: I am a certified drill instructor, and I have
8 done firefighting training, but that was years ago.

9 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
10 have some follow-up questions for you.

11 CAPT CALLAGHAN: Thank you again for being with us today,
12 Mr. Wilson. Sir, I'm going to pass it off to Commander Karen
13 Denny for more questions.

14 Commander Denny?

15 CDR DENNY: Thank you, Captain.

16 EXAMINATION OF PETER WILSON, JR.

17 BY CDR DENNY:

18 Q. Good afternoon, Captain Wilson. How are you today?

19 A. Good. How about yourself?

20 Q. I'm well, thank you. Thank you for being with us and
21 attending this hearing virtually today. If at any point we ask a
22 question that you don't understand or can't hear because of
23 technical difficulties, please don't hesitate to stop us and ask
24 us to repeat or rephrase the question, and we'll go ahead and do
25 that. We are going to take breaks throughout the hearing, but if

1 at any point you need a break, just don't hesitate to ask and
2 we'll do that.

3 Also, since you're with us virtually on this platform, we are
4 able to share displays, so the recorder, Lieutenant McPhillips,
5 will put up an exhibit on the monitor so we can look at the same
6 thing. If at any point you need to point something out, you need
7 us to zoom in, just ask Lieutenant McPhillips to highlight that
8 area, talk us through where that is, and that will benefit both
9 the Board and the public as to what we are looking at. Okay?

10 A. Copy that.

11 Q. Awesome. Thank you. Captain Wilson, Lieutenant McPhillips
12 asked you some general background questions about your experience
13 in the fishing industry and about your professional background.
14 Could you focus on that? Could you tell me again your experience,
15 specifically though with the *Scandies Rose*, your employment
16 history with the *Scandies Rose* or the *Scandies Rose Fishing*
17 *Company*?

18 A. I started with this company in 2008 in October, and I'm still
19 with them. I have been with them 11 years. I worked on the
20 *Scandies* for five years, and I have been running the *New Venture*
21 for seven years.

22 Q. And you were on the *Scandies Rose* for five years. Was that
23 all fishing seasons, was that all fisheries, was that the dry dock
24 and docksides?

25 A. Pretty much all of it. It was year-round. There was a few

1 breaks that I took. There were a couple seasons I took off or a
2 shipyard I took off or whatever, but pretty much it was solid
3 year-round, yes.

4 Q. Could you explain to us kind of based on the fact that you
5 have had multiple calendar years in a row, what was the general
6 schedule for the *Scandies Rose*? When would she be, you know,
7 taken up to the fishing grounds or to be up in Alaska, and then at
8 what point would she be brought down and then what would happen?

9 A. So basically it was, it would go up -- oh, let's see. It
10 would go up at king crab and then it would stay up to right down
11 through the opilio season. It would come down after the opilio
12 season through shipyards. And then, from there, it would head up
13 to go tendering, and then sometimes after tendering, especially
14 the first three years I was on the boat, it would come back down
15 after tendering, just because it was already in Southeast Alaska.
16 It was only a three-day run. We would bring it back down and then
17 keep it down there until we had to head up to king crab again.

18 Q. For the benefit of the public, to overlay months on that,
19 could you, could you help me out and just let me know -- you said
20 that it would go up to Alaska and usually that would be Kodiak; is
21 that right?

22 A. Well, it would go to Kodiak first and then head out to Dodge
23 (ph.) or King Cove or wherever, and that would usually leave
24 around about the first of October. And I'm going to use a
25 different calendar here. Then from there we'd, you know, do king

1 crab and maybe whatever else afterwards, tie up the boat, then we
2 would come up somewhere between December and January, somewhere in
3 there, and we'd get ready -- you know, if we didn't do cod fish,
4 which started the first of January, we would go up a little bit
5 later and then start the opilio session around -- on or around
6 about the 25th. We would fish that until it was done. And it
7 varied, you know, every year varied. I mean, sometimes it was
8 only a couple months, sometimes a little longer.

9 Then, from there, the boat would come back down to Seattle.
10 And that was usually around about, around about somewhere in
11 March. Then it would spend April and May down in the shipyard.
12 And then we would leave around about -- somewhere around about the
13 first week of June, head up to -- stop through Kodiak and then
14 head up to Bristol Bay and then tender up into the bay. And then
15 we would usually do that until about the end of July, and then we
16 would come back through Kodiak, and then we would be dispersed
17 either Kodiak, Prince William Sound, or Southeast was the main
18 one, going through Excursion, and then we would pump fish, do
19 (indiscernible) fish. And then, from there, there was a couple
20 years where we just took the boat back to Kodiak, tied it up, or
21 we would make that trip down to Seattle if there was stuff that
22 needed to be done.

23 Q. Okay. Thank you.

24 A. Seattle -- yeah, and that's pretty much on the calendar year
25 for us or for me.

1 Q. Okay. So I know that it's been a few years since you were
2 working the *Scandies Rose* primarily, but you're still working for
3 the same company that, that owned the *Scandies Rose*; is that a
4 correct statement?

5 A. Yeah. That is correct. Actually, Dan and Gary -- Gary owns
6 50 percent of this boat.

7 Q. Okay. So even though you weren't on the *Scandies* for the
8 last couple of years, you're familiar because you're still working
9 in the company. Is it fair to say that this schedule you just
10 described is roughly the same schedule that the *Scandies Rose* was
11 keeping now, or recently?

12 A. Oh, yeah.

13 Q. Okay. I'd like to shift a little bit and I'd like for you to
14 think back to 2019, to December of 2019 when you were the captain
15 on the *New Venture*. Can you talk to me a little bit about that?
16 When -- when did you arrive in Kodiak to meet the *New Venture*?

17 A. I think I flew up that year the 21st, if I recall right. I
18 flew up before Christmas. Our boat is smaller, so I flew up
19 earlier and got the boat ready, and I left the day after
20 Christmas. I got my crew up there -- go ahead.

21 Q. Oh, no, you please go ahead.

22 A. Okay. Yeah, I got up there -- I got up on the boat the 21st.
23 I think my crew came in between the 22nd, 23rd. I had two
24 crewmembers that lived in Kodiak. We got the boat ready, let them
25 have Christmas with their families, and then we left the 26th and

1 headed out to Falls Pass and then the Bering Sea to get ready for
2 the upcoming cod season.

3 Q. Okay. So can you tell me about that as far as like the work
4 hours and the getting ready? What would you say roughly the work
5 hours were for you in preparation to get underway?

6 A. It was -- well, I don't know. I was up at 6:00 every
7 morning. I mean, tell the boys to be at the boat by 8:00 and, you
8 know, we'd work till whatever I wanted to get done that day. I
9 mean, it wasn't hard. That's why I got up early, you know, it
10 wasn't -- the gear was -- the gear was already rigged. Pretty
11 much we just had to put some bait on.

12 I always liked to get up early, because when the boat is put
13 away and then when you fire it up again, there was always
14 something, you know. I mean, as you well know, you know, and
15 engines have O-rings and seals and everything, and sometimes, once
16 -- it's so used to running warm, once they get cold and they
17 contract, they'll leak. Sometimes, when you fire up the engines
18 again, they'll expand, and they'll be fine. But other times, they
19 won't.

20 So, you know, you do that, something might pop up. It might
21 be a small project that -- you know, I always try and keep busy,
22 so there might be a small project I want to do before, before I
23 leave or I get a new -- as I call it, like a new little toy and,
24 you know, I'll put -- I'll install that or something like that, a
25 new switch or, you know, something like that. But I've always

1 tried to make it to where I relax, and if I see something, I'll --
2 you know, I have to go really hard. I mean, it's not always
3 doable, but that's what I, I strive for.

4 Q. So in the 2019 season, would you say that you and/or your
5 crew were working like 16, 18, 20-hour days or --

6 A. Maybe a 12-hour day if that. But I didn't have as much to
7 do. I have a smaller boat and, you know, I do cod fish primarily.
8 I don't do any crab, at least not with the gear that I have for
9 cod. So my gear was ready.

10 Q. Okay. So you mentioned a couple of times that you, you know,
11 you were going to leave earlier, and you've mentioned that you're
12 smaller. Can you, can you talk to me about your schedule? When
13 did you leave Kodiak and why?

14 A. I left the morning of the 26th.

15 Q. Right.

16 A. I relate it as Gary did, to go through Falls Pass. But I
17 left earlier for two reasons. One is Gary would be able to take
18 all his pots in one load. I had, I had two loads of pots I had to
19 take. So I had to get out to Falls Pass -- or go through Falls
20 Pass right after the Bering Sea, set my first load, come back to
21 Falls Pass, grab my second load -- or actually, I think back then,
22 I had to run all the way back to (indiscernible) but I had to go
23 get another load and then bring it out to the grounds and get it
24 set.

25 And the other thing is is I'm a smaller vessel, and I looked

1 at the weather, you know, and I just -- you know, I'd need to be a
2 little bit -- I just left earlier, you know. I'm one of those
3 that likes to leave early. I'd rather be there sitting around,
4 you know, and that's just the way, you know, I, I do things. Like
5 I said, it doesn't always work, but, you know, I try to.

6 Q. Sure. And so you mentioned you looked at the weather. Do
7 you recall what tools you used to assess the forecasted weather?

8 A. I use a variety of tools. I use this Windy app -- well,
9 you've heard there's a weather channel on the VHF. There used to
10 be, you know, you could get weather off the single sideband. But
11 also, I use the zone forecast, and you can get that through --
12 either on the VHF or I have what's called the Zoleo (ph.) or I
13 used to have what was called Garmin, and they are like satellite
14 checks, the messaging thing. And mainly what I look for with the
15 zone forecast is the seas.

16 The Windy app, I'm sure I could do it on it, but I look at
17 the wind for that because the zone forecast will just give you a
18 block area. It will say that from here to here is going to be
19 this weather. The Windy app will actually show you that it might
20 be only one part of that area or there's little sections that
21 aren't bad. What I don't do on the Windy app which I do with the
22 zone forecast is I look at what the seas are doing. So, you know,
23 I use more than one tool. And then, if there's somebody out on
24 the grounds, you know, I have been in this industry long enough,
25 I'll give them a call and ask him.

1 Q. Okay. So I'm hearing that you're talking to other vessels.
2 You're using other applications. You're using VHF and other tools
3 of that nature, correct?

4 A. Correct.

5 Q. Thank you. So I have a question. Prior to the accident,
6 were you aware of any communication gaps or issues in the Coast
7 Guard communication system along the Aleutian chain?

8 A. I don't know if I'd call it communication gap, but, I mean,
9 there's dead zones, you know. I mean, you get the -- you get the
10 sat (indiscernible) in Anchorage on the VHF pretty much going down
11 the Silicon (ph.). You'll get them out in the Bering Sea, you
12 know, but there are areas -- you know, just like cell phone
13 reception, you can be driving along, go through, you know, go
14 through a little area where it stops or, you know, you lose it or
15 it drops really low. And that's, you know, about the same with
16 the reception of Coast Guard communication, you know.

17 As far as the sideband, I think you well know it's not really
18 used that much. I do monitor it, you know, but same thing there,
19 you know, once in a while, if the atmosphere is not right, it
20 won't communicate either.

21 Q. Okay. So I want to shift, I want to shift topics a little
22 bit. So you talked about, you know, you had to do two loading of
23 pots. You had to do two evolutions. So we talked about weather.
24 We talked about how it played a role in your decision to get out
25 early and just leave yourself some wiggle room. Knowing that you

1 had forecasted weather, did you do anything different related to
2 loading pots or gear for this, for this particular evolution in
3 December -- late December of 2019?

4 A. I don't know if I call it doing anything different, but when
5 I take off for a beginning of a season, my sorting table is put up
6 on the shelter deck, so I'm just able to even my load out
7 differently. And that's really about it. Otherwise from that,
8 normal stacking method, chain the loads down. You know, the one
9 thing I do before we even put the load on is check all the
10 hatches. I ask the boys to check all the hatches, then I double
11 check with my right-hand man, and then a lot of times I go out
12 there and I'll double check myself a third time.

13 Make sure that any tanks that are supposed to be empty, which
14 is -- I only have two crab tanks, or two fish holds. I'll make
15 sure that it's empty before the pots cover it. And then I'll be
16 stripping on -- as soon as we have a load on, I'll be stripping on
17 that tank, which for the public record, stripping is where you
18 have a suction going on the tank at all times so that way the tank
19 will stay dry and not become slack or accumulate water.

20 Q. Okay. Thank you. So let me ask you a question about the *New*
21 *Venture*. Does the *New Venture* have a load line?

22 A. It's not ABS rated.

23 Q. Okay.

24 A. If that's the question you're asking, so I guess no, it
25 doesn't have a load line.

1 Q. Okay. Does it have a stability booklet?

2 A. Yes, it does.

3 Q. And what's the max pots allowed on the vessel based on the
4 stability booklet if you know off the top of your head?

5 A. The stability booklet that's on board right now rates it at
6 84 in ideal conditions and ideal loading.

7 Q. How about -- does it mention anything about icing conditions?

8 A. It's a very vague sheet on the icing conditions. We are
9 having a new stability report done. We had one done, and we are
10 in the process of waiting on the findings on that.

11 Q. Okay. So then is it fair to say that, based on the existing
12 stability report, you had 84 pots on the boat?

13 A. No, I did not.

14 Q. Well, then please correct me.

15 A. Oh, I don't go -- I go 75 to 80 max.

16 Q. Okay.

17 A. Gary has been in the industry a long time -- excuse me on my
18 voice -- has been in the industry a long time, and he told me he'd
19 run that boat for years before they got the *Scandies*. They had
20 the *New Venture* I don't know how many years before, but I remember
21 when Gary had bought it. And he told me, you know, I said, hey,
22 this is what I'm rated for. He goes, Peter, please don't go over
23 75, 80 tops. He goes, please, please tell me -- promise me you
24 won't. And I said, okay, I won't. So I never did.

25 I respected Gary that way. He knows those boats. He

1 explained to me that, how the boat was stretched on the stern that
2 that would happen if they start putting more pots on, and then it
3 drops the stern and it causes problems. So I never went over -- I
4 think, at that time, I had two loads of 75, and that's what I took
5 out.

6 Q. Okay. Thank you. Let me ask you another question about
7 pots. Did you ever get your pots weighed or did you -- or did
8 somebody else weigh them?

9 A. I've had my pots weighed. I can't say for sure for the time,
10 at that particular time when I left, but I have gotten my pots
11 weighed, and they weigh anywhere from 7- to about 820, 850 -- 700
12 to 850, somewhere in there.

13 Q. And what size pots are you using?

14 A. For cod fish, I use seven-by-seven. And then there's a
15 variety about, I guess, pipes or whatever. I guess you -- or
16 thickness or whatever you want to call it.

17 Q. Uh-huh.

18 A. So, you know, some of the older ones are -- go ahead.

19 Q. Oh, no, you -- no, please. I'm sorry. The delay.

20 A. Some of them are 30, some are 34. I've got some that are 36
21 and a couple that are a little larger. So that's where the weight
22 variance comes in. Some of the older ones don't have as much
23 steel, you know, they have been used for a lot of years, and newer
24 ones -- you know, so that's how my variance weight is.

25 Q. Got it. All right. So then another critical aspect of --

1 with pots and weather is icing. As a vessel master, can you talk
2 about how you know you're having issues with your vessel's
3 stability? What are the physical signs that you have seen?

4 A. As far as stability, the first thing I'll notice is the roll.
5 The roll will start getting slower. The second is the boat -- you
6 know, once you have been on a boat long enough, you get the feel
7 for it. They'll just feel heavy and sluggish. And that's how,
8 you know, you know something is wrong.

9 With the *New Venture*, I don't let a lot of ice buildup. I
10 just, you know, I -- once I see some ice -- I mean, if we're, if
11 we're traveling in icing conditions, I usually don't sleep hardly
12 at all. I'm not saying I don't have watches. I have watches, but
13 I'm usually up -- having the boys wake me up every time in between
14 watch. And then I monitor it, and when I, when I deem it's time,
15 which is earlier than later, I'll go out, go out and have them
16 break the ice.

17 Q. Okay. Is there ever -- have you ever experienced any kind of
18 pretty excessive icing? Have you had that experience at any point
19 where it's gotten pretty heavy, pretty built up?

20 A. On the *New Venture*, no.

21 Q. Ever in your fishing experience. You don't have to give the
22 name of the vessel.

23 A. I've been on some big boats where we have had some excessive
24 ice, but never, I feel, to where I would deem it that it was
25 unsafe. I know the bigger boats can hold a lot more ice, you

1 know, and as far as excessive ice -- when it got to where we -- I
2 mean, I've been on a boat that basically we haul a string, break
3 ice, set a string, break ice. It was just a very ugly year. I
4 mean, it was cold. We just broke ice all the time. So if you
5 want to call that excessive ice, yes. As far as excessive icing
6 on a boat to where I was, as you and I talked before, concerned,
7 no.

8 Q. So have you ever felt like a shuddering of a boat, like as
9 you're moving through the water, have you ever felt the vessel
10 shudder?

11 A. I have. I have been hit by a wave on the side and it
12 shuddered the boat.

13 Q. But never, never in the context of having any kind of
14 stability issue with that?

15 A. Oh, no. No. No.

16 Q. Okay.

17 A. I mean, you know, as you all know, the port side of the boat
18 has a wave wall. Most boats do. You get a wave that hits it from
19 the side, they'll definitely shudder it and that's about it. Or
20 if you back down real hard, you know, there's cavitation, which
21 will cause the boat to shudder. But that's really about it.
22 Nothing to do stability wise, no.

23 Q. Okay. What are some of the things -- so, if you find
24 yourself in a -- on the *New Venture* in icing conditions and ice
25 is, in fact, accumulating, what are some of the things that you

1 can do to reduce the effects of that icing as a safety measure?

2 A. Before leaving town, one thing you can do is tarp up if you
3 know you're going to be going out in that. The other is is look
4 at the weather and find a course that's suitable, you know, you
5 could run out slower. You can get to -- you know, that's where
6 the Windy app comes in handy. You can -- so, say I leave from
7 Kodiak, and then I just run to halfway down the Silicon Strait,
8 and then I wait. Then from there, you know, I look at my PDZ, I'm
9 able to talk to people and -- that have actual internet on the
10 phone where they have got good communication, and they'll tell me,
11 hey, Peter, looks like you'll have a weather window here.

12 Okay. Boom. There I go. And that's why I like to leave a
13 little bit early. Because I am a smaller boat, icing is a
14 definite factor in terms of -- with my boat and, you know, icing
15 is just a definite factor overall, as you well know. But I'm just
16 a -- I'm cautious. I mean, I'm not saying nobody else is. I'm
17 not trying to say me, me, me, I, I, I, that I'm more cautious than
18 anybody. But it's just -- it's the way -- kind of the way I do
19 things.

20 Q. Okay. How do you -- what do you instruct your crew to do in
21 terms of general housekeeping for the vessel when you know that
22 you're expected to encounter icing conditions? Is there anything
23 that you tell the crew to do or that you do on board, inside the
24 vessel?

25 A. Inside the vessel, not really. I mean, make sure everything

1 is secure just like in every -- you know, if the weather is going
2 to be a little snotty or, you know, unfriendly. As far as if we
3 know we're going ice, we try and reduce icing, icing surfaces in
4 terms of anything that's up high that can accumulate like -- I
5 don't have the storage room, say, of a bigger boat, so some of my
6 stuff, I keep up higher. We'll try to bring that down -- like I
7 carry spare doors for the pots. I'll bring those down. You know,
8 we'll just try and make it to where we can minimize stuff that can
9 build ice more than just as you, as you guys call it, the surface
10 area of the vessel itself.

11 Q. Okay. Lieutenant McPhillips, could you please put up,
12 actually, exhibit of the unidentified fishing vessel, the ice
13 accumulation pictures. I believe it's 089 -- oops, I'm sorry,
14 093, 093. And we are just going to share a picture with you and
15 just show you -- because we want to get a sense of icing, like
16 what you have seen in the past and -- so this is on a fishing
17 vessel, and those are crab pots. Can you see that, Captain?

18 A. Oh, yeah, yeah.

19 Q. Okay.

20 A. And it's got the alleyway. So it's a schooner the
21 (indiscernible) boat.

22 Q. So, Lieutenant McPhillips, can you actually zoom in on that a
23 little bit. And, Captain, I just want -- I want you to take a
24 look at the icing that's being shown in this picture. You know, a
25 little bit of icing, a lot of icing, it's relative terms. Is this

1 normal in terms of icing? Is this what you would consider heavy
2 icing? What is this to you from your experience as a vessel
3 captain?

4 A. Well, that one would depend on the boat --

5 Q. Okay.

6 A. -- that's the only way I can explain it, because that boat
7 could probably handle that ice. And if I remember right, I think
8 someone told me this was the *Pinnacle* (ph.). I think I heard it
9 was the Pinnacle, which can definitely handle it. If my boat had
10 that much ice on the gear, I would hope we'd be near where I'd set
11 it, or we'd be breaking it at that point, or we would have broken
12 it a lot earlier.

13 Q. Okay. Can you scroll down, Lieutenant? Keep going. Next
14 page, please. Okay. And hold for a second. I just kind of want
15 to focus in on the ice accumulation on the mesh part of the pots.
16 And, Captain, once we scroll in just a little bit, if you could
17 look at the ones that are kind of closer to where the picture is
18 taken -- yep. Do you have that, sir?

19 A. If you're talking to me, I do, yes. That looks like about a
20 quarter-inch of ice on the mesh, and that's not bad at all.
21 Basically, you could walk out there and, you know, you could just
22 step on it and it would all, you know, basically start dropping
23 down through the pots.

24 Q. Okay. So, from your experience as a vessel captain and
25 fisherman, this is not -- in relative terms, not concern worthy?

1 A. No. No, it's not.

2 Q. Okay. All right. We can go ahead and take that down.

3 Lieutenant McPhillips, can we pull up the exhibit of the field
4 test where the crab pot -- the icing accumulation test? I think
5 it was 122. Captain, I'm going to show you a picture of one pot
6 the Coast Guard worked to, to try and look at ice accumulation.
7 This was the before picture if you can see it. I just want to
8 make sure that we are not too delayed. Can you see it?

9 A. Yeah. No, I got it.

10 Q. Got it. Lieutenant, can you go to the next picture please?
11 Have you seen icing accumulation like this on any of your pots?

12 A. Not on the *New Venture*, but I have seen it on the other
13 vessels.

14 Q. Okay. Would this be concerning to you?

15 A. If it was just -- well, just that one pot alone, no. I had a
16 whole bunch of pots like that, it could be. You know, like I
17 said, it would depend on the boat, too, how much gear -- I mean,
18 if you had, say, a dozen pots like that on, say -- well, let's use
19 *Scandies Rose*, it wouldn't be a concern. A dozen pots on my boat,
20 I would, I would start -- maybe start getting a little bit
21 concerned, you know. Some of the other bigger boats, you know, it
22 wouldn't be -- it wouldn't be as much of a concern, no.

23 Q. So how about --

24 A. No -- go ahead.

25 Q. How about if some of the lower -- the pots in the lower part

1 of the stack or closer to the interior had formations like this;
2 would you be concerned about that?

3 A. Well, if the pots on the inside were like that, that means
4 the pots on the outside would be solid ice, and yes, then it would
5 be a concern.

6 Q. Okay.

7 A. Because if this is what you're seeing on the inside, the
8 outside has got to be a solid block.

9 Q. Okay. All right. We can take that down. Thanks,
10 Lieutenant. Captain Wilson, I'd like to shift specifically now to
11 the *Scandies Rose* and your time on the *Scandies Rose* from, I think
12 -- I believe you said 2008 to 2014. So how many, roughly, dry
13 docks were you at with that vessel?

14 A. About two year -- well, probably -- six years, I'd say
15 probably nine.

16 Q. Okay. And then do you at any point remember any chute
17 repairs being done some time during your tenure when you were
18 really employed on that boat exclusively, chute repair work?

19 A. The chute, the chute on the starboard side by the watch, the
20 steel was replaced.

21 Q. All of it or some of it?

22 A. Just around the chute. It was either replaced or doubled.

23 Q. Can you, can you fill me in on why?

24 A. Just preventive maintenance. When we, when we'd be painting
25 the boat or doing shipyard duties, we'd go down there and check

1 it. I mean, even though it was above the waterline and there was
2 never really running water in it, it was just -- I remember a
3 couple of times going -- I would always go down into that chute
4 and check it, and there were a couple times where, you know, it
5 seemed like we got a lot of steel coming off. And I brought it to
6 the attention of Gary and Dan, and we addressed it, you know,
7 we --

8 Q. So --

9 A. -- we either replaced the steel or we put a double around it.
10 And eventually we get --

11 Q. So --

12 A. Go ahead. Sorry.

13 Q. No, it's the delay. It's the delay between the thing, so
14 please, you go on.

15 A. Well, if we were -- if it needed to be done while we are up
16 on the grounds, then it would be doubled. When we are in
17 shipyard, it would be cut out and replaced.

18 Q. Okay. Do you -- you just said that you would go down and
19 check it. What did you mean by that? How would you go down and
20 check it? Did you go into that void?

21 A. Well, I just go into the void or I would just hop down in the
22 chute. And I did that with everywhere on the boat. I mean, when
23 I -- when I was the engineer on that boat, I knew that boat. I
24 knew every -- I had been everywhere. I had been in every fuel
25 tank, every water tank, every void. I was just kind -- you know,

1 I had been on the boat -- I wanted to make sure I knew the boat
2 better than anybody else. Gary relied on me basically to take
3 care of that boat with him. You know, I was his right-hand man.
4 So I made sure I knew that boat. When something was going wrong,
5 he'd -- Peter, what's up? I'd go find out. If I didn't know
6 about that part of the boat, I'd learn it.

7 Q. Okay. So to the best of your recollection, were there ever
8 any, ever any times where there was any kind of situation where
9 there was flooding, flooding in the boat?

10 A. Oh, flooding on the boat? Not really. I mean, you and I
11 have talked about this. There was -- we did have one incident
12 when we were doing a charter one time where we had a small hole in
13 the engine room, and I was able to put a temporary fix, and then
14 we headed in, and we got pulled out of the water, and it was audio
15 gauged. And they found the bad area. They cut it out. They
16 actually went back beyond it and replaced it with new steel.

17 Q. All right. And then could you just walk us through, if there
18 was ever a problem on any of the boats that you've worked on when
19 employed by Scandies Rose Fishing Company or Mattsen Management,
20 what was the process to report that problem to the company?

21 A. Well, usually -- well, when I -- okay. So, when I was with
22 Gary, I would first tell Gary. From there, we would go to the
23 appropriate channels. As the captain of the *New Venture*, my first
24 call is usually to Gelia and then -- or Dan, one of those two.
25 But within that timeline, say within the first, whatever, hour

1 depending on the -- let's say the level of what it is, within the
2 first, say, 30 minutes, they both are aware of it.

3 Gelia I pretty much call all the time. Dan I will call after
4 that. But Gelia Cooper, the vessel manager, usually I'd call,
5 because then, from there, we'll get -- she will get on the phone
6 calling what we need, you know, a vendor, parts, whatever from
7 there. And then, from there, we'll get a hold of Dan Mattsen and
8 then, you know, fill him in on what's going on, and then if Dan
9 and I need to talk, then he gets ahold of me.

10 Q. Got you. So, Captain Wilson, did you -- were you the one in
11 2019 that took the *Scandies Rose* from Lovrics Shipyard and its dry
12 dock to somewhere else? Did you transfer that boat to Alaska?

13 A. No. I took it -- no. It wasn't me.

14 Q. Okay. Do you know who it was?

15 A. Well, which dry dock? Oh, wait a minute. I didn't take it
16 from -- well, I found out -- now that you remind me, I didn't take
17 it from the dry dock. I was on the boat. Dan Mattsen was
18 captain, and we brought it down from Lovrics Shipyard down to
19 Seattle. But I was on voyage for the trip as the engine -- as the
20 acting engineer and just being there.

21 Q. And any problems during that short transit?

22 A. No, none at all. Went off without a hitch.

23 Q. And do you remember who took, who took the vessel up from
24 Seattle up to Alaska?

25 A. I did.

1 Q. Any problems during that voyage?

2 A. No. No, nothing above the normal. I mean, and that -- as
3 far as normal, just going up after a boat has been at a shipyard,
4 there might be, you know, something here you got to clean up
5 for -- you know, maybe, maybe during the shipyard something got
6 into -- sand into a pump and he has to mess with it or, you know,
7 or really whatever else. I mean, nothing that caused, as you, as
8 you and I have talked and phrased it, concern.

9 Q. Okay. So when you guys were still down in, in Seattle, were
10 there any issues in regards to any welding work that needed to get
11 done?

12 A. I wasn't really on the -- well, I wasn't really in charge of
13 the shipyard or really much on the boat at the time, so basically
14 it just -- it was a last-minute thing where I was asked to take
15 the boat up. And so I basically got on the boat to get it loaded
16 with freight and get it ready and then drive it up. And that was
17 really my duties. I was more or less a hired master, you know.

18 Q. Were you, were you there or there to observe or involved in
19 the 2019 stability report or stability testing that was done for
20 the vessel?

21 A. I was actually on the deck during the stability report, yes.

22 Q. Can you talk to us about that with as much detail as
23 possible, kind of talk us through from the time you got on board
24 to the time the appropriate -- you know, the critical players were
25 on board and what you saw?

1 A. I can't recall it all. I don't remember -- see, I don't know
2 if I showed up before the whole thing started. I was there for
3 some of it. And I do remember that it was about a 10,000-pound
4 block. I would like to say it was a big block. It was a really
5 big block. It was more than what was used for my stability report
6 on the *New Venture*. But it was a block that was moved around by a
7 crane at the dock at Northlake Shipyard (ph.).

8 And, you know, he would -- he had measurements set up. It
9 was, you know, as we know now, Mr. Culver, and he had a gal
10 helping him, and they would move the block around to certain
11 areas. He'd do some measurements, make a spot. He'd move the
12 block to there, copy that. He'd take those measurements. He'd
13 say, all right, bring it back here. Then he'd take more
14 measurements and move it there, and that's, you know, basically
15 what it was on that stability report.

16 I remember not being there -- you know, like I said, I don't
17 remember if I was there for the very start of it. I don't think I
18 was. I think I was asked to come down in case they needed any
19 help, and I was asked by Dan to come down, so I did, you know.
20 Like I said, I've been with these guys 11 years, and they're kind
21 of like my family. So whenever they call and say, hey, will you
22 give a hand? I have no problems if I'm available.

23 Q. So you were on board and -- so you were essentially told by
24 the naval architect where to move things, when to move things; is
25 that correct?

1 A. I was not told by him where to move things. That was told to
2 the crane operator who was a Northlake Cavern -- not cavern,
3 sorry, Northlake Shipyard employee. And then there -- so there
4 was the crane operator and then a rigger. The architect would
5 tell the rigger, the rigger would tell the crane person, and then
6 basically myself and -- I forget who else was there; I think Dan
7 was there but wasn't there right away, and I forget who else was
8 there. But we would just help for when the block was being set
9 down to just make sure it was square and stabilized and, on the
10 mark, precisely. So I was just basically -- I was just basically
11 a helper.

12 Q. Okay. Okay. And about how long did that take, that whole
13 evolution?

14 A. I would say I was there maybe three, four hours, if I recall
15 right.

16 Q. Okay. All right. And then at any point did anyone talk to
17 you about -- after that stability report came out, did you ever
18 look at it or examine it in any way?

19 A. No, I never saw the stability report. The only thing I do
20 remember is, when Dan finally got the stability report, he had a
21 big grin on his face and saying that the boat was rated for, for
22 over 200 pots, and he was very happy with the outcome of the
23 stability report. That's all I remember.

24 Q. Okay.

25 A. You know, like I said, I wasn't on the boat at the time, so,

1 you know, when I took the boat to Kodiak, the stability report had
2 not been finished off at the time since it was done right before
3 we left basically.

4 Q. Okay. At this point, I'd like -- Lieutenant McPhillips, I'd
5 like to pull up Exhibit 23, page 13 please. Captain, what we're
6 pulling up is -- it's the AIS track for the *New Venture* in late
7 December. So it's going to -- can you see that okay?

8 A. I got a picture of the chart -- I got a picture of his chart,
9 not the track line.

10 Q. So the track line is pretty small. It's little red dots,
11 little red and yellow dots here on the side.

12 A. Okay. I cannot see those at all. I don't know if I can blow
13 my screen -- no, I can't.

14 Q. Hold on one second. We are trying to zoom in for you. Is
15 that better?

16 A. Well, you zoomed in over the Sutwik Island. You need to go
17 to -- oh, I -- okay. That's coming out of (indiscernible).

18 Q. We'll go ahead and make sure that that's the right page for
19 you.

20 A. Oh, this is my boat?

21 Q. Yes. Yes, sir. This is the *New Venture*. It's the AIS data
22 for the *New Venture*.

23 A. Oh, okay.

24 Q. Just make -- just orienting you on -- does that make sense on
25 where you were?

1 A. Oh, yeah, that fully makes sense. That's where I dumped my
2 first load of gear, ran into (indiscernible) to grab my second
3 load of gear, and then I took off and, yeah, went and set the
4 other set of gear, and I was just kind of drifting around until it
5 opened at midnight.

6 Q. Okay. So I wanted to talk to you about -- looking at the
7 time, at about 9:00 p.m. Alaskan Standard Time, were you on watch?
8 Do you recall?

9 A. I was drifting at the time, but I was up in the wheelhouse,
10 yes.

11 Q. Okay.

12 A. And yeah, I just -- yes, I was on watch. I was just drifting
13 and -- oh, what was I doing? I think I was just drifting and
14 kicking back, listening to a little music, and I think I was
15 trying to give a couple people -- actually, I was maybe talking
16 with a couple people. And that's really about it. Like I said, I
17 was just waiting. The boys were napping. And we were just
18 waiting, you know, to get started right at midnight or, you know,
19 12:01, when we could start all our gear.

20 Q. So, at some point in that hour between 2100 and 2200, 9:00 or
21 10:00 p.m., between that timeframe, the *Scandies Rose* went into a
22 distress phase and sent out a mayday call. Did you hear that
23 mayday call?

24 A. I did not. I did not. I did not hear that mayday call.

25 Q. When did you hear that the *Scandies Rose* was in distress?

1 A. When did I hear? It would have been 3:30 in the morning on
2 the 1st. And that's when I found out.

3 Q. Okay. Lieutenant, could you just zoom out a little bit so
4 that we can see the relative distance between Sutwik Island, the
5 accident location, and where, and where the *New Venture* was? So
6 you found out the early -- early the next morning?

7 A. I did.

8 Q. What kind of weather were you experiencing where you were,
9 where the *New Venture* was?

10 A. Oh, boy. It wasn't bad fishing weather. It wasn't flat
11 calm, but if I remember, it was probably like 25, 30, I think, if
12 I recall right, somewhere in there. You know, it wasn't too bad
13 at all really. I can't remember if it was cold -- of course, it
14 would have been cold, but I don't think we were icing.

15 Q. Okay. So to the best of your recollection, no icing for the
16 *New Venture*?

17 A. Yeah. And yes, as far as I recall actually, we weren't
18 making any ice at the time.

19 Q. Okay. Thanks, Lieutenant. We can take that down. Captain
20 Wilson, I'd like to just refocus on, on some of the crew. You've
21 been with that company, and you have been -- you have had
22 professional experience with Captain Cobban for a significant
23 period of time. I'd like for you to just take a few minutes to
24 tell us how well you knew him and what you thought of him from a
25 professional point of view and maybe comment on his judgment based

1 on your experience with him.

2 A. I knew of Gary back in 1990. He actually gave me a ride one
3 time back then. It was the derby days for crab, so a lot of us
4 would go to St. Paul, and that's how I initially met Gary. Then I
5 got to know Gary more as a person when I was on the *Diligent* and
6 he ran the *Rebel* doing (indiscernible) brown crab in the early
7 2000s. And from there, we would just keep in touch.

8 As a matter of fact, it was Gary that got me on the *Scandies*
9 because I used to actually work for Blake (ph.) when he owned it,
10 before he sold it to Dan and Gary. And I actually called Gary up
11 and all. He asked me what I was doing for king crab. And I said,
12 you know, for the first time in a long time, I'm looking. And he
13 said, look no further. And that's how I got hooked up with Gary.

14 Gary has always been known as an awesome fisherman. As I got
15 to work with him, he was a great captain, you know. I mean, he
16 was. I mean, we all have our, our sides. I mean Gary, Gary was
17 fair. He was hard. He was fair. You know, if he asks you to do
18 something, it's not something, it's not something he wouldn't
19 himself. You know, as you have heard, he would push -- you know,
20 sometimes he'd push, but he'd also know when to back off. You
21 know, there, there are limitations, but like any captain, you
22 know, at times, you got, you got to push through things and, of
23 course, that's what he did.

24 He'd strive to be the best captain he could be; you know, he
25 was a very competitive captain. Very much so. He wanted to win.

1 He wanted -- you know, I mean, I don't think it went so bad as to
2 where he would do anything to win. But, you know, I mean, all of
3 us are in this to be number -- you know, to be good or well or,
4 you know, be the best and, you know, he was right there with them.
5 And he had a reputation already, you know, people -- a lot of
6 captains respected him. He was well-known, well-respected
7 throughout the fleet.

8 Q. Okay. And how about the rest of the crew? Did you -- had
9 you worked with any of the other crewmembers on board the *Scandies*
10 *Rose*?

11 A. I worked with David since he came on the boat as basically a
12 greenhorn. You know, for those couple of years I had left, he
13 actually worked with me on the *New Venture*. When I first took the
14 boat tendering, he came on board as a deckhand. So David had
15 worked with me, and I saw him develop throughout the years. You
16 know, it was slow, but, you know, he did develop.

17 Brock, I worked with him on deck. And then he also worked
18 with me one season on the *New Venture* when I was captain.

19 As far as Art, the only intertwining with Art really was if
20 I'd come down to the boat, help out. And then basically the one
21 voyage that we took when we took the boat from Seattle to Kodiak,
22 you know, in the -- in the spring or right beginning of the summer
23 of 2019 when I drove the boat up. That's really about it with
24 Art, you know.

25 Q. And what was, what was your impression of him?

1 A. Oh, Art, excellent, you know. I mean, excellent engineer.
2 He's like me, you know, something -- if he wasn't able to fix
3 something, we'd MacGyver it, as we call it, till we could get the
4 parts. He'd do it. We worked very well together. If we have a
5 pump or something that needed to be fixed, we worked well
6 together. As far as him -- me feeling safe with him as the
7 engineer of my boat, 100 percent, you know. I had no worries
8 here. He knew the boat very well.

9 You know, the boat had changed since I had been on it. It
10 had some new engines. There used to be different, different crane
11 configuration on the boat. So the boat was a little different
12 when I got on there, but he knew the boat as well as anybody at
13 that time when I took the boat up from Seattle.

14 Q. Okay. How about the other three crewmembers, Mr. Gribble,
15 Mr. Lawler, Mr. --

16 A. (No audible response.)

17 Q. No?

18 A. No, the only thing about Mr. Gribble is -- if I recall right
19 is I've heard the name, but I'm pretty sure it was his father.

20 Q. Okay.

21 A. And that's really about it. As far as the other two, never
22 heard or seen them in my life. And as far as Dean, if it is Dean
23 Gribble, Jr., no. Never seen him before.

24 Q. Okay. So last two questions from me, Captain. Based on your
25 knowledge of Captain Cobban and how he ran his boats and the

1 culture that he set up on his boat with his crew, do you think
2 that he enabled an environment or established an environment that
3 allowed the crew to voice concerns if they were concerned about
4 the safety of the vessel? Do you think that he built a culture
5 where they could say something?

6 A. Oh, easily. Yeah. Yeah. I would definitely say yes. I
7 mean -- yeah, nobody would be scared to go up to him. No, for
8 sure. I mean, if there was something that was bugging you, you'd
9 go up and talk to him. I -- you know, like I said, I grew quite a
10 relationship. I was able to talk to him actually about personal
11 things. But not everybody is like that. But yeah, he was, he was
12 in no way a shut door person, as I would call it.

13 Q. Okay. And he was willing to listen is what I'm hearing you
14 say?

15 A. Oh, yeah. Yes, he was. He was.

16 Q. So then, based on your experience and knowledge of at least
17 part of that crew, do you feel that they would have been willing
18 to voice a concern to him about the safety if there had been an
19 issue of safety?

20 A. Oh, Brock, David, or Art, definitely. Brock for sure. Brock
21 was somebody couldn't keep his -- you know, as you heard from
22 other testimony, Brock was very vocal. He liked to be the center
23 of attention. David would always communicate with his dad and,
24 you know, and would talk to him. And as far as Art, yeah. You
25 got to have a relationship with your engineer, and you got to be

1 able to listen to the engineer. As captain, you know, you have to
2 -- your engineer is basically taking care of the heart of the
3 boat. The engine room is the heart. The wheelhouse is the brain.
4 Without the heart running right -- you know, you can have the best
5 brain in the world, but if your heart stops running right, you
6 know, you got problems. And that's, you know, that's my
7 philosophy with the way I do things.

8 Q. Well, Captain, thank you so much. I appreciate it.

9 CDR DENNY: Captain Callaghan, I have no further questions at
10 this time.

11 CAPT CALLAGHAN: Thank you, Commander Denny.

12 I've got two questions before I pass it on to our colleagues
13 at the National Transportation Safety Board.

14 BY CAPT CALLAGHAN:

15 Q. So greatly appreciate you sharing this information with us
16 today. But going back from your time on the *Scandies Rose*, aside
17 from Captain Cobban and yourself, obviously, who is the longest
18 running deckhand or deck boss on board?

19 A. Oh, at the time when I was on the boat, it would have been
20 William Engstrom (ph.) and -- yeah, that would have been it. It
21 would have been William Engstrom. There was a couple others that
22 maybe had some time in, but basically, during my tenure as captain
23 -- not captain, sorry, engineer on the *Scandies*, it was, it was --
24 his nickname was WE, for his initials; it was WE and I.

25 Q. Thank you. And going back, originally, you had talked about

1 -- in the conversation with regards to the stability and talking
2 about your vessel the *New Venture*, you had mentioned that you had
3 -- either were ongoing or had recently undergone a new stability
4 test on the *New Venture*. Can you tell us what prompted that?

5 A. It was just time. You know, all of our boats -- I know the
6 *Scandies* got one. I think the other boats are getting -- it was
7 just time to get one. Our stability report is -- I don't think
8 outdated is the proper word, but it's, it's been a while, and we
9 have had some work done on the boat that just prompted it.

10 Q. Lieutenant McPhillips, can you pull up 046 please? Sir, let
11 me know when that comes up on your screen.

12 A. It's up right away. You guys are coming through crystal
13 clear just so you know. And everything is function up right away.
14 I mean, I don't even hear a delay of the phone.

15 Q. That's fantastic, sir. Can you tell us if you have ever seen
16 this marine safety alert, sir?

17 A. I can't say I have.

18 Q. Okay. Thank you.

19 CAPT CALLAGHAN: Lieutenant McPhillips, that's it for that
20 exhibit.

21 Sir, again, I want to thank you. At this time, I'm going to
22 pass it over to my colleagues with the National Transportation
23 Safety Board, see if they have any questions.

24 THE WITNESS: Okay.

25 MR. BARNUM: Thank you, Captain.

1 BY MR. BARNUM:

2 Q. And thank you, Captain Wilson. This is Bart Barnum with the
3 NTSB. Nice talking to you today. Thank you. I do have a couple
4 follow-ups and questions for you. They do relate to stability, so
5 bear with me here. But you mentioned, when you were talking to
6 Commander Denny, you were on board the *Scandies Rose* in 2019 when
7 she was getting a new incline test, and you helped out a little
8 bit. And then you were also on board -- I shouldn't assume. Were
9 you also on board when the vessel had an incline test performed?

10 A. Yes and no. The reason I say that, I was there for it, but
11 because I had to get off the boat when they started it, I was only
12 allowed to be on the boat in between the moving of the blocks. I
13 could not be on there for when they were doing their calculations.

14 Q. All right. And between this, the incline test on the
15 *Scandies* and the incline test on your vessel, were they -- was it
16 a different naval arch performing them?

17 A. It was -- yes, it was.

18 Q. Was there anything that that they did differently between the
19 two naval arcs and the two tests on the two vessels?

20 A. We had more blocks on my boat, and the other thing -- I mean,
21 they were just using that one huge single block on the *Scandies*
22 where I had I think a half dozen or more blocks on my boat. And
23 the only other thing that was different, like I said, was because
24 I wasn't -- I had to get off the boat for something, either -- I
25 forget what it was. So I wasn't there for the very initial

1 calculation. From there on, they would not let me be on the boat
2 for any other calculation, only in between, for when they were
3 moving the blocks. And that was it.

4 Q. Did you feel that one was more thorough than the other
5 calculations, other assessment?

6 A. I don't know. That's kind of difficult to say. I mean, both
7 -- they both did it in a different style. I mean, basically, I do
8 remember when the *Scandies* -- once blocks were moved, we had to go
9 back to where we were, as far as I can recall, and I remember no
10 one else was allowed on the boat. Like I said, it was one single
11 block compared to a bunch of blocks. And I wasn't there -- I was
12 there for the entire *New Venture* one, more or less, like I said.
13 So there was marks all down the side of my boat where they were
14 taking measurements. Where the one on the *Scandies*, what I
15 recall, I wasn't there for the entire thing, but mainly I just
16 remember the blocks being moved. So --

17 Q. Okay. All right. Thank you. You've also mentioned earlier
18 that your stability report for the *New Venture* is -- was dated
19 some but not out of date. Do you know what the year that one was
20 completed?

21 A. Somewhere in the late '90s, I want to just speculate.

22 Q. Okay. So your stability instructions on board your vessel,
23 to just give you a sense, you know, how often do you reference
24 them or how do you use them as a captain?

25 A. I look at them all the time, I mean, just to see the

1 different loadings and stuff like that. I just try and keep in
2 touch with them. You know, there's different, there's different
3 loadings for how much -- there's different conditions, what they
4 call start a trip, burn out, you know, how much space you have on
5 board, you know, at what level, everything like that, and I just
6 kind of -- I just try and keep in touch with it, you know.

7 I've looked at my stability report probably -- I would say
8 pretty much before every season, except for tendering, because
9 tendering, basically all I'm doing is putting on some tendering
10 equipment. But then I also take time with that one and kind of
11 read through it.

12 Q. You mentioned Captain Cobban recommended or told you not to
13 carry over a certain number of pots. How confident are you with
14 your stability instruction? Do you feel comfortable or is there
15 any other aspects that you're leery of?

16 A. I'm comfortable with -- I mean, it all depends on the weather
17 conditions and what way -- I mean, if you're bucking into it,
18 which I don't know if you're familiar with, but going into the
19 weather, it's a lot different than if you're riding in a ditch,
20 you know, which is sideways to the weather where you roll a lot.

21 The other is the size of seas. I mean, you know, yeah, I
22 might be rated for so many pots, but depending on the conditions
23 -- icing, weather, what direction the weather, what's the
24 forecasted weather -- I mean, that could change the anytime.

25 I don't always carry around 75 to 80 pots. You know, I've

1 gone out on the season and only taken 50, you know, just because I
2 knew it was going to be some bad weather. I wanted to keep the
3 load lower. I knew it was going to be in the ditch. And I've
4 done that too. I mean, you know, that's where the discretion --
5 or the discretion of me being the captain comes in, you know.

6 Q. So am I correct in assuming that you're confident in your
7 stability instructions, what you read in there, you believe and
8 you trust them?

9 A. I do.

10 Q. Okay. All right. If you did have a question, do you know
11 who would you contact or who would you ask if you did have a
12 question maybe about a certain condition in your stability
13 instructions?

14 A. It would probably -- it would be the person that did the
15 stability report, you know.

16 Q. Okay.

17 A. I mean, like with this, this new one we have, I would -- I've
18 been in touch with the gentleman a few times, and I would talk to
19 him about it. You know, the one -- the previous report, I don't
20 know who did it, but I'm sure I could look up who did it, give
21 them a shout, and ask them a question.

22 Q. I understand.

23 A. And the number one rule -- and I'm sorry to interrupt.
24 Number one rule, if you don't feel comfortable, don't do it.

25 Q. Right.

1 A. You know, if something doesn't make you feel right, then just
2 don't do it, you know, don't push it, you know. I mean, I'm a
3 captain entrusted with anywhere from two to five lives, you know,
4 and those lives are depending on me to bring the boat back, for
5 them to step on land again, for them to see their families, you
6 know. Gary was too, you know, and it just -- it's very
7 unfortunate what happened here. We'll never know the truth.
8 That's the problem. We can all make these speculations and
9 everything like that, but the only people that really know what
10 really happened on that boat unfortunately are no longer with us.

11 Q. Sure. Yeah. Yeah. Very unfortunate, and it's still a lot
12 yet to be discovered. Thank you. A couple more questions here
13 regarding stability following along those lines. Not questioning
14 your abilities or knowledge whatsoever -- I understand you're a
15 very experienced captain -- but have you ever received any formal
16 stability training in a classroom setting or otherwise?

17 A. No, but I have thought about taking a stability class now
18 that all this has gone on. But no, I have not.

19 Q. Okay. Excellent. Thank you for that. And then, you know,
20 we talked about icing accumulation has different variations and
21 conditions and vessels that you might be on, but, you know, your
22 vessel the *New Venture*, if it was uniform icing on your pots on
23 deck, how much you typically feel comfortable with ice
24 accumulation on board, on board your pots or your vessel?

25 A. Not a lot. I just don't -- I don't feel very comfortable

1 with a lot on board, and it also depends on the type of ice. You
2 get that slush ice, that's going be a lot heavier I feel. You
3 know, I guess so much of ice or water or whatever I guess might
4 weigh the same, but hard ice, if it's hard icing, you know, you
5 might go, but if it's that slush ice that slushes, I think -- I
6 just don't let a lot of ice build on that, you know.

7 The boat is, the boat is an older boat. It's a narrower
8 boat. You know, it's the same as the *Scandies*, it's a bender,
9 but, you know, I just -- I make it so, when we got to break ice,
10 we don't lose a lot of time, you know, the boys get out there and
11 they are -- got to break ice for maybe an hour, hour-and-a-half,
12 boom, we are on our way. You know, I just -- I've never let a lot
13 of ice build on that boat because I feel it right away, you know,
14 with that boat, so --

15 Q. You know, we are always looking for a number. If you put a
16 number on it, one, two, three inches before you send the guys out,
17 what do you feel comfortable with?

18 A. I guess it -- gosh, maybe two inches. I think it just
19 depends that they get -- really depends on how fast it's freezing.
20 I've seen it where I get a wave and before it even hits my windows
21 turns into icicles. You know, at that point, yeah, you get the
22 ice off the boat right away. Where I see that it's basically --
23 you know, we've made a little ice, and it's like a glazed donut,
24 but basically the other, other parts of the boat are still like
25 watery and it's kind of a just more of a slush, then it might --

1 you know, depending on how far or where we got to go, I might wait
2 a little bit longer. Like I said, it's just -- you know, there's
3 so many variables that come into play with that. You know, main
4 thing is how -- the main thing is how the boat feels. That is the
5 main thing. If the boat starts feeling heavy, sluggish, and slow,
6 then we get it off. End of discussion, you know.

7 Q. Okay.

8 A. Also, the quickness we're -- if we're accumulating really
9 fast, then we clear the boat and we figure out what we need to do
10 to drop the accumulation. And it could mean jogging in place.

11 Q. Thank you. Thank you for that. Just two last quick
12 questions. One on your EPIRB. How often do you test that on
13 board, sir?

14 A. When I do my safety drills.

15 Q. Okay. And how do you record that or how is that documented?

16 A. Actually, we have a safety -- we have two -- we have a safety
17 sheet, two of them. One for the monthly checks with EPIRBs and
18 all that. And then another one for our drills, model suits and
19 everything, and that's -- you know, you take the EPIRB out and
20 there's a little test switch there and you check for the lights.

21 Q. Okay. And my last question, you know, I want your honest
22 opinion here. All things the same, put yourself in Captain
23 Cobban's shoes the night it -- you know, the night of the 28th,
24 the decision to leave Kodiak. You have the forecast that he had,
25 you have his vessel, you have his pot load. Would you have stayed

1 in port, waited on weather, or would you depart for the fishing
2 ground?

3 A. I don't have all exact stats, weather and everything, but I
4 probably would have left and started to make my way down. I know
5 two other boats did. One of them you guys are going to be
6 interviewing tomorrow, and another one is my fishing partner, and
7 they left with Gary.

8 And, you know, that's the other thing; I would have left,
9 gone down so far, dropped in, dropped the pick. I like to just
10 get out of town. You know, that's -- instead of waiting in town,
11 you can make your way a little way, you're that much closer.
12 Then, if there's just a small window in a certain area, then you
13 can keep moving. That's all.

14 Q. Okay.

15 MR. BARNUM: Thank you, Captain Wilson. It's nice talking to
16 you.

17 THE WITNESS: Yeah.

18 MR. BARNUM: I know my colleague has a couple questions for
19 you as well, so Mr. Suffern will ask you some questions. Thank
20 you.

21 THE WITNESS: Yeah. No problem.

22 BY MR. SUFFERN:

23 Q. Thank you, Captain Wilson, for your time today. I just have
24 a few questions. Earlier, during your testimony time to Commander
25 Denny there, you were talking about using the Windy app. Do you

1 view that application on your phone or via computer, or what, what
2 -- how do you view that application?

3 A. Well, right now, I use it on my phone because we do not have
4 a KVH system on the boat. But now we have just recently gotten a
5 fleet one, and now I have what's called Predict Wind, and that's
6 being able to be pulled up on my computer, the same one I use for
7 my navigation. The zone forecast, which is actually called a PKZ
8 for different areas, I don't know if you're familiar with that,
9 but that one I can get at any time. And like I said, that's
10 through a text and messaging device called a Zoleo. You know,
11 there's the Garmin and then there's Zoleo, and I think there's
12 probably a couple others, but I use the Zoleo. And basically,
13 that'll give me a zone forecast for, say, all of the Silicon,
14 where the Windy will more or less, you know, show you that it's
15 rough here, rough here, you got a window right through here, you
16 know, stuff like that. But, like I said, as far as PKZ, I look at
17 the wave height and, you know, and then that gives me other info.

18 Q. Okay. Could we bring up Exhibit 026, 026? And this will be
19 a picture of exactly what I believe you're familiar with. It's a
20 screen capture of Windy, showing wind information.

21 A. Right.

22 Q. Yeah. So on the right side of the Windy application -- if we
23 can zoom kind of in the upper right-hand corner, right middle,
24 there are other tabs over there like wind gusts, cloud --

25 A. Oh, right.

1 Q. -- weather warnings; do you ever click on those tabs?

2 A. Yeah, I know the -- I'll click on the gusts once in a while.
3 And I clicked on the height. I mean, I've set the height for
4 different things. Maybe I've done the height for like if I'm
5 trying to fly out, then I'll want to see what the pilots are
6 seeing. But as of all the rest, right now, I wouldn't be able to
7 see them because all your cameras are coming right down that app
8 thing. So I don't know if you can move it over to the left a
9 little bit. I know there's other, I know there's other things on
10 there, and I've used some of them, but really, I'm just looking at
11 -- like I'll do a big area like this to see what the weather is
12 and what's tracking in. And that's really about it. I don't go
13 any more extensive than that.

14 Q. Okay. Great. And then one more exhibit, if we could bring
15 up Exhibit 055, 055. This is a website that was developed by the
16 Ocean Prediction Center. If we could zoom in on the two middle
17 images, please. And this is an experimental site that they have
18 out there about freezing spray accumulation potential for over a
19 course of 12 hours, 24 hours, and 36 hours, and kind of give a
20 general area of Alaska, and then you can see kind of south of the
21 Bering Sea ice edge there and where those colored shaded areas are
22 and kind of would give a captain a view of icing rate, whether in
23 centimeters per hour or inches per hour. Would you, as a captain,
24 find this kind of graphic valuable, if you had access to it?

25 A. Yeah, I think that thing is cool. Sorry, sorry for my

1 analogy. But yeah, no, I would. I would. I think it would be
2 very helpful.

3 Q. All right.

4 A. You know, for then -- especially, especially for the boats
5 going further up north, they can see kind of what they are looking
6 at. I would imagine that graph on the right-hand side there on
7 that -- the Stallabrass, the Canadian algorithm, that's inches.
8 Or actually it's -- on both of them, that's inches?

9 Q. Yes, sir. They're both -- currently, they have it set up as
10 centimeters per hour, but I'm sure they could --

11 A. Oh, okay.

12 Q. -- adjust to inches per hour. But they are two different
13 scales. So they are --

14 A. Right.

15 Q. Yeah.

16 A. Oh, I see centimeter per hour. I didn't read it all the way.
17 So that would be handy. Yeah, I like it.

18 Q. Okay.

19 A. I mean, the more information we can get for what we are going
20 out into, what we are looking at, everything like that would be,
21 you know, would be great. So --

22 Q. Then you can take that exhibit down. Thank you so much. And
23 then one last quick question. Have you ever -- as you have
24 accumulated ice on your vessel, whether a small amount or a little
25 amount there, have you ever relayed those reports to the National

1 Weather Service or to other vessels that you have been fishing
2 with or anything like that? Has there been a passage of
3 information there?

4 A. When I talk to another boat, yeah, I'll say, hey, we're
5 starting to ice up pretty good or, you know, we got a glaze going
6 on. You know, yeah, when I talk to my fishing partners, I pass it
7 on that way. I've never -- yeah, I don't give it to the, you
8 know, like any forecast place because I really don't communicate
9 with them that much. No, I don't.

10 Q. Okay.

11 A. But if I'm talking to one of my partners and he's coming my
12 way, I'll just let him know, hey, temps really dropping, you know,
13 the ice is starting to go -- starting to ice up or getting to
14 glaze, weather is picking up, stuff like that. That's how, you
15 know, the fishing community works.

16 Q. Thank you so much, Captain Wilson.

17 MR. SUFFERN: That's all the questions I have. Thank you.

18 CAPT CALLAGHAN: Thank you.

19 Captain Wilson, I'm now going to pass over to our parties in
20 interest, so counsel representing the two survivors, see if they
21 have any questions.

22 Mr. Stacey?

23 MR. STACEY: Thank you, Captain Callaghan.

24 BY MR. STACEY:

25 Q. And thank you very much, Captain Wilson, for your testimony

1 today. Just a few questions picking up right where we just left
2 off with Mr. Suffern, talking about how you would reach out to
3 your fishing partners. Would Captain Cobban ever reach out to you
4 while you're both underway?

5 A. We talked. We did. Yeah, we'd communicate. I mean, we
6 didn't talk as much as, say, I talk with other people. But yeah,
7 we would talk once in a while.

8 Q. Would you ever --

9 A. He had -- he didn't -- go ahead, I'm sorry.

10 Q. No, I'm sorry. Please continue, sir.

11 A. We didn't talk as much. You know, he had his own -- he had
12 his own group, you know. I mean, basically, we would talk, but
13 like he has his little group. I've got my, my couple that I talk
14 to quite consistently, but Gary talked to a lot of people and, you
15 know, once in a while we'd, we'd chat, you know. It just depends
16 on -- you know, sometimes we would chat for a week straight, you
17 know, where every day we would talk two, three times a day. Then
18 we would go two months and not even talk to each other. So it was
19 just, you know, it was one of those kind of relationships with us.
20 I mean, if I ever needed something, I could call him, you know, I
21 could. But otherwise -- and that there would be times when we'd
22 have a string of chatting together and a string of where we
23 wouldn't talk to each other for months, so --

24 Q. I see. And when you did communicate with Captain Cobban,
25 would you ever talk about the weather or vessel conditions, icing

1 of that sort?

2 A. Yeah, sometimes, you know. He would let me know if he's --
3 you know, if it was jiggly, as he called it, jiggly out. That's
4 our phrase. Yeah, it's a little jiggly. You know, he'd call and
5 check on me and -- you know, he was my mentor, my teacher, you
6 know, for becoming a fishing captain and -- you know, so it was
7 mainly when we'd chat, you know, I'd tell him what I was doing as
8 a fisherman, how I was setting my gear, doing this, and then he
9 would give me tips. And then he would say, well, you know, if
10 this is not working out, try that spot. You know, here's what I,
11 here's what I've done, here's what I'd do. And then we would chat
12 about everything, you know, we would, you know, but we would talk
13 about weather, you know, I mean, but it was never a call where
14 like right now, hey, yeah, it's really ugly. I'm icing up really
15 bad. Here's what's going on here that -- it was -- we never
16 really had that -- it never was like that between us.

17 Q. Understood.

18 A. I don't think it's like that with anybody I really talk to.
19 We always just start talking and, you know, whatever.

20 Q. Right. And in those times when -- you know, I know they
21 weren't too many, but in those times when you would talk to
22 Captain Cobban about the weather, he'd tell you about his
23 observations, you always found those observations to be accurate
24 and truthful in your experiences, right?

25 A. What he was telling me?

1 Q. Yeah.

2 A. Oh, yeah. Yeah. Oh, yeah, yeah. If Gary said it was jiggly
3 out, it was jiggly out.

4 Q. It was, it was jiggly out.

5 A. He didn't -- yeah. And for that boat to be jiggly, yeah, it
6 was jiggly out.

7 Q. Okay. Thank you very much, Captain Wilson.

8 MR. STACEY: Those are all the questions I have.

9 THE WITNESS: All right.

10 MR. STACEY: Thank you, sir.

11 THE WITNESS: Thank you.

12 CAPT CALLAGHAN: Thank you, Mr. Stacey.

13 And, Mr. Wilson, I'm going to now pass it to Mr. Barcott who
14 is the counsel representing the vessel owner.

15 THE WITNESS: Okay.

16 BY MR. BARCOTT:

17 Q. Hey, Captain, good afternoon. Can you hear me all right?

18 A. I can. I can. Good afternoon again.

19 Q. Great. Good afternoon again. So I want to talk about -- and
20 I just got a couple of questions for you. We've seen photographs
21 of the *Scandies Rose* with a pretty good load of pots on her.

22 A. Right.

23 Q. And it almost looks like the pots block the view from the
24 wheelhouse. Can you tell us where the captain's chair was in the
25 wheelhouse on the *Scandies Rose*?

1 A. Yeah. It was right on the starboard side. If you'd like to
2 pull up the image, I can -- oh, that's right. I can't point it
3 out, but right that starboard window, starboard corner where he
4 dropped the tier down to three-highs is where the captain's chair
5 is and the captain's workstation.

6 Q. Would you explain that, drop the tier down? And for the
7 members of the Board, I don't have my exhibits here, and I don't
8 remember enough --

9 A. Okay. So if you look at the exhibit of pots, and I know I
10 call it four-high, but I guess the bottom tier is -- or the bottom
11 pot stood on end is called a tier. So if you look at those, the
12 pots were stacked four across on -- you know, so like if this is
13 the -- so like I guess -- I'm going to use my phone. So if this
14 is the wheelhouse -- oh, okay, there we go.

15 Q. Thank you very much.

16 A. So if you want to move your cursor up towards the table. Put
17 it by the table. Now, drop it down to that tier of pots. So
18 that's the fifth tier or four-high. Now, if you look right next
19 to that -- drop it down one tier, and if you can see the change,
20 you notice he dropped a tier of pots down. If you look right up
21 into that corner where that window is and then around the corner
22 where the small, say, triangle window and then the window that's
23 open, that's exactly where the captain's seat and the captain's
24 workstation is. Right there in that corner.

25 Q. Great. So with that alleyway where you can see where there's

1 only three pots, can you get a good visual forward?

2 A. You can see forward. You can see forward four-high as far as
3 seeing forward like -- what are you trying to look for forward?

4 Q. Other vessels, buoys?

5 A. Well, you would be able to see that even with the stack
6 that's over there. I mean, yeah, the table is an obstacle, but,
7 you know, all you do is you get out of your chair and you walk to
8 the other side. Whenever we had a load on the boat, you know, we
9 were told that do not, do not bring any super glue and get glued
10 to the chair. Get up. Go walk to the other side and have a look.

11 If we were going where it was gear -- where we knew there was
12 gear, we would have two-man watches: a guy on the port side, guy
13 on the starboard side, you know. There was a -- there was quite a
14 few times where we did two-man watches because, you know, we had
15 to watch for stuff. There was a lot of debris in the water. You
16 know, you wouldn't be able to see over on the port side. And so
17 we would have a two-man watch.

18 Q. Thank you. Lieutenant, we can take that exhibit down. So,
19 Captain Wilson, in response to Commander Denny's question, there
20 was an incident where you were on charter and there was a small
21 hole found in the hull and it was cut out and replaced. Can you
22 give me an approximate time period when that was?

23 A. I think it was 2011.

24 Q. Okay. And when that was discovered, they cut out the bad
25 steel and replaced it?

1 A. They did. They cut out the bad steel. They actually made
2 sure they went far enough into the good steel and then they
3 replaced it.

4 Q. Okay.

5 A. And I was on scene for that entire repair, and it was done in
6 Dutch Harbor at McDoom Marines (ph.).

7 Q. Thank you, Captain.

8 MR. BARCOTT: Those are all the questions I've got this
9 afternoon. Thank you very much. Thanks for being here.

10 CAPT CALLAGHAN: Thank you, Mr. Barcott.

11 Captain Wilson, if you are okay with -- I know we are about
12 our time that we told you, but if you are okay for a few more
13 minutes, Commander Denny has got a few follow-on questions for you
14 if that's all right with you?

15 THE WITNESS: Yeah, I'm fine.

16 CDR DENNY: Thanks, Captain.

17 Lieutenant, could you pull up Exhibit 001 and go to the slide
18 that shows the different vessels that were out on the night of the
19 accident? *New Venture* is one of those vessels. I just want to
20 have an image up of the *New Venture* so we can envision it.

21 BY CDR DENNY:

22 Q. And while that's coming up, Captain, does the *New Venture*
23 carry crab pots forward of the superstructure?

24 A. Does -- I'm a house forward boat, so all my pots are after
25 me.

1 Q. So everything is back at -- so how do you keep an eye on the
2 pots in terms of -- whoops, that's -- keep going. I want to see a
3 picture of the vessel please. Nope. Yep, there we are. Thank
4 you. If you could focus in on the *New Venture*. Perfect.

5 A. Well, that is an old picture. Wow.

6 Q. Is it? Okay. Well, we'll update it. So how do you keep an
7 eye on the -- how do you keep an eye on the pots and seeing if
8 they are icing or not; how do you do that?

9 A. Two ways. First one is I -- and I'm not trying to sound
10 whatever here, but I turn around in my chair or I get out of my
11 chair and I look back through the wheelhouse window. The second
12 is is now I have a camera. You can see where the forward mast
13 light is just below the row of five (indiscernible). On the aft
14 side of that, I've actually put a small camera up there, and I can
15 keep -- yeah, if you go through that forward mast like with your
16 cursor -- yeah, just the mast light itself. And then right behind
17 there, you see there's another mast, behind the (indiscernible).
18 So go up about an inch and over to your right a half an inch.
19 Okay. Right there, that mast, I have a camera pointing down, and
20 I'll use that for when the boys are putting the chains on so I can
21 watch them. And that way I keep an eye on the stacking while
22 there.

23 Q. Okay. And then, so having that kind of configuration, in
24 your opinion, your professional opinion, is that -- are the pots
25 more protected in a house forward configuration or does the house

1 itself protect the pots from freezing spray when you guys are
2 traveling?

3 A. I don't know if I'd say it's more protected. I think a lot
4 depends on which way the weather is coming from, you know. I
5 mean, the pots are back farther, but I mean, for reference really,
6 if you look at the bow on my boat and the bow of the *Scandies*, I
7 mean, the bow of the *Scandies* dwarfs my bow of my boat, so I mean,
8 that's definitely -- I would say his bow protects it better, you
9 know. But I think a lot depends on which -- on what way the
10 weather is coming.

11 Q. Okay. Lieutenant, let's actually go to page 1 of this
12 exhibit really quickly. I want to look at the *Scandies Rose* for
13 my last question. Move it out a little bit. Okay. So before, we
14 were looking at a picture of the vessel when it was more fully
15 loaded, but I'm going to use this picture for the sake of time.
16 When you're fully loaded and you were -- Captain, you were saying
17 that, you know, you could see all the way up forward even if it
18 had the four-high.

19 A. Right.

20 Q. How would you, as the person on watch or the vessel captain,
21 be able to tell the amount of ice that was building up forward on
22 the *Scandies* as there wasn't a walkway to get to up forward? How
23 would you, how would you deal with that and how would you get an
24 accurate assessment of the icing?

25 A. I would go out there and climb on top of the pots and walk

1 forward. I mean, that's -- I've had to do it before. Not all
2 boats have alleyways. You know, sometimes -- so, basically --
3 usually, when they take out a load of gear, let's say at the
4 beginning of the season, some boats have an alleyway. Like the
5 *Pinnacle*, of course, they set it up that way. But a lot of boats
6 won't have an alleyway for the initial set of their initial load
7 of gear. But then, when they are just hauling gear normally and
8 stacking, then they will keep an alleyway. But otherwise than
9 that, it's just a matter of you go out and you would come out down
10 here at the lower fo'c'sle to your right there or to the
11 companionway. You'd be vested up. You would have a partner. You
12 climb up the ladder, and you would walk over the stack, and you
13 would go forward and check on it.

14 And (indiscernible) during a long trip, some -- you would
15 have somebody go up there and just go check the forepeak anyway.
16 You know, you'd go up there and make sure everything is right,
17 especially if you have that bow heater on. You wanted to make
18 sure everything -- that that was still running. You'd check the
19 bait freezer, make sure that it was still keeping the -- your bait
20 cold, you know, that for some reason it hadn't kicked off or
21 something had failed and that your bait was thawing out. And you
22 would just go check. And we would do that -- I remember with Gary
23 doing that once, sometimes twice a day, you know, go in the
24 morning, go in the evening, check the boat out.

25 Q. So okay. I'm definitely hearing you. You're saying that

1 that's how you did it. So then is it a fair statement to say that
2 the *Scandies Rose* normally did not use alleyways, you -- the
3 standard operating procedure was to build the pot configuration
4 with no alleyways and to climb up and over; is that correct?

5 A. For the initial load of gear, yes. For the initial trips to
6 take the gear out, yes.

7 Q. Okay. Thank you, Captain.

8 CDR DENNY: I have no further questions. Oops, Mr. Wilson,
9 did you have something else? I didn't mean to cut you off again.

10 THE WITNESS: No, no, no. Not at all. No, I'm fine.

11 CDR DENNY: Thank you, sir.

12 CAPT CALLAGHAN: Thank you, Mr. Wilson. And, again, thank
13 you for your time today. We greatly appreciate your willingness
14 and your ability to spend this time with us today. Truthfully,
15 your experience not only on the *Scandies* but operating with some
16 of the crew previously helps us better understand this situation
17 as a whole.

18 I do want to offer -- recognizing your experience with them,
19 your previous work with not only Captain Cobban but some of the
20 crewmembers and on the *Scandies Rose*, I do want to offer my
21 condolences on behalf the Board and the Coast Guard for the loss
22 of not only friends of yours but members of the fishing family as
23 a result of this accident.

24 THE WITNESS: Thank you. I appreciate it. I do.

25 CAPT CALLAGHAN: Sir, so, again, thank you. You are now

1 released as a witness at this formal hearing. I thank you for
2 your testimony and cooperation. But if I later determine this
3 Board needs additional information from you, I will contact you
4 directly. If you have any questions about this investigation, you
5 can always reach out and contact the investigation recorder,
6 Lieutenant Ian McPhillips.

7 Thank you, again, Mr. Wilson.

8 THE WITNESS: I got that number and I got a, I got an email
9 here that I can send something to. And yeah, if you guys need me
10 anymore, you know how to get ahold of me. So all right. You all
11 have a good day, and thank you. All right.

12 CAPT CALLAGHAN: Thanks very much, sir.

13 (Witness excused.)

14 CAPT CALLAGHAN: Thank you. It's now 1539. This hearing
15 will now take a short recess and resume at 1545.

16 (Off the record at 3:38 p.m.)

17 (On the record at 3:56 p.m.)

18 CAPT CALLAGHAN: The time is now 1557, and this hearing is
19 now back in session. We will now hear testimony from Captain
20 Oystein Lone.

21 Captain Lone, Lieutenant McPhillips will now administer your
22 oath.

23 Lieutenant McPhillips?

24 LT MCPHILLIPS: Please stand and raise your right hand.

25 (Whereupon,

1 OYSTEIN LONE

2 was called as a witness and, after being first duly sworn, was
3 examined and testified as follows:)

4 LT McPHILLIPS: Please be seated. Please tell us, what is
5 your current employment and position?

6 THE WITNESS: I'm captain/owner of the fishing vessel *Pacific*
7 *Sounder*. Company name is Lone Larson, LLC.

8 LT McPHILLIPS: Thank you, Captain. Captain Callaghan will
9 now have follow-up questions for you.

10 EXAMINATION OF OYSTEIN LONE

11 BY CAPT CALLAGHAN:

12 Q. Captain Lone, thank you for joining us today and greatly
13 appreciate you taking the time while you're, too, at sea. And so,
14 that said, if we get disconnected at all, please bear with us as
15 we work through some technical challenges. But I don't want to
16 belabor it. I'd like to really kind of get to the -- our reason
17 here today, so my first question is, can you just tell us your
18 relationship with Captain Cobban and any of the other crewmembers
19 aboard the *Scandies Rose* at the time of the accident?

20 A. Me and Gary, we were kind of fishing partners. We fished in
21 the same co-op for crab, and we had been fishing together since
22 2011 when the *Sounder* was bought. And so we were, we were kind of
23 fishing partners, and we worked out on the grounds together.

24 Q. Had you ever worked together on the same boat with Captain
25 Cobban before?

1 A. No, never have.

2 Q. Okay. Thank you, sir. Sir, I know -- I'd like to take you
3 right up to the day or a couple days leading up to the accident,
4 and can you tell us where you were and what you were doing in
5 those couple of days?

6 A. A couple of days before, we were in Dutch Harbor getting
7 ready to go cod fishing. I did stability checks and just safety
8 stuff and getting provisions loaded before we headed out for the
9 cod season.

10 Q. Okay. And then, when was your first contact with Captain
11 Cobban, particularly regarding the voyage of the *Scandies Rose*?

12 A. The first time I talked to him was the evening of the 31st.
13 I believe it's around 2115 or 2130. And we had just gotten done
14 setting our cod gear off the vessel, and he called me up, and
15 matter of fact, that's the first time I talked to him then.

16 Q. And, sir, can you walk us through that conversation and then
17 any other subsequent conversations you had with Captain Cobban
18 that evening?

19 A. Yes. Yes. The conversation at 2115/2130 there started off
20 by him asking me about Sutwik Islands and if I'd been around
21 there, a good anchor spot and things like that. And during the
22 conversation, that led into him telling me he had accumulated
23 quite a bit of ice on the starboard side on a 20-degree list. And
24 he was about five, five-and-a-half miles away from the island, and
25 he was working himself up to the island to get leeway to break

1 ice. And so that's how the conversation started there.

2 And then we got into talking about Sutwik Island there and
3 the bay. He was heading for the south side there. He was
4 somewhere near the island. But then we discussed a bunch of other
5 things, too, Christmas and fishing, and he told me that he had to
6 eat on board, and he was going right to the grounds. And he
7 estimated he'd probably be two-and-a-half days late because he had
8 to get, get up behind the island and break ice and needed to get
9 up behind and the wind was going 60, 70 knots, 20 degrees. And he
10 was making his way up there, but -- so that's -- so that -- we
11 were discussing that.

12 And he also told me that he had 195 pots on and had just
13 recently done a new stability report on the vessel. And then we
14 chatted about some other stuff. There was no urgency in the call
15 at that time. And talking about him, he had just bought some more
16 shares in the vessel and talked about the upcoming cod season and
17 where I was fishing and, you know, things like that. And I had to
18 -- we were -- we were done fishing at that time, and I had to go
19 switch a generator over, and so I told him I'd call him back as
20 soon as I got done with that.

21 So I hung up with him at that point and went downstairs to do
22 what I needed to do. And then I called him back, and when I
23 called him back at -- I believe the time was 2158, he told me at
24 that time the list had gotten a lot worse, and he didn't know how
25 this was going to go. And that's when I lost communications with

1 him at that point.

2 Q. And did he mention anything else as to -- when he said --
3 when he mentioned that the list had gotten a lot worse, did he
4 give you any estimation?

5 A. No, he didn't. He didn't from 20 degrees the first time, and
6 there was more distress in his voice when he told me that. I mean
7 those last few sentences there, he had some concern there. So he
8 didn't mention how, how much worse the list had gotten, but he
9 said the list had got worse, and he didn't know how this was going
10 to go. And then I lost communication with him.

11 We were using sat phones at that time. My KVH, which I'm
12 talking to you on now, wasn't working, so I was using a sat phone
13 system. And so those are known for not being that great when they
14 clip in and clip out, so I, I clipped back on a couple times after
15 that, and he linked on, but he didn't -- nothing was said. So I
16 think I tried him about ten more times after that. Then I called
17 his -- *New Venture*, his partner boat, and I told him that he could
18 try to get ahold of him at that time. So he was going to try to
19 get ahold of him. The sat phones are notorious for not working
20 really well, so it's not unheard of that he would lose -- with
21 him.

22 Q. Okay. And at any point -- did you hear the mayday call at
23 any point?

24 A. No, negative. Negative. We had ice on my antennas, and we
25 were breaking ice at that point too, kind of de-icing our vessel.

1 And my antennas were iced up pretty good, so I never heard the
2 mayday call. I did not know about the *Scandies* sinking until
3 7 o'clock the next morning when I got a call from the *New Venture*
4 and he told me. That was the first I knew of it.

5 Q. Thank you. You mentioned that you were in the middle of
6 breaking ice where you were. How much ice accumulation you may
7 have had on board at that time?

8 A. Pretty hard to say, but, you know, we had pretty good ice on
9 the railings, figure half a foot, and on the decks, around the
10 house, and up on the wheelhouse. And it took us about two hours
11 to clear that off. It was blown on northwest 45. We had 15-,
12 20-foot seas. But we were, we were 200 miles away from where Gary
13 sank. We were up just North of Amak Island at that point.

14 Q. Okay. Did you have any pots on board?

15 A. Not at that time. Not at that time. We had -- I started
16 setting pots at 9 o'clock in the morning. I realized we were
17 starting to build some ice, and the weather report said it was
18 going to get worse. That was the morning of the 31st, 6:00 a.m.
19 And so we started setting pots at 9:00 in the morning, and we set
20 our last pot about 9 o'clock at night. By that time, we had
21 accumulated a little bit of ice at that point. So yeah, we got
22 the gear off in time, but there was a pretty good cold front
23 coming through there at that point.

24 Q. Okay. And, sir, to get -- you said approximately a half a
25 foot on the rails in some areas; is that correct?

1 A. Yeah. Roger, roger. Had two-and-a-half. Hard to go
2 back -- we didn't have any ice sticking to the hull, but the
3 railings had ice spray from setting gear all day there.

4 Q. In your experience, would you consider that heavy icing at
5 that point?

6 A. Yes. It was heavy freezing spray at that point.

7 Q. Okay. I'm going to go back to your conversation and -- kind
8 of earlier with Captain Cobban to around the first time. When you
9 had spoken to him at 2115 that evening, were you surprised at all,
10 you know, in the fact that they had gotten away in that weather or
11 was that kind of normal?

12 A. Well, I know there's boats ahead of them and behind him, so
13 he was just -- you know, it was getting to be that time of the
14 year where fishing starts, so no, I wasn't surprised.

15 Q. On that first call, was there any talk about -- you mentioned
16 he had taken a list and started taking some ice. Did he mention
17 anything about efforts to start mitigating some of that ice
18 buildup at that time?

19 A. Yes, he did mention that he thought it wasn't safe for the
20 crew to go out, so they are working themselves to get leeway
21 behind the island before they break ice. And I imagine in blowing
22 60, 70 down there, it would have been pretty nasty, so it probably
23 wouldn't have been safe to bring the boys out to do that at that
24 time.

25 Q. Okay. Thank you, sir.

1 CAPT CALLAGHAN: Sir, I'm sure the panel has got a number of
2 additional questions for you. In the interest of time, because
3 you're -- we want to make the best out of our connection, I'm
4 going to ask our colleagues at National Transportation Safety
5 Board if they have got any questions for you, sir.

6 THE WITNESS: Okay.

7 BY MR. BARNUM:

8 Q. Thank you, Captain Lone. I'm Bart Barnum with the NTSB here.
9 And yeah, considering others I'm sure have questions as well, I
10 just have a couple questions. Just to confirm, that first call
11 with Gary at 2115, you said that he had stated to you he had seen
12 56- to 70-knot winds, 12 degrees Fahrenheit; is that correct?

13 A. Yes, that's correct.

14 Q. Okay. And that he had 195 pots on board. He also mentioned
15 that he had the new stability report. Why did he mention that, do
16 you know?

17 A. It just, just came up in discussions that he had had a new
18 stability report done on the vessel.

19 Q. Okay.

20 A. I'm not sure why he said that, but, hey, that came out.
21 That's all I remember.

22 Q. Did he give you any more context, state that he could carry
23 more pots or he felt more safe with that report?

24 A. No, he didn't, he didn't elaborate on any of that to me. The
25 only thing he told me is he had that 20-degree list and he had the

1 195 on board and -- no, he didn't elaborate on that at all.

2 Q. Okay. And in the second conversation you had with Gary
3 later, after you switched over the generator, you said his voice
4 had become -- well, I don't want to put words in your mouth. Can
5 you just describe his tone for us on that second call?

6 A. He was definitely very concerned at that point. I could hear
7 that in his voice. There was fear. There was concern in his
8 voice, and I mean, there was just very short thing there, and then
9 I couldn't get ahold of him after that.

10 Q. Thank you. In your professional experience, about how fast
11 can ice accumulate on the vessel? You mentioned you had six
12 inches on your -- on the rails. You know, how fast can that
13 happen?

14 A. Under the right wind conditions and, you know, if it's heavy
15 seas and you got real strong winds, you whip that sea up and
16 everything gets thrown at the vessel sticks, you know, the
17 temperature gets low enough, you can build ice pretty fast. I
18 mean, you could build about a half of foot in a matter of a few
19 hours. So that seemed like -- it seemed like, when we started
20 building ice on our vessel, about 1700, it started building --
21 when night (indiscernible) there, the temperature dropped
22 considerably, and the weather had picked up, so it seemed like,
23 from that point on, it got heavier. But then we had gotten our
24 gear off, but -- it's really hard to answer that question, but you
25 -- it can build pretty fast.

1 Q. Sure. So considering the conditions the *Scandies Rose* was
2 seeing the 60 to 70, the 12 degrees, you know, the vessel moving
3 into the seas, would you expect that she could build ice that
4 fast?

5 A. Yeah. It was building ice pretty fast down there, and that
6 neighborhood down there is known for when those winds come off of
7 those mountains, northeast, northwest, it gets brutal cold down
8 there. And if the sea state was what was considerable, you would
9 be throwing quite a bit of water up, and it would be sticking to
10 the, to the vessel. So I would imagine he was icing pretty good.
11 If he had a 20-degree list, he must have had quite a bit of ice on
12 the starboard side.

13 Q. Thank you very much, Captain Lone.

14 MR. BARNUM: That's all the questions I have for you. Thank
15 you.

16 CAPT CALLAGHAN: Thank you, Mr. Barnum.

17 Mr. Lone, I'm going to, you know, pass it over to our parties
18 in interest. So for counsel representing the two survivors,
19 Mr. Stacey.

20 BY MR. STACEY:

21 Q. Hello, Captain. Thank you very much for taking the time to
22 talk with us. I'll try to be very brief, sir. You said that you
23 first talked to Captain Cobban that evening around 2115; is that
24 right?

25 A. Yes. I don't know the exact time. I know the Coast Guard

1 pulled up phone records for that, so they could probably elaborate
2 a little bit better, but I believe it was around 2115 to 2130 is
3 when I talked to him.

4 Q. And then you said you talked to him again after you switched
5 some generators over. Do you know what time that call was, sir?

6 A. Yes, it was 2158, because I had gotten the time from Harold,
7 who is the sat phone guy. He called me and said that I talked to
8 him at 2158, so that was -- that's what Harold told me, so --

9 Q. Yes, sir. Do you know how long Gary had been on watch before
10 he called you that first time around 2115?

11 A. No, I did not know how long he had been on watch.

12 Q. Did he say anything about how quickly the icing had occurred
13 when you talked to him either time, either at 2115 or 2158?

14 A. He said he was icing very heavy on the 21 -- the first
15 conversation I had with him, he said he was building ice pretty
16 fast with the wind and the weather there. But he didn't elaborate
17 how much he had -- how much he was building, but he said he was
18 building ice. And with a list there, I would imagine it was, it
19 was pretty good. But he didn't discuss any of it with me.

20 Q. Okay. Did you hear any other voices with Captain Cobban on
21 either of those phone calls, sir?

22 A. Negative. I didn't, I didn't hear anybody in the background
23 that I can remember.

24 Q. All right. And one final question, sir, and I realize this
25 may be a little difficult. Can you elaborate -- you said that

1 Captain Cobban sounded distressed on that 2158 call. Can you
2 elaborate and -- how could you tell in his voice? Was it the
3 words he was saying? Was it the tone? Could you elaborate a
4 little bit on that, sir, please?

5 A. Well, it was a lot worse, and he didn't know how this was
6 going to go. I could tell he had distress in his voice, so that's
7 -- that's about all I could say there. He had concern and
8 distress in his voice. I mean, I knew he was concerned at that
9 point.

10 Q. Okay.

11 MR. STACEY: I really appreciate you taking the time,
12 Captain. Those are all the questions I have for you. Thank you,
13 sir.

14 THE WITNESS: Thanks.

15 CAPT CALLAGHAN: Thank you, Mr. Stacey.

16 Captain Lone, I'm now going to pass it over to counsel for
17 the vessel owners.

18 Mr. Barcott?

19 BY MR. BARCOTT:

20 Q. Mike Barcott here. Just a couple of quick questions. In
21 that first call with the 20-degree list, did he tell you which
22 side the list was toward?

23 A. Yes, he did say it was temperate side, you know, listing to
24 starboard.

25 Q. Okay. So I've got a copy of the sat phone records in front

1 of me, and it looks like you may have spoken with, with the vessel
2 at 2037, or 8:30 at night. Is it possible that it was 2037?

3 A. Yeah, that very well could have been possible. It could have
4 been a little bit earlier.

5 Q. Okay, thank you very much.

6 MR. BARCOTT: Those are all the questions I have. Be safe
7 out there please. Thanks very much.

8 CAPT CALLAGHAN: Thank you, Mr. Barcott.

9 I now have just some follow-up questions from Commander Denny
10 here.

11 BY CDR DENNY:

12 Q. Captain, good afternoon, sir. Just a few quick questions.
13 In the same weather conditions that we were just talking about for
14 Captain Cobban and the *Scandies Rose*, if you had been in those
15 same weather conditions but you had a full load of pots on board,
16 would you have had serious safety concerns for your vessel's
17 safety?

18 A. Yes, I would. I would. I mean, we had a load of gear on,
19 and I saw the -- I saw issues coming up that morning with me, so I
20 -- you know, but I can't, I can't say what kind of -- you know,
21 what situation he was actually in down there. But I think all the
22 captains would have probably handled, handled that situation a
23 little bit differently or done the same. I'm not sure what I
24 would have (indiscernible) but I don't know what kind of
25 condition, how much ice was on the stack, if the guys could even

1 get to the gear at that point or turn around and ice the other
2 sides. There are things that can be done. Transfer fuel.
3 There's a lot of things that can be done, so -- but I might have
4 handled that a little bit differently. I don't know.

5 Q. Okay, that's fair. In a building emergency situation, can
6 you dump the pots overboard quickly?

7 A. Yes. You can get to a point where, where you start getting a
8 bad list, best just to get the gear off and you don't even let the
9 lines off. You just pop the chains and then just suitcase them
10 off the side. So there's been instances where people have done
11 that. I've never, never got to that point, but -- or yeah, just
12 turn around and build ice on the other side. But the main thing
13 is to get the weight off the boat at that point.

14 Q. Yes, sir. Thank you.

15 CDR DENNY: No further questions, Captain.

16 CAPT CALLAGHAN: Thank you, Commander Denny.

17 BY CAPT CALLAGHAN:

18 Q. Sir, I think you answered every question we have asked of you
19 here, and in consideration of, you know, the goals of this
20 investigation to learn as much about the facts as we can and to
21 take what we learn to effect the best recommendations and
22 potential changes to ensure the safety of all of you at sea, is
23 there anything that we may have not have discussed or asked you
24 today that you think would be important to share with this Board?

25 A. Well, the only thing I can share is that we -- you know,

1 after the *Destination* and the *Scandies* here, we, we were kind of
2 looking in the mirror a little bit, all of us, and we've taken
3 some steps here to try to start some stability classes. John
4 Walsh and me, we -- and John Crawford at Crawford Nautical, we
5 started a stability class where you're basically catered towards
6 the stability on your vessel, and it's a two-day class, you know,
7 so baby steps. But we have some pretty good classes here before
8 the season back in December, so we're making some -- trying to
9 make some positive moves out of this and learn from it.

10 Q. Thank you, sir. Thank you for sharing that, and we certainly
11 applaud the efforts there to maximize some exposure and some
12 training opportunities for folks out there on the water. So
13 greatly appreciate those efforts and the proactive approach that
14 you and some of your industry members that you mentioned are
15 taking to get at that.

16 I do have one last question with regards to icing. You
17 talked about ice buildup. From your experience, would you say ice
18 builds up at a regular rate across the top and the sides of the
19 pots? In other words, symmetrical, or would you call it more
20 asymmetrical?

21 A. Boy, that's kind of a difficult question. These pots, they
22 will ice up. It depends which way the wind is hitting you or the
23 spray is hitting the vessel. And normally, these pots will ice
24 up, and they are kind of -- to create a honeycomb effect and --
25 where the inside of the pot will be ice free or the shots and the

1 bags will be iced up. But if ice is over the pots, and then you
2 have a hollow pot on the inside -- so normal icing doesn't stick
3 to the hull usually, the outside of the hull, but when you get
4 heavy, heavy freezing spray, real cold stuff, then it really --
5 then it starts sticking to the hull. So, you know, it's starting
6 to get really cold.

7 But it all depends on the spray and how strong the wind is
8 and waves and which direction you're getting hit, where that spray
9 is hitting you. We can be clear on one side and iced up pretty
10 good on the other side, so you just sit there, and center of the
11 stack -- normally, the center of the stack will be clear, and the
12 outside pots will have ice on them if you're getting ice from
13 every direction. So it creates kind of a honeycomb, and the
14 center of the gear will be clear, so -- if you know what I mean
15 there.

16 Q. Yes, sir. Thank you. Trying to collect my thoughts. But
17 with regards to ice accumulation, and you mentioned it takes a
18 significant accumulation amount to start accumulating on the hull
19 itself. Have you ever worked with the bow heaters to mitigate
20 those types of icing events?

21 A. Yes. And the *Scandies* had a bow heater on it, and that, that
22 worked pretty good. I mean, I worked on a vessel as a deckhand
23 and that kept, kept the bow pretty clear. And also, those heated
24 rails -- some people run hot water through the rails; that seems
25 to work. And we also run hoses -- we run extra deck hoses and run

1 water on it, and that melts it off, so -- and tarping, tarping is
2 another, another function we can do. I haven't had very good
3 success to tarping, but some guys have, so --

4 Q. Yeah. Is there industry concerns regarding tarping to -- you
5 know, in the event you choose to tarp, are there specific risks
6 that you incur by doing so?

7 A. I wouldn't say so. I mean, if you can -- anything you can
8 keep the ice from accumulating is obviously positive. So I know a
9 lot of schooners, they'll build tarps. House forward boats, not
10 as much. You know, I don't see anything real negative about it.
11 You just have to make sure you put the tarps on properly. They
12 have a lot of wind, they can get ripped and blown, and so they
13 have got to be put on tightly.

14 Q. All right. The bow heater, they can be very effective, but
15 is there -- have you ever experienced a point where the icing is
16 significant enough to deem that -- the bow heater to be less
17 effective or to not mitigate all the ice buildup?

18 A. Yes. I mean, if they get brutal cold, I mean, you know, it's
19 going to stick to anything. So it gets -- it'll build a shell
20 over the top of it, and then it'll just start (indiscernible) it
21 just depends how cold it gets.

22 Q. Given the conditions that Captain Cobban described to you the
23 night of the accident, would you say that it was possible that he
24 could have been experiencing conditions bad enough for that to
25 start happening?

1 A. Yes, I would say so. With that amount of wind and then the
2 sea state, yeah. He was, he was probably facing some pretty fast
3 icing there.

4 Q. Thank you, sir. And I just have one last question, and this
5 goes back to your efforts with the stability courses. And so, in
6 your opinion, your professional opinion and your experience out
7 there on on the water, do you think there should be more effort to
8 make stability classes mandatory in some fashion for captains or
9 crewmembers to better understand the conditions on board their
10 vessels?

11 A. I don't think that would be a bad idea at all for captains
12 that carry crab pots to take a two-day stability class. And we
13 learned a lot from the classes we took. I know it's just some
14 beginning steps, but I think we all, as captains, learned a lot
15 from those. I think it would be prudent that we, we keep moving
16 that forward, and if we have to make it mandatory, so be it. But
17 I think, when a captain gets on a new vessel and he's taking over,
18 he should take a -- take that class with stability records of
19 books he has on board and run through that just for, for a
20 scenario. We had some really good input and work done in that
21 class there, so I would highly recommend it.

22 Q. Thank you, sir.

23 CAPT CALLAGHAN: I do have another follow-on question from
24 Mr. Barcott representing the vessel owners.

25 Mr. Barcott?

1 MR. BARCOTT: Thank you, Captain.

2 Captain Lone, I'm just curious about tarping, and we had a
3 witness a couple of days ago saying that, if you got out into the
4 fishing grounds, seas were 15 to 20 feet, the winds were blowing
5 35, and the tarps were iced on, there might be a problem -- a crew
6 safety issue in getting those off. Could you speak to that?

7 THE WITNESS: Yeah. Yeah, that could, that could be an
8 issue. You got tarps all across the stack, and you got to get out
9 there and unfasten those tarps, you could be sliding around on ice
10 on top of a stack. So yeah, it could be -- that could be
11 dangerous. When I tarped before, we usually just tarped the
12 sides. We don't tarp the top. And they usually -- that's where
13 the spray hits it, so it's a little easier to deal with that. And
14 when you set the gear, basically, that tarp gets destroyed, so you
15 don't risk anybody trying to do anything with those tarps. But if
16 it's on the top of the stack, I definitely could see a concern
17 with that.

18 MR. BARCOTT: Thank you very much. That's all I have.

19 CAPT CALLAGHAN: Thank you, Mr. Barcott.

20 BY CAPT CALLAGHAN:

21 Q. Mr. Lone, in regards to visibility of the ice from a vessel
22 like the *Scandies Rose*, from the wheelhouse, would you think that
23 you have -- in the event that ice was to start building up on the
24 bow in a sense of extreme condition, would that be something that
25 would be visible with a full stack of pots?

1 A. I couldn't tell how the pots were stacked. I couldn't answer
2 that question. Normally, on that vessel, you leave -- on the
3 starboard side, there's an opening going forward there so you can
4 see the bow, the launcher area, and I'm not sure how Gary stacked
5 the boat when he left. If he stacked in front of the window,
6 which I don't think he did, he should have been able to see the
7 bow and the forward deck launcher area there. But that's a hard
8 question for me to answer because I don't know how he put the pots
9 on.

10 Q. Sure. Sure. Understood. And while we have you, sir,
11 because we've been very fortunate, I just want to ask you, when
12 you run your safety drills, can you tell us what you run through
13 with the crew when you run your safety drills?

14 A. Well, I usually have -- I have a meeting first, then we just
15 go over where everything is on the vessel, all our safety
16 equipment; where the EPIRB is located; we go over the rafts; I go
17 over where the fire extinguishers are, the man overboard suit;
18 who's going to be the rescue swimmer, the backup. So you kind of
19 assert the positions for everybody and what everybody does in an
20 emergency -- who grabs the flares, who grabs the EPIRB. And in
21 the -- all the particulars of this vessel for fire -- and every
22 vessel is different -- how we would handle it (indiscernible)
23 where the emergency pumps are and survival suits. All that.

24 So that's my initial safety kind of drill with the crew. We
25 go through everything, and then we'll -- I'll run through drills

1 where we actually suit our rescue swimmer out and practice putting
2 that suit on and someone else jump in the water. Then we'll do a
3 fire drill with a -- pick a location on the vessel and do a fire
4 drill with that and what we would use for that fire, if it's
5 electrical or what kind of fire we have, depending on where it is,
6 what kind of extinguisher to use. And also abandon ship, what we
7 would do in that situation, how we would handle getting the rafts
8 off of the vessel and down on deck. And we would just follow
9 protocol with all those drills.

10 Q. And when you -- as a matter of practice, when you are
11 instructing your crew, you mention who's going to take the EPIRB.
12 Is there a point where someone grabs the EPIRB in an emergency
13 situation?

14 A. Yes, I usually have -- one of the guys will grab the EPIRB
15 and bring it down, but we don't pull it off the mounts just
16 because the mounts are kind of -- you don't want to break anything
17 up there. So we don't, we don't pull the EPIRB off, but we know
18 where it is. I send the guys up on the house. They know where
19 the EPIRB is located, how to take it out of that -- from the box,
20 and where the rafts are located.

21 Q. Okay. So in the event of an emergency, would they -- would
22 someone grab it and take it with them or --

23 A. Yes. Well, the main thing is to get it activated right away.
24 Maybe not take it with them. Just, depending on what the
25 emergency is, get the EPIRB activated, get a signal out that you

1 are in trouble. And the only thing is, you know, we roll with a
2 general alarm, and then we go over the emergency radio distress
3 calls, how to do that, which radios are in the wheelhouse.

4 Q. Okay. So by practice, do you carry a personal beacon by any
5 chance?

6 A. No. Negative. Negative -- personal one on me. If you have
7 an observer, they carry one. Most of my guys have inReaches now,
8 and they have a panic button on that. So I've got five guys on
9 here, and they all have an inReach. So it protects the home (ph.)
10 and everything, and it's got an SOS button, so if something were
11 to happen, you would have five signals going out, plus the EPIRB.

12 Q. Now, from your experience, those inReaches, how effective
13 would they be once someone would be in the water?

14 A. Well, that's hard to say if you're in a survival suit, but if
15 you can hit the SOS button on there, then, you know, know where
16 that person is at, the location, that person can send a text if
17 he's in the water. So they seem to be quite effective. Sometimes
18 there's a little lapse in the time when the signal gets sent out
19 as far as messages and stuff like that. We use, we use inReach
20 just for weather reports, and you can call in the weather for your
21 area and for messaging with processors and back home for family,
22 stuff like that. So it's a good backup unit.

23 Q. And during your drills with the EPIRB, at any point do you
24 test the EPIRB, or is it just a matter of showing the crew where
25 it is in case of an emergency?

1 A. I test the EPIRB in town, top of the hour, and sometimes I'll
2 test it out here at sea if we are out here longer.

3 Q. Okay. And then, just one more question with regards to your
4 drills. Just trying to understand some of the common practices
5 amongst the fleet. When you do emergency training for the crew,
6 what extent are you doing with the crew? Is everyone getting
7 suited up?

8 A. Yes. I forgot to mention that, but during our initial drill,
9 everybody, everybody puts a survival suit on. And we go through
10 it kind of slowly, like keeping the zippers greased and how to
11 best get into the suits. So everybody puts on a suit before the
12 trip, any new crewmember. And we have a drill suit on board. We
13 don't use our suits that are set for an emergency just so we don't
14 get any damage to those suits or accidentally activate a battery
15 for the light or get them dirty. There's a lot of soot (ph.) on
16 the outside and stuff like that. We all try to keep them clean.
17 But we have our -- a designated for drilling, and that's the one
18 everybody gets to put on, so everybody takes a run putting the
19 suit on. I think pretty much fleet wide, everybody does that.

20 Q. Okay. I appreciate the clarification there.

21 CAPT CALLAGHAN: Sir, I greatly appreciate your time here,
22 and I know we caught you in the middle of some weather out there
23 and hope the best for your current trip and hope you can continue
24 to remain safe out there. I do, at this point, want to recognize,
25 as we established earlier, you know, Captain Cobban and you had a

1 long history together, and just want to offer you our condolences
2 on behalf of the Marine Board here for the loss of a friend and a
3 member of your fishing family as a result of this accident.

4 THE WITNESS: Yep, thank you very much. He was a good man.
5 He was a good captain. He's greatly missed out here, that's for
6 sure. So thank you for that. So if you have any follow up stuff,
7 don't be afraid to give me a call here.

8 CAPT CALLAGHAN: Yes, sir. We greatly appreciate that. So,
9 sir, this is going to complete our time here today. We now
10 release you as a witness from the formal portion of this hearing.
11 Thank you for your testimony and your cooperation. If I later
12 determine that we need more information from you, we will reach
13 out and contact you directly. In the meantime, if you have any
14 questions about this investigation, you may reach out to and
15 contact us through our investigation recorder, Lieutenant
16 McPhillips.

17 Thank you very much, sir.

18 THE WITNESS: Thank you. All right. Good luck.

19 CAPT CALLAGHAN: Thank you, sir, and you are free to drop off
20 whenever you want, sir.

21 THE WITNESS: Okay. Thank you. Goodbye.

22 (Witness excused.)

23 CAPT CALLAGHAN: The time is now 1642. I want to take this
24 opportunity to thank all of our witnesses for their testimony
25 today. Not only our witnesses and their patience working through

1 a few of the technical difficulties experienced but also for
2 anyone out there joining us as well, thank you for your patience.

3 Again, for the record, all the exhibits presented today will
4 be posted to our MBI media website. It is now 1642, February
5 25th. This hearing will now adjourn for today and resume at 0800
6 tomorrow, February 26th.

7 (Whereupon, at 4:42 p.m., the hearing was recessed.)

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CERTIFICATE

This is to certify that the attached proceeding before the

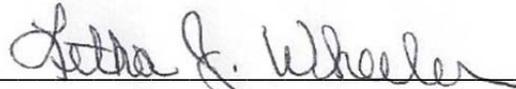
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: February 25, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Letha Wheeler
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Friday,
February 26, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: It is 0800 on February 26th, 2021, and this
4 hearing is now in session. Good morning, ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard Chief of
6 Prevention for the 11th Coast Guard District. I'm the Chairman of
7 the Coast Guard Marine Board of Investigation, and the presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 masks while seated to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table and whenever approached by another person. I ask that
18 anyone who is unable to maintain social distancing please keep
19 their masks on unless actively speaking into the microphones.

20 Due to the extensive technology used to support this hearing
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives on December 31st, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crewmembers who
7 were lost at sea. I note that many of you are watching this
8 hearing on livestream due to the COVID restrictions in place, and
9 we appreciate you doing so.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions, and recommendations to
12 the Commandant of the United States Coast Guard. Other than
13 myself, the members of this Board include Commander Karen Denny
14 and Lieutenant Commander Mike Comerford. The legal counsel to
15 this board is Lieutenant Sharyl Pels. The recorder is Lieutenant
16 Ian McPhillips. Coast Guard technical advisors to this board are
17 Mr. Scott Giard and Mr. Keith Fawcett. This board's media liaison
18 is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB's *Scandies Rose* investigation, is here with
22 us, along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witnesses and

1 respect their right to privacy.

2 The members of the press are welcome to attend virtually, and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the testimony they have given after I have released them from
6 these proceedings. I ask that any such interviews be conducted
7 with full consideration of the COVID mitigation procedures that
8 the Marine Board has established.

9 The investigation will determine as closely as possible the
10 factors that contributed to the incident so that proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence of any act of misconduct,
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed or credentialed person contributed to
15 this casualty; and whether there is evidence that any Coast Guard
16 personnel or any representative or employee of any other
17 government agency or any other person caused or contributed to the
18 casualty.

19 The Marine Board planned this two-week hearing to examine all
20 events related to the loss of the *Scandies Rose* and five
21 crewmembers. The hearing will explore crewmember duties and
22 qualifications, shore-side support operations, vessel stability,
23 weather factors, effects of icing, safety equipment, the
24 operations of the vessel from the past up to and including the
25 accident voyage, and survey imagery of the vessel in its final

1 resting place. The hearing will also include a review of industry
2 and regulatory safety programs, as well as the United States Coast
3 Guard Search and Rescue activities related to the response phase
4 of the accident after notification that the *Scandies Rose* was in
5 distress.

6 The Coast Guard has designated parties in interest to this
7 investigation. In Coast Guard marine casualty investigations, a
8 party in interest is an individual, organization, or other entity
9 that under the existing evidence or because of his or her position
10 may have been responsible for or contributed to the casualty. A
11 party in interest may also be an individual, organization, or
12 other entity having a direct interest in the investigation in
13 demonstrating the potential for contributing significantly to the
14 completeness of the investigation or otherwise enhancing the
15 safety of life and property at sea through participation as party
16 in interest.

17 All parties in interest have a statutory right to employ
18 counsel to represent them, to cross-examine witnesses, and have
19 witnesses called on their behalf. Witnesses who are not
20 designated as parties in interest may be assisted by counsel for
21 the purpose of advising them concerning their rights. However,
22 such counsel are not permitted to examine or cross-examine other
23 witnesses or otherwise participate in the investigation.

24 I will now read the list of those organizations and
25 individuals whom I've previously designated as parties in

1 interest: Scandies Rose Fishing Company, LLC, represented by
2 counsel who are here in person today; crewpersons Mr. Dean Gribble
3 and Mr. John Lawler, represented by counsel who are appearing
4 virtually today; Mr. Bruce Culver, currently not present at this
5 time.

6 The Marine Board will place all witnesses under oath. When
7 testifying under oath, a witness is subject to the federal laws
8 and penalties for perjury for making false statements under Title
9 18 U.S.C. Section 1001. Penalties could include a fine up to
10 \$250,000 or imprisonment of up to five years or both.

11 The sources of information to which this investigation will
12 inquire are many and varied. Since the date of the casualty, the
13 NTSB and Coast Guard have conducted substantial evidence
14 collection activities, and some of that previously collected
15 evidence will be considered during these hearings. Should any
16 person have or believe he or she has information not brought
17 forward but which might be of direct significance, that person is
18 urged to bring that information to my attention by emailing
19 uscg.scandiesrosembi@gmail.com. This email address will be
20 continuously monitored.

21 Mr. Barnum will now say a few words on behalf of the NTSB.

22 MR. BARNUM: Thank you, Captain, and good morning. I'm Bart
23 Barnum, Investigator in Charge of the National Transportation
24 Safety Board's investigation of this accident. The Safety Board
25 is an independent federal agency which under the Independent

1 Safety Board Act of 1974 is required to determine the cause or
2 probable cause of the accident, to issue a report of facts,
3 conditions, and circumstances relating to it, and may make
4 recommendations for measures to prevent similar accidents.

5 The NTSB has joined this hearing to avoid duplicating the
6 development of facts. Nevertheless, I do wish to point out that
7 this does not preclude the NTSB from developing additional
8 information separately from this proceeding if that becomes
9 necessary.

10 At the conclusion of this hearing, the NTSB will analyze the
11 facts of this accident and determine the probable cause
12 independent of the U.S. Coast Guard. At a future date, a separate
13 report of the NTSB's findings will be issued which will include
14 our official determination of the probable cause. If appropriate,
15 the Safety Board will issue recommendations to correct safety
16 problems discovered during this investigation. These
17 recommendations may be made in advance of the report.

18 In addition, on behalf of the NTSB, I would like to offer my
19 deepest condolences to the families and those affected by this
20 tragic accident. Thank you.

21 CAPT CALLAGHAN: Thank you, Mr. Barnum.

22 I have updated the schedule now posted on livestream on the
23 Coast Guard media site to update Mr. Culver's testimony time, now
24 scheduled for next Thursday at 1300.

25 Yesterday, we heard from a representative of the Coast

1 Guard's Marine Safety Center regarding its review of the stability
2 instructions issued for the *Scandies Rose*. We also heard from
3 several fishermen who had sailed on board the *Scandies Rose* or had
4 close contact with the vessel before the incident.

5 Today, we will continue to explore this topic by hearing from
6 additional fishing vessel captains, as well as experts in Alaska
7 fisheries regulations from the Alaska Department of Fish and Game,
8 National Marine Fisheries Service, and the Coast Guard.

9 At this time, we will now to go to recess and resume at 0830.

10 (Off the record at 8:09 a.m.)

11 (On the record at 8:30 a.m.)

12 It is now 0830, and this hearing is now back in session. We
13 will now hear from Captain DeLaurentis.

14 Captain DeLaurentis, Lieutenant McPhillips will now
15 administer your oath and ask you some preliminary questions.

16 (Whereupon,

17 DANIEL S. DeLAURENTIS

18 was called as a witness and, after being first duly sworn, was
19 examined and testified as follows:)

20 LT MCPHILLIPS: Please be seated. Please state your full
21 name and spell your last name.

22 THE WITNESS: Daniel Scott DeLaurentis, last name spelled
23 D-e-L-a-u-r-e-n-t-i-s.

24 LT MCPHILLIPS: Please identify counsel or representative if
25 present.

1 THE WITNESS: None present.

2 LT MCPHILLIPS: Please tell us what your current employment
3 position is.

4 THE WITNESS: Current employment is I'm the captain of the
5 fishing vessel *Ruff N Reddy*.

6 LT MCPHILLIPS: What are your general responsibilities in
7 that job?

8 THE WITNESS: Captain, running the vessel, overseeing
9 operations, and taking part in the fishing industry.

10 LT MCPHILLIPS: Can you briefly tell us your relevant work
11 history?

12 THE WITNESS: My relevant work history -- now, my current age
13 is 43. I started fishing at 18 for a vessel, *Silver Spray*, based
14 out of Kodiak, Alaska, for 14 years. Stepped away from that and
15 began running the *Ruff N Reddy* in 2000 -- summer of 2009 to
16 current. Commercial fisherman since 18.

17 LT MCPHILLIPS: Thank you. What was your education related
18 to your position?

19 THE WITNESS: High school education.

20 LT MCPHILLIPS: Okay. Do you have any professional licenses
21 or certificates related to your position?

22 THE WITNESS: No professional licenses, no, sir.

23 LT MCPHILLIPS: Thank you, Captain. Captain Callaghan will
24 now have follow-up questions for you.

25 THE WITNESS: Okay.

1 CAPT CALLAGHAN: Thank you, Captain DeLaurentis. And just
2 for the record, I just want to make it known that you're appearing
3 today from Marine Safety Detachment in Kodiak, Alaska, just to
4 help facilitate your testimony. So thank you very much, sir. And
5 I'm going to go ahead and pass it over to Commander Karen Denny
6 for questions.

7 Commander Denny?

8 CDR DENNY: Thank you, Captain, and thank you, Captain
9 DeLaurentis, for making the time to be here and testify today.

10 EXAMINATION OF DANIEL S. DeLAURENTIS

11 BY CDR DENNY:

12 Q. We appreciate you attending the hearing virtually, but if at
13 any point we ask a question that you don't understand or can't
14 hear because of technical difficulties, just don't hesitate to
15 stop, ask us to repeat or rephrase the question, and we'll
16 absolutely do so.

17 Also, on this platform, we're able to share our monitor with
18 you. So if we put up exhibits, and you want us to zoom in on
19 something or you want to highlight something, please ask the
20 recorder, Lieutenant McPhillips, to zoom in. And he should be
21 able to see that, and that'll help both the Board as well as the
22 public viewing this hearing.

23 So, Captain, you talked about your work history. I just want
24 to delve in a little bit on that. Did you fish full-time, so
25 meaning, did you work fisheries both in the winter and summer

1 months, full-year around, or just certain seasons?

2 A. All year round. For my first 14 years, I was working 11
3 months out of the year, summer and winter. And now I work
4 approximately seven months out of the year, summer and winter
5 both, all through the year, rotating schedule.

6 Q. And could you run through which fisheries you've fished for?

7 A. Current or throughout those years?

8 Q. Let's go with the last couple of years.

9 A. We participate in the pot cod season, the longline season for
10 halibut and sablefish. We also tender during the summer. I
11 haven't been a part of that for the last couple of years. But
12 mainly right now is pot cod and sable and halibut fish longlining.

13 Q. Okay, thank you. So I'd actually like to go right into the
14 timeframe leading up to the accident of the *Scandies Rose*. Can
15 you walk us through, from the time you got to Kodiak, what you and
16 your crew did to get ready for the trip, when you left, and what
17 happened, all the way until you got notified of the *Scandies Rose*
18 being in distress?

19 A. Absolutely. And if you don't mind, I brought some notes. So
20 I might be looking at my notepad there, just because my memory's a
21 little foggy on some of the times, dates, and all that good stuff.

22 When we arrived to Kodiak -- we flew into Kodiak, myself and
23 crew, on the 27th of December. We immediately started loading
24 gear, pot gear, on the vessel, getting the boat ready for
25 traveling out to the Bering Sea for the cod fishery on January

1 1st.

2 We were in gear from the 27th to the afternoon of the 29th.
3 We departed Kodiak on December 29th of 2019, traveled through
4 Whale Pass into Shelikof Strait, and traveled down the Shelikof
5 Strait. We got out past Sutwik. That would have been, let's see,
6 the early morning of the 31st. We began getting weather right
7 before Nakchamik -- I'm hoping I'm pronouncing that island
8 right -- over by Chignik Bay. We began getting weather, so we
9 pulled in behind Nakchamik Island at about 5:00 a.m. on the 31st
10 and set anchor.

11 Later that night, I was downstairs in my stateroom when David
12 McDonald (ph.) -- he was the man on watch while we were on anchor
13 there at the time -- I'd say it was approximately around 11:00,
14 somewhere around 11:00 on the night of the 31st, he came down and
15 told me that the Coast Guard called our dispatch satellite phone
16 and requested that I give them a call on their landline. So I
17 went upstairs and called them on the landline.

18 When they informed me that the *Scandies Rose* was in distress
19 approximately 27 to 28 miles to the east of me and asked if I'd be
20 willing to assist the rescue effort or go to that location, I
21 declined due to weather and the conditions outside behind the lee
22 of the island. I could not travel with a load of gear. So I
23 declined on being able to assist.

24 Q. Okay. So, Captain, what we we're going to do is --

25 Lieutenant McPhillips, please put up Exhibit 23 Page 8. And

1 Captain, what we're going to put up is the AIS track for your
2 vessel from when you left Kodiak to about -- and you can see that
3 there's a text box that says the approximate location of -- the
4 approximate time of the accident. And that is your approximate
5 location. Let me know when you get that on your screen.

6 A. I can see that on the screen.

7 Q. Does that look about right based on your recollection? Does
8 that look about right for the *Ruff N Reddy's* transit?

9 A. Yes, it does.

10 Q. Okay. So, Lieutenant McPhillips, can you pull up Exhibit
11 also 23, page 7 -- sorry, 23 page (indiscernible) not 7, page 11.
12 Page 11, please. And, Captain DeLaurentis, as you said, this
13 is -- for folks that don't know the distances and the geography
14 and the layout, does this look familiar to you about what your
15 location was the night of the 31st of December? Whoops, that's a
16 little close. But that's all right. We're okay. That's good.
17 Perfect. Okay, so just like you said, approximately 28 miles from
18 Sutwik Island and the location of the *Scandies Rose*.

19 A. Correct.

20 Q. Correct, okay. Excellent. So I'd like you to tell us about
21 the weather that you were experiencing in as much detail as
22 possible from the time that you were transiting past Sutwik
23 Island, why you made your decision to anchor out on the south
24 side, on the lee side of Nakchamik Island, and the timing of that,
25 and what was going through your mind as a vessel captain.

1 A. Yes, we had excellent, excellent conditions for travel all
2 the way down Shelikof. I was awoken from my sleep there. My guys
3 were on wheel watch between Sutwik and Nakchamik, with orders to
4 let me know if were -- if we started taking any kind of freezing
5 spray. I would say we were probably 10 miles from Nakchamik
6 Island when I was awoken and told that we were -- I believe it was
7 my -- I'm sorry, I'm not great on the memory there, but I believe
8 I was woken up, had time to get up there around, I guess it was
9 probably 2:00 to 3:00 in the morning on the 31st.

10 We were starting to build a little ice on the bow, northwest
11 probably, I guess at the time, 25- to 30-knot winds. Started to
12 accumulate ice on the bow and on the rails, and a little bit of
13 spray on the pots there. So we decided to hold up on the lee side
14 in Nakchamik. I knew the weather was coming. We were hoping to
15 make it past Chignik Bay beforehand, but we knew that we had
16 either Sutwik or Nakchamik to take cover in if we didn't make it
17 that far. So we decided to anchor up, with ice beginning to
18 accumulate on the boat.

19 Q. Okay, and to be clear, so it was 0500 on the 31st of December
20 that you made the decision to anchor. About how far off the
21 island were you?

22 A. Oh, we were probably 0.15 (indiscernible) miles off island,
23 when I anchored?

24 Q. Yes.

25 A. Yes, between a tenth and 0.15 miles off land base there.

1 Q. And that's how you developed that lee?

2 A. Yes.

3 Q. Okay, excellent. Okay, and when you -- when you made that
4 decision, you said that you had already started accumulating ice.
5 To the best of your recollection, about how much ice had you
6 accumulated by the time you made that decision to take a pause and
7 anchor?

8 A. There wasn't much. It had just started to accumulate. I had
9 kind of figured it would accumulate the night before, but it
10 hadn't started. I would say maybe we had a half-an-inch on our
11 rails on the bow, and it was just starting to stick to the pots on
12 the -- on the starboard side. So not -- just a pinching of ice.
13 If we had a half-an-inch on the bow rails, that was probably
14 maximum.

15 Q. Okay. And so, moving forward throughout the 31st when you
16 guys were anchored and standing watch, you do maintain a watch
17 when the vessel is anchored, correct?

18 A. Yes, we do.

19 Q. Okay. So then do you -- what did you notice, what were your
20 observations about the ice, icing conditions on your vessel as you
21 were in the lee?

22 A. As we were in the lee, we weren't taking any spray. We were
23 in the lee of the island there. Very cold, very cold, our inside
24 was freezing up. Our windows were getting ice just from the
25 condensation, but I didn't have an outside thermometer, so I can't

1 say the temperatures. But obviously, they were below freezing for
2 sure. Snow, heavy winds, heavy gusts out of the northwest, but we
3 weren't accumulating any ice due to spray. We were in the lee of
4 the island there, so we didn't have any.

5 Q. Is it fair to say that you -- it certainly wasn't melting
6 off. You maintained. Is that a fair statement? You maintained
7 the level of ice accumulation?

8 A. Yes.

9 Q. Okay. So that night when you were woken up by your
10 crewmember, to the best of your recollection, if you could just
11 take a minute and go back, tell us again what weather conditions
12 you were experiencing around 2200 to 2300.

13 A. It was probably northwest 40. I'd say a steady northwest 40
14 windspeed, with extreme gusts that were -- we actually drug anchor
15 earlier in the day there, so we had to reposition and move closer
16 -- closer to the island, within probably a tenth, if not closer to
17 the island, to get out of some of the wind. But I'd say a steady
18 northwest 40 with heavier gusts.

19 Q. Okay, and even with that wind state, you weren't having --
20 you weren't getting freezing spray because you weren't moving
21 through the water too much. But what would you say the sea state
22 was, even in the lee?

23 A. In the lee, we only had probably -- gosh, there wasn't much
24 of a sea. I mean, it'd ripple through there, but the sea height
25 would probably be a foot to two feet. It's knocked down so quick

1 that I couldn't see -- I mean, the sea at where we were on anchor,
2 there was no big seas.

3 Q. Okay. I'd like to jump us back a little bit to when you were
4 back in Kodiak with your crew, when you arrived. Were you
5 planning on leaving on the 29th, or was there any sense of
6 urgency? You mentioned the weather, you mentioned you knew that
7 bad weather was coming, and you had planned to seek shelter if you
8 needed to. Did you know that when you got off the plane and
9 headed to your vessel?

10 A. I didn't. I had checked the weather a little bit, but until
11 we were ready to depart -- we actually had our gearwork done the
12 night before. I was in no rush to leave. I knew there was a
13 storm coming, but I hadn't actually checked the weather until the
14 previous night before I left.

15 But yes, we left a little bit earlier due to the weather
16 window that we did have. We were hoping to make it at least past
17 Chignik Bay there, then make it past that, and we figured we could
18 get in the lee of the mainland and travel the rest of the way to
19 Falls Pass. So we were trying to catch the weather window.

20 Q. Okay, and how many pots do you carry, Captain?

21 A. How many pots do I carry?

22 Q. So let me rephrase the question. What is your stability
23 report? Do you have a stability report?

24 A. Yes, I do.

25 Q. And what does your stability report allow you to carry?

1 A. On a standard load with non-icing conditions, we are rated
2 for 105 pots.

3 Q. And what were you carrying on this trip, sir?

4 A. I believe it was 88, possibly 90.

5 Q. And what was -- was there a reason that you chose to carry
6 that number versus what's allowed on your stability report?

7 A. In the wintertime, we never carry our full load.

8 Q. Could you elaborate for me? Why is that?

9 A. It's difficult in the wintertime. Usually our weather's more
10 extreme, the icing conditions. We knew that there was ice coming.
11 We had -- we can't carry 105 during icing conditions. We're rated
12 for 81 during icing, when it is icing conditions. And like I
13 said, the wintertime weather, we never -- it's usually more
14 extreme. I don't like having a big stack on and full capacity
15 during that time, even during icing conditions. It's just more of
16 a hassle for us to carry our maximum load for the guys to be
17 dealing with in bad weather.

18 Q. Okay, and I don't recall, would you mind telling me when you
19 got your stability letter done and by whom?

20 A. Stability -- oh, I don't have that on my notes. I remember
21 telling you when we talked the first time, but I was believe it
22 was Hockema Whalen and Associates that did the stability report.

23 Q. Okay.

24 A. And that was done in 2013.

25 Q. Okay, thank you. So back to when you were on board the

1 vessel. You loaded everything, and you made your decision to
2 leave a little bit earlier because of the weather, to try and beat
3 it. Were you -- were you trying to go faster? Did you go faster
4 than you normally would on a trip like this to try and beat the
5 weather?

6 A. No, we're an average seven-and-a-half-knot boat on a good
7 day, so there's no going any faster for us. We're -- that's
8 pretty much our standard speed.

9 Q. Again, back when you were in Kodiak, and you were making the
10 decision for when to leave and what to do, did you -- did you --
11 what weather tools did you use to just ascertain the weather?

12 A. I used an app, Windy app, shows the windspeed across
13 (indiscernible) Alaska, worldwide actually, and that's -- they're
14 pretty accurate for the time that I've been using them for -- I
15 don't know how many years, but they seem to be the most accurate
16 weather. Compared to NOAA, they have an actual zone forecast that
17 you can follow directly instead of a wide range like the NOAA
18 weather. So I follow the Windy app.

19 Q. Okay. How long have you been following that specific app?
20 How long have you been using it?

21 A. Well, I'd have to guess seven years.

22 Q. Are there any particular features that you like the best
23 about it?

24 A. Windspeed and the sea height, I like those two -- those two
25 features.

1 Q. Have you -- have you found that there has ever been
2 inaccuracies in that, or are you finding that, generally, that's a
3 pretty accurate app?

4 A. That is the most accurate app. I mean, no, it's not always
5 100 percent correct, but it is the most accurate weather forecast
6 that I've been around.

7 Q. Okay. Let's just shift topics a little bit about -- and talk
8 to you about icing. In general -- I lost my place -- how
9 concerning is icing to you when it starts accumulating? And what
10 do you do as a vessel master -- what are you thinking about when
11 you start seeing icing on your vessel?

12 A. I haven't dealt with a whole lot of icing in the last 10
13 years, 11 years. (Indiscernible) based around Kodiak, so we have
14 the privilege of being able to be in port and not out in the open
15 sea. So we pay attention to the weather a lot. If it's icing
16 conditions, I just -- I don't go out. We're lucky enough to be
17 able to have that (indiscernible). We have participated in the
18 Bering Sea for the past few years as far as winter fisheries.

19 Ice accumulation, I don't like it, nobody likes it. I
20 haven't had a whole lot of experience with it for the last ten
21 years. When I was a fisherman, I never liked ice. It made the
22 job difficult, hard. Makes you nervous. I mean, the boat rides
23 different. You don't want to see it on your gear. You don't want
24 to be traveling in it. It's just not a good deal. As a captain,
25 I try not to be in ice, and luckily, like I've said, I've got the

1 opportunity to be based around Kodiak and pick and choose the days
2 that we go out. So I try to avoid the icing conditions at all
3 costs.

4 Q. So you mentioned something about how it feels like it rides
5 differently. Could you describe that to us? How does it ride
6 differently when icing accumulates?

7 A. When icing accumulates, your boat's slower responsive. It's
8 got side-to-side roll, front-to-back roll of the boat, depending
9 on the accumulation of the ice of the vessels. I've only worked
10 on two vessels in my fishing career. As I said earlier, as the
11 *Silver Spray* was a big vessel, it took a lot of ice to accumulate
12 on that vessel before you could just feel the heaviness, the slow
13 response time for the vessel.

14 Q. Okay, and so to jump you back to when you made the decision
15 to seek shelter the morning of the 31st, can you describe to the
16 best of your recollection how that icing formed? You mentioned
17 the rails, but was it even, or was it one-sided? How was that?

18 A. When we started accumulating it that day, it was one-sided.
19 The ice that we did accumulate was on the starboard bow, which
20 would be the northwest side, and the starboard rail, off on our
21 pots, on the starboard side. We had no ice on our port side.

22 Q. Okay. So I'd like to take you back to that timeframe, that
23 same day, leading up to the accident of the *Scandies Rose*. Were
24 you guys able to hear things throughout the day on VHF?

25 A. We would pick up a little bit of weather, but I tried to tune

1 in to the weather there when we were headed south of the island.
2 We could pick up the weather forecast and the channels. Did I
3 hear anything on the VHF lines? We leave one on (indiscernible)
4 at all times, and no, I don't recall hearing anything on VHF, as
5 far as (indiscernible) wise.

6 Q. Okay. Did you -- did you or any of your crewmembers, to the
7 best of your recollection, because, you know, they're not here to
8 answer themselves, but did they try and reach out to other vessels
9 to find out what the weather was doing in those locations?

10 A. No.

11 Q. Did you hear the *Scandies Rose* mayday call?

12 A. I did not. I was not on watch. Like I said, David McDonald
13 was, and I questioned him to any knowledge of a mayday call,
14 because I was in shock that we didn't hear one. But there was no
15 -- we did not hear a VHF mayday call. I did not, and the person
16 on watch did not hear a VHF mayday call.

17 Q. Okay. Did you or did Mr. McDonald, to the best of your
18 knowledge, hear the Coast Guard trying to hail the *Ruff N Reddy*?

19 A. No, we did not.

20 Q. Okay, so just to be clear, the first time you guys heard
21 about the *Scandies Rose* being in distress was when you got a
22 satellite phone call from your dispatch, is that correct?

23 A. Correct.

24 Q. Okay. Could you describe to the best of your recollection
25 what that conversation went like? What did you hear? What did

1 they say?

2 A. They asked if we had heard any distress -- I believe they
3 asked if we heard any distress calls. I did not. They informed
4 me that the *Scandies Rose* was in distress approximately 27 to 28
5 miles away from us at Sutwik Island. They asked what -- I think
6 they asked what the weather conditions were onsite, because I had
7 -- they asked if we were willing to assist in any way possible,
8 and I declined. I was asked to keep a sharp lookout and report to
9 the Coast Guard if I heard or saw anything to do with this
10 accident.

11 Q. Okay. And when did you end up -- when did -- when did you
12 pull anchor? When did the *Ruff N Reddy* pull anchor and continue
13 its transit?

14 A. We pulled anchor -- we left Nakchamik Island at about
15 approximately 11:00 a.m., I believe, on the 1st of January 2020,
16 and continued transit. My times might be a little rough there,
17 but it was approximately around there.

18 Q. Okay. Captain, just to jump us back a little bit. I know
19 you said that, you know, you avoid ice accumulation or having to
20 be in icing conditions at all costs. When you have had to be in
21 those situations, what are some things as a vessel captain that
22 you could do to mitigate the negative impact of icing?

23 A. We slow our speed down. We break the ice, per se. We shovel
24 ice, we break ice off the rails, dispose of any ice that is
25 accumulating off the vessel is about all you can do. If you're

1 in -- if you need to slow down and jog or go with the weather to
2 clear the ice off the boat before it accumulates too much, we'll
3 jog with the weather, so we're in the lee of the storm and clear
4 the accumulation of ice off the boat before continuing.

5 Q. Would you ever consider throwing your pots off to get rid of
6 weight?

7 A. I have never been in that position, but yes, I would consider
8 it. Any -- by any means necessary, yes.

9 Q. Okay. Captain, thank you so much for your time.

10 CDR DENNY: Captain Callaghan, those are all the questions I
11 have at this point.

12 CAPT CALLAGHAN: Thank you, Commander Denny.

13 We'll now go to Lieutenant Commander Comerford. He's got a
14 couple questions, additional questions for you, sir.

15 BY LCDR COMERFORD:

16 Q. Good morning, Captain. Thanks for your time today. My first
17 question -- I'd like to pull up Exhibit CG 001, page 11. In the
18 upper-right corner, this is a photo that we were able to find of
19 the *Ruff N Reddy*. Could you just take a moment and describe the
20 general type of fishing vessel you have and a little bit about
21 your deck operations for fishing?

22 A. The operations that we have?

23 Q. Like, generally speaking, how are you loading pots, stacking
24 pots, the layout of your deck, in general terms, please?

25 A. The layout of our deck -- I guess I don't really understand

1 the question, how we load pots and the layout of our deck. We're
2 a house-forward boat. Our layout of the deck -- I don't
3 understand your questioning there of how we load pots.

4 Q. No worries. Maybe for clarification, are you stacking pots
5 up on the stern or down on the center deck area? Where are the
6 stacks?

7 A. We begin -- we begin stacking at the stern first. We stack
8 forward up to, normally, our crab pot launcher. I call it a crab
9 pot launcher, but our pot launcher there, we stack them up right,
10 we usually get anywhere from 35 to 40 pots on the back deck. And
11 then we continue the, what we call, haystack where we start
12 stacking them flat on top of those vertical pots that we stacked
13 horizontal there.

14 Q. With being a house-forward boat, do you see -- when you're in
15 icing conditions, do you typically see a lot of ice accumulation
16 on the pots?

17 A. Typically, no. Like I said, since I've ran the *Ruff N Reddy*,
18 I've been extremely fortunate to pick and choose my days of
19 fishing, so I have only had a very minimal of experience with
20 icing conditions on the *Ruff N Reddy*. We're able to be
21 home-ported close enough that we can skip those days.

22 Q. And I apologize, it's kind of hard for me to visualize the
23 boat a little bit. When you have all the -- say the maximum
24 number of pots on your boat, are there ways that the crew are
25 about -- are able to move about the deck, and how would they do

1 that in general terms?

2 A. Yes, we keep our stack of gear -- we'll fill the deck up,
3 depending on the fishery that we're going with. There's some
4 fisheries that we're only allowed -- like a steak (ph.) cod
5 season, we're only allowed to have 60 pots for that fishery. So
6 we keep everything behind our pot launcher and our sorting table
7 clear, so the guys have a lot of room on the front deck to move
8 about and deal with the gear.

9 If we're doing a federal season, and we haul out our -- I
10 never put the maximum amount of gear on the boat that we're rated
11 for. The most I've had on was, I believe, 100 pots at one time.
12 You have mobility on deck, and you still keep your workspaces
13 open. And they have mobility down on the deck level behind the
14 house, up to the pot launcher, and then the rest of the pots, as
15 we're setting gear or dealing with them, are up above on higher
16 level that they use for the -- they go up with the life vests and
17 maneuver around the pots on the top there. The pictures that you
18 have of our vessel there, that's during a longline operation,
19 where we would not be using pots.

20 Q. Then for your vessel, have you put -- updated your vessel or
21 installed any tools on your vessel to monitor the deck of the
22 vessel for operations or icing conditions, considering that you're
23 a house-forward vessel?

24 A. We are equipped with back deck cameras and speakers and audio
25 device, (indiscernible), et cetera. And we're booked with cameras

1 that I have a monitor screen in my wheelhouse on the starboard
2 side that I can watch the back deck through those monitors' live
3 feed.

4 Q. And then, for managing ice, when you are in those situations
5 that you feel it necessary to manage ice, you mentioned shovels.
6 Are there other tools that you use on a -- on those basis to clear
7 ice from the vessel other than shovels?

8 A. Yes. On, let's say, the back deck, for the wooden surfaces,
9 we have ice scrapers. There's the flat, metal, equipped with
10 basically a shovel handle that you can scrape the ice off. We use
11 that on the back deck. We have big rubber mallets -- we call them
12 ice breakers; I don't know the technical term, but they're big
13 rubber sledgehammers that we can break ice apart with, and then
14 the shovels that we shovel it over with. But those are our main
15 two, two utensils are the big rubber mallets that we can hit the
16 ice with to break it up with, and then we shovel it overboard.

17 Q. In your experiences, do those seem fairly adequate, or have
18 you researched new tools for ice breaking? I'm just curious your
19 perspective, if you've found other things that you considered for
20 ice breaking.

21 A. No, we've tried multiple things. I mean, back when I was on
22 a bigger crab boat, and we were in icing conditions more often in
23 the winter, we tried electric jackhammers. They weren't very
24 well. The best tools that we were able to use were those rubber
25 mallets to be able to break ice off the boat. They seemed to do a

1 pretty efficient job.

2 Q. All right. Now, slightly shifting gears here, back on that
3 voyage that Commander Denny was referencing earlier today, did you
4 feel like you could seek shelter in Sutwik Island, or did you
5 consider seeking shelter at Sutwik Island during that voyage?

6 A. I had considered it. When we were passing by Sutwik Island,
7 the weather was still very, very "cooperatible." The temperatures
8 had not dropped down to freezing spray point. Weather was still,
9 I would say, 20 to 25 north, northwest. No, I did not consider
10 Sutwik. I knew it was an option if we didn't travel far enough
11 before the storm hit, but when I arrived at Sutwik, I knew that we
12 had approximately four hours to make it to the next point of
13 shelter if we needed to. And at the time of passing by Sutwik, it
14 was very moderate weather conditions with no freezing spray. So
15 we continued on.

16 Q. Have you ever in your history used Sutwik Island as a
17 shelter, either temporary or long-term?

18 A. No, I have not.

19 Q. Whether from your experiences of looking at the charts or
20 from talking to other mariners, any perspective you have on the
21 quality of shelter from Sutwik Island?

22 A. I have talked to a few people that have taken shelter behind
23 Sutwik or used that for an anchorage spot, and yes, I studied the
24 charts, and it looked like it was an adequate, adequate place to
25 get in the lee of the weather.

1 Q. Thank you. Last question from me is your experiences with
2 weather from more of a training standpoint. Have you received
3 formal, informal, or even researched YouTube videos, user guides,
4 mentoring from cohorts on weather interpretation or weather
5 preparation for trips?

6 A. Have I received any training on that?

7 Q. Yes.

8 A. Is that what you're asking? I'm sorry.

9 Q. Yes, have you received training with regards to weather for
10 your voyage planning or mitigation of weather?

11 A. No, I have never received training. Everything I've come
12 from is hands-on experience through my years of fishing.

13 Q. And more specifically, you mentioned using the Windy app.
14 Have you sought any tutorials or guides for accessing and using
15 the Windy app functionalities?

16 A. No, no tutorials. I mean, they show you how to use it when I
17 first downloaded the app, and that -- no, just a self-explanation
18 when I downloaded that app was all that I've had for that app.

19 Q. And in your opinion, that self-tutorial or that initial
20 tutorial seemed fairly adequate to get you started in
21 understanding the Windy app?

22 A. Yes, very, very simple to use.

23 Q. Thank you for your time this morning, Captain.

24 LCDR COMERFORD: Captain Callaghan, that's all the questions
25 I have.

1 CAPT CALLAGHAN: Thank you. Thank you, Lieutenant Commander
2 Comerford.

3 BY CAPT CALLAGHAN:

4 Q. Captain DeLaurentis, do you have any -- had you had any
5 relationship with Captain Cobban at all?

6 A. Did I have relationship? We didn't know each other
7 personally. We knew who each other were through -- I had known
8 Gary, not on a personal level, but we knew who each other were.
9 One of his previous jobs, when he ran the (indiscernible), he was
10 friends, per se, fishing friends with several people that I worked
11 for, and we knew each other on a first-name basis basically, when
12 we passed by the (indiscernible). But no personal relations, no.

13 Q. Okay. Was it -- did you have any common practice with him or
14 any other captains for, you know, radio checks with each other,
15 how weather was, what you might be experiencing where you were
16 fishing?

17 A. No, not at that time.

18 Q. No? Is it common practice for folks in the industry to call
19 ahead, say, before they leave port, to vessels that are transiting
20 the same route?

21 A. Yes, it is common practice, yes.

22 Q. At any time during your transit, from the time you left
23 Kodiak, had anyone contacted you to check any conditions that you
24 had been experiencing throughout your transit?

25 A. No, not to do a weather check, no.

1 Q. Okay. Thank you very much, sir.

2 CAPT CALLAGHAN: I'm going to pass over questions to my
3 colleague over at the National Transportation Safety Board,
4 Mr. Barnum.

5 BY MR. BARNUM:

6 Q. Thank you, Captain DeLaurentis. Great testimony, a lot of
7 great information; thank you for that. I just have one follow-up
8 question on your stability instructions. In your vessel's -- the
9 *Ruff N Reddy* vessel's stability instructions, does it specifically
10 state how much icing that you can accumulate on board and still
11 remain stable?

12 A. You know, to my best recollection, no, it doesn't specify,
13 (indiscernible) specifies icing conditions. There's no set layout
14 of the accumulation of ice.

15 Q. Do you know what the regulations allow for when calculating
16 the accumulated ice?

17 A. What the regulations -- could you explain that?

18 Q. Do you know how many inches the regulations allow for when
19 calculating stability (indiscernible)?

20 A. Not off hand without looking at my stability report directly,
21 which has all the (indiscernible).

22 Q. Okay. Did I -- did I understand you correctly, did you
23 mention that in your stability instructions, it doesn't
24 specifically list how much icing that you can carry?

25 A. No, it doesn't to my best recollection, no. It just reports

1 it under general icing conditions.

2 Q. All right. Thank you, Captain.

3 MR. BARNUM: That's all the questions I have. My colleague,
4 Paul Suffern, has some questions.

5 BY MR. SUFFERN:

6 Q. Thank you, Captain DeLaurentis, for your time today and your
7 testimony. Yeah, I've just got a couple of follow-up questions.
8 You had mentioned that you used the Windy app for departure. Do
9 you use -- are you able to use it while underway, or do you check
10 other weather sources while underway, and only when you're within
11 port do you check the Windy app?

12 A. We do not have onboard satellite for internet or anything
13 like that. I have a weather app on my -- through my watchdog, my
14 BMS, I can get a weather report. But no, I check it before I
15 leave town. Usually we're not out -- I'll check the forecast for
16 a few days before I leave port, and then, if I'm in range of VHF,
17 I pick up the NOAA weather report on the VHF weather channels.
18 But no, I do not use Windy while in transit. I will call people
19 with Windy and other vessel captains and ask the weather onsite or
20 if they've gotten the forecast.

21 Q. Okay, and for the particular voyage around December 29th
22 through January 1st, did you call any captains during that voyage
23 and ask them what the Windy was showing for that timeframe?

24 A. I didn't ask what the Windy was showing for that timeframe.
25 No, I did not. I asked for a weather forecast on the -- towards

1 -- further out ahead of us, Falls Pass area, Bering Sea side. But
2 not for our general location, no, I did not.

3 Q. Okay. Lieutenant McPhillips, could you bring up Exhibit 026,
4 26? And, Captain, this will just be a picture, I'm sure, that's
5 familiar to you, using the Windy app there. On the right side of
6 the screen, or the right side of the application, there are
7 several different layers, including wind, wind gusts, temperature,
8 waves. Do you ever click those other layers over there to view
9 information? And if so, which ones do you click?

10 A. I do the wind gusts because that gives -- in my mind, shows
11 me the maximum that the wind could be. I usually find it being a
12 good average between what it's calling for onscreen for the wind
13 and the wind gusts. I kind of take an average of that. So if
14 it's saying steady wind of 30, gusts of 40, I kind of figure it's
15 going to be 35- to 40-knot winds. I do use the sea heights
16 calculation so it gives me the sea heights for the general area
17 that I'm looking at. Those are the two main ones that I look at.

18 Q. Okay, and have you ever clicked on the weather warnings tab
19 there, kind of towards the bottom right-hand portion of that list?

20 A. You know, I clicked on probably every icon on there, but I
21 don't use it. Like I said, the two that I really look for, the
22 sea heights and the wind, the wind speed and wind gusts.

23 Q. Okay. Thank you, Lieutenant McPhillips. Could you now bring
24 up Exhibit 055, 55, please? Captain DeLaurentis, this is a
25 experimental freezing spray site that the National Weather Service

1 has developed, and it shows accumulation per hour over, you know,
2 the various ranges there from Southeast Alaska all the way to the
3 Bering Sea, out 12 hours, 24 and 36 hours out. Would information
4 like this and accumulation rate be something helpful for you, as a
5 captain, to view?

6 A. Oh, I bet it could be useful, yes. I've never used anything
7 like that, but yes, any tool that's in our hands would be useful.
8 Like I said, we're not out at sea very long, so, I mean, the tools
9 that we do have at hand, like I said, Windy and just the regular
10 weather forecast as far as temperatures and NOAA weather. I've
11 never used anything like that, but yes, I can see where that'd be
12 useful if you were in an area.

13 Q. Okay, thank you, Captain DeLaurentis.

14 MR. SUFFERN: That's all the questions I have for right now.
15 Thank you.

16 CAPT CALLAGHAN: Thank you, Captain DeLaurentis. At this
17 time, I'm going to pass it, see if there's any questions from our
18 counsel representing the two survivors.

19 Mr. Stacey?

20 MR. STACEY: Thank you, Captain, and good morning, Captain
21 DeLaurentis. Thank you for your testimony. We have no questions
22 for you, sir.

23 CAPT CALLAGHAN: All right. Thank you, Mr. Stacey.

24 At this time, I'll shift over to counsel representing the
25 vessel owners, Mr. Barcott.

1 MR. BARCOTT: Thank you, Captain. I do have a few questions
2 for Captain DeLaurentis.

3 BY MR. BARCOTT:

4 Q. Captain, I'm Mike Barcott. I represent *Scandies Rose*. Good
5 morning.

6 A. Good morning.

7 Q. The fishery that you were headed out to partake in, was that
8 the Bering Sea/Aleutian Island cod fishery?

9 A. Yes, it was.

10 Q. Okay. Had you fished that fishery the year before?

11 A. Yes.

12 Q. And your vessel is over 60 feet, right?

13 A. Correct.

14 Q. What is the length of your vessel, by the way?

15 A. 80-foot overall by 30 feet wide. And to jump back there, I
16 didn't fish the winter the year before. I had fished the fall
17 season the year before.

18 Q. Okay.

19 A. In the Bering Sea. I had fished the Pacific side of the
20 Kodiak water federal fishery the year previous.

21 Q. Okay. And the way that fishery is regulated, there is a
22 quota of poundage that is allowable, and when that quota is
23 caught, the fishery shuts down, right?

24 A. Correct.

25 Q. Okay. Do you remember how long that fishery stayed open,

1 2020, the season you were headed out for?

2 A. In 2020, I believe it was shut down right around the 16th of
3 January.

4 Q. Right. Do you happen to know approximately what the date was
5 the year before when it was shut down?

6 A. I believe it was earlier -- I don't recall because I didn't
7 partake in that fishery, so I'm not real keen on that knowledge,
8 sorry.

9 Q. All right.

10 A. I know it was a short season. We were looking to a two-week
11 season or somewhere around that range.

12 Q. Right, so when you were headed out, you were thinking this is
13 going to be -- we're going have a couple weeks fishing, right?

14 A. Correct.

15 Q. Okay. I want to talk about icing for a minute. As I
16 understand it, your stability study allows you to carry 81 pots in
17 icing conditions. When would you consider -- as ice is
18 accumulating on your stack, when would you say, boys, it's time to
19 go break the ice; let's get out there and break it off? How much
20 ice does that there have to be for you to have your guys go break
21 ice?

22 A. In my mind, anything that's breakable. I mean, I would say
23 accumulation of anything more than a couple of inches. If it's
24 breakable with a sledgehammer, or you're able to shovel it easily,
25 hard to say that range and describe that well, but I would say a

1 few inches.

2 Q. Okay.

3 A. On the rails or deck level. Anything that's able to be
4 knocked off.

5 Q. Would you send your guys out to break ice if it was a
6 half-an-inch?

7 A. No, I would not.

8 Q. Okay, and when ice accumulates on your pots, does it
9 accumulate on your interior pots, the pots that are buried in the
10 stack?

11 A. Normally, it doesn't. I mean, and I have been in heavy icing
12 conditions in the years past when I was a -- just a deckhand. But
13 normally, no, it seems to be the surrounding pots. The interior
14 of the pots usually did not have accumulation on them. There
15 might be a little of spray, but usually the ice stops on the edge
16 of the boat, whatever was on the exterior.

17 Q. And on the pots that are on the exterior, does that ice
18 accumulate in the interior part of the pots, your shots of line,
19 your tunnels, and all of that?

20 A. Absolutely, yes.

21 Q. Okay. I'm just -- the *Silver Spray*. How big is the *Silver*
22 *Spray*?

23 A. The *Silver Spray* was 116 feet long by (indiscernible) feet
24 wide.

25 Q. House forward or house aft?

1 A. House forward.

2 Q. Okay. Thank you, Captain.

3 MR. BARCOTT: Those are all the questions I have.

4 CAPT CALLAGHAN: Thank you, Mr. Barcott.

5 And, Captain DeLaurentis, we have just a few more follow-on
6 questions.

7 Commander Denny?

8 BY CDR DENNY:

9 Q. Hi, Captain, again. So earlier in your testimony, you
10 mentioned that one of the ways that you could mitigate ice
11 accumulation, you mentioned the phrase jog. For the benefit of
12 the public, could you -- could you explain what you mean by that?
13 What does that mean?

14 A. Yes, when we -- we jog for multiple reasons, whether we're
15 taking a sleep time or shutting down for a day of work or bad
16 weather. Jogging is -- and we do it in calm weather also, just
17 depends on our circumstances. If we don't want to drift at sea
18 and have that time, then we'll jog. And that term is either we'll
19 jog directly into the weather and in a specific area or turn
20 around and go with the weather on our -- directly on our stern or
21 our bow, is how I used that term jog.

22 I believe how I used it before is you could jog with the
23 weather, again, a smooth ride where you're not taking waves. You
24 accommodate the speed where the waves are going with you at a
25 reasonable fashion and not breaking over your boat or bouncing off

1 your boat and spraying the boat. So if you were to jog with the
2 weather and be able to clear ice, or jog into the weather at a
3 reasonable speed where -- accommodate the speed so that you're not
4 taking waves crashing on your vessel, if that makes sense.

5 Q. It does, it actually provides a lot of clarity. Thank you
6 for that. I want to shift topics a little bit, and you mentioned
7 that you knew of Captain Cobban. Did you have any experience with
8 or have any professional interaction with any of the other
9 crewmembers that were on the *Scandies*?

10 A. His son that was on the *Scandies*, I had seen him around the
11 cannery quite often. He worked on another vessel with one of my
12 crewmembers.

13 Q. Okay. So you saw him around, but not enough to have an
14 impression of him as a fisherman. Or is that a fair statement or
15 not?

16 A. Very fair. I did not know him on a personal level as a
17 fisherman or a person.

18 Q. Okay, and did you -- did you have any work experience with
19 any other member of the *Scandies Rose* crew?

20 A. No, I did not.

21 Q. Okay. And I want you to jump back to when you were still in
22 Kodiak before the *Ruff N Reddy* departed. Where were you docked?

23 A. We were docked at Trident's dock on cannery row, the old
24 western plant.

25 Q. Could you see the *Scandies Rose*?

1 A. Yes, they were directly in front of us.

2 Q. Okay. Did you have any impressions of the vessel when you
3 were still in port? Did anything stick out in your mind about
4 either the way the crew was working or the pots were loaded,
5 anything at all?

6 A. Nothing that stood out. I know they were working hard to get
7 their gear. We were kind of working alongside of each other
8 trying to get our gear off the dock. It was snowy and a lot of
9 snow and cold and getting down there. And so we were kind of
10 accommodating working, getting our gear amongst their gear that
11 was stacked up in the cannery lot there. But nothing out of the
12 ordinary, no. They were -- they were working hard to get their
13 gear.

14 Q. Okay.

15 A. But nothing that stands out.

16 Q. Okay. Hold on one second, please.

17 A. Um-hum.

18 CDR DENNY: Captain DeLaurentis, thank you so much. I think
19 that's all the questions that I have at this time.

20 THE WITNESS: Okay.

21 CAPT CALLAGHAN: Captain DeLaurentis, Lieutenant Commander
22 Comerford's just got a couple questions for you as well, sir.

23 BY LCDR COMERFORD:

24 Q. Hi again, Captain. Over the last couple of years, have you
25 increased your landing of cod or increased your efforts for cod?

1 A. Have I increased my efforts? No, we -- I can't say we've
2 increased our efforts. If there's a season open, we're fishing
3 it. But work as hard as we can whenever we can, but no, I have
4 not increased our efforts. We acquired a Bering Sea permit so
5 that we could go over and widen our -- I don't know, just our
6 general area of operations. They have a bigger quota over there,
7 so that's about the only change in the last few years that we've
8 had is we acquired a Bering Sea permit to fish the Bering Sea
9 about three years ago. But we don't fish any harder or -- when
10 the season's open, we're fishing. That's all about all I can
11 answer for that, but we haven't increased our operations any, no.

12 Q. Have you heard discussion throughout the community or rumors
13 of rationalization of the cod fishery?

14 A. I have heard rumors of it, yes.

15 Q. Help give me a little bit of perspective. About how long
16 have those talks been circling through the community?

17 A. Oh, I would say ever since the rationalization of crab,
18 there's been rumors of someday there will be a rationalization of
19 the cod and the fishery. So I would say I've heard them for
20 approximately ten years. Or I've paid attention to them since
21 I've ran a vessel full-time. Since I've taken over the *Ruff N*
22 *Reddy* in 2009, I've kind of paid attention to those. So I'd say
23 in the past 10 years, I've heard quite a bit of talk of different
24 opinions on whether or not it should happen or is going to happen,
25 but lots of rumors. Last few years, it's been bumped up a little

1 bit, that they say they're getting closer to it.

2 Q. And you had mentioned approximately three years for the
3 Bering permit for cod, and you had seen a bigger quota in the
4 Bering. Did rationalization also -- or the thought of
5 rationalization also contribute to your decision to get the Bering
6 Sea permit?

7 A. No, not in my mind. It was a longer season. It just seemed
8 like a better opportunity, a longer-lasting season for us to
9 purchase that permit.

10 Q. Okay, thank you. And one last question, sir. What's about
11 the point in inches of ice that you find hammers or sledgehammers
12 to be effective, the rubber mallets or ice breakers?

13 A. I would say at least -- at least, if it's a steady
14 accumulation across, say, the bow, I would say it has to be at
15 least three inches before it's effective, otherwise you're just
16 kind of out there doing -- it's going to come off, but to get it
17 to break off and be efficient, I would say a few inches.

18 Q. And for clarification, so that's roughly, before three
19 inches, the tools that you have are not going to be as efficient
20 or as effective at knocking ice off. So above three inches is a
21 little bit more effective to -- or utilization of your people. Is
22 that -- is that another way to say it?

23 A. It is. I mean, if you get accumulation on your rails, at a
24 couple of inches, you can go knock that off easily. But it's kind
25 of -- it's like shoveling your sidewalk. If you have a quarter

1 inch of ice, you're not going to be out there and be able to
2 efficiently break the ice. It has to be two to three inches thick
3 before you can actually break it. So a few inches on the rail,
4 you can break easily. If you have a couple inches on your deck,
5 it'll break up easily. It's kind of, in my mind, seems useless
6 work anything below that; it's hard to remove.

7 Q. So if I were to say that the regulations right now for
8 fishing vessel stability operating in the Alaskan waters were
9 built on 1.3 inches, so 1.3 inches of ice on the horizontal
10 surfaces and only 0.65 inches on the vertical surfaces above the
11 waterline, would that be -- what would be your thoughts on that
12 related to your observations, Captain?

13 A. I would say that amount of ice would be very difficult to
14 clear efficiently.

15 Q. Does this number seem surprising to you?

16 A. Yes, it does.

17 Q. Thank you.

18 LCDR COMERFORD: Captain Callaghan, that's all the questions
19 I have.

20 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

21 I just have one or two follow-up questions for you, sir.

22 Lieutenant McPhillips, can you bring up Exhibit 093, please?

23 BY CAPT CALLAGHAN:

24 Q. Captain DeLaurentis, I understand this is obviously a
25 different setup than your vessel and does not represent a picture

1 of the *Scandies Rose*, but just want to kind of have a picture here
2 representing some icing accumulation on pots. Based on your
3 experience and kind of what you talked about with regards to
4 concerns about breaking ice off pots, would icing like this cause
5 you any concern?

6 A. Yes.

7 Q. And would that be a point that you would -- you may take any
8 mitigation measures?

9 A. I would say if you have that amount of icing happening on
10 your pots, the rest of your vessel's probably getting quite a bit
11 of ice on it. So yes, I would probably mitigate that.

12 Q. Okay, sir. Thank you very much.

13 A. You, too.

14 Q. Sir, I greatly appreciate all your time, and I know we've
15 covered a lot of questions, but wanted to kind of just ask you,
16 based on your knowledge of the *Scandies Rose* and the incident, is
17 there anything that we may not have covered in our questions today
18 that you think we should have?

19 A. None that I can think of.

20 Q. Okay.

21 CAPT CALLAGHAN: Then moving on, sir. So I know you
22 mentioned that you didn't have a personal relationship with the
23 crew, but nevertheless, the loss of anyone in the fishing
24 community takes a toll on everybody, and for that, you know, on
25 behalf of the Board, we do want to recognize and send our

1 condolences -- any loss of a member of the fishing community is a
2 loss, nonetheless, and for that, we offer our condolences for your
3 shipmates out there.

4 Sir, again, want to thank you for your time today. Thank you
5 for joining us. At this point, you are now released as a witness
6 at this formal hearing. Thank you for your testimony and
7 cooperation. If I later determine that this Board needs
8 additional information from you, we will contact you directly. If
9 you have any questions about the investigation, you may contact us
10 through the investigation recorder, Lieutenant Ian McPhillips.

11 Thank you very much, sir.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 CAPT CALLAGHAN: It's now 0931. Our next witness is
15 currently scheduled to begin at 1015 this morning. If we are able
16 to begin sooner, we will update the time displayed on livestream.
17 At this time, this hearing will now go into recess.

18 (Off the record at 9:31 a.m.)

19 (On the record at 10:02 a.m.)

20 CAPT CALLAGHAN: Time is now 1002, and this hearing is now
21 back in session. We will now hear from Captain Joshua Songstad.

22 Mr. Songstad, Lieutenant McPhillips will now administer your
23 oath.

24 (Whereupon,

25 JOSHUA E. SONGSTAD

1 was called as a witness and, after being first duly sworn, was
2 examined and testified as follows:)

3 LT MCPHILLIPS: Please be seated. Please state your full
4 name and spell your last name.

5 THE WITNESS: Joshua Edward Songstad, S-o-n-g-s-t-a-d.

6 LT MCPHILLIPS: Please identify counsel or representative if
7 present.

8 THE WITNESS: No counsel or representative is present.

9 LT MCPHILLIPS: Please tell us, what is your current
10 employment and position?

11 THE WITNESS: Captain of commercial fishing vessel,
12 self-employed.

13 LT MCPHILLIPS: Thank you, Captain. Captain Callaghan will
14 now have follow-up questions for you.

15 CAPT CALLAGHAN: Morning, Captain Songstad. And so I first
16 want to thank you for joining us today, and for the record,
17 understand that you are currently underway, calling us via phone
18 today. So do want to mention that if for any reason that there's
19 an emergency on your end or anything that you need to address for
20 safety reasons on your end, please don't hesitate to let us know,
21 and we can work from there, sir.

22 THE WITNESS: Sounds good. I'll let you know.

23 CAPT CALLAGHAN: Sir, and obviously, if any technical
24 difficulties, if we do get dropped, and it's a matter of just the
25 call dropping, if you wouldn't mind attempting to call back in.

1 We'll take a recess, and we'll try and work through it with you,
2 sir. But I do want to make the best use of time, understanding
3 the challenges of the phone communications.

4 EXAMINATION OF JOSHUA E. SONGSTAD

5 BY CAPT CALLAGHAN:

6 Q. So, sir, can you tell us what your experience is as a
7 commercial fishing vessel captain?

8 A. Yeah. I guess fourth generation commercial fisherman,
9 working out of Puget Sound in Washington and all around the state
10 of Alaska. Been doing this since I was eight years old. Been
11 captain of several different types of vessels: seiners, gill
12 netters, and crab boats. (Indiscernible) since I was 16. So
13 about 30 years.

14 Q. Do you have any licenses, you know, Coast Guard licenses or
15 credentials for operating a commercial fishing vessel?

16 A. Yeah, I (indiscernible).

17 Q. I'm sorry, you broke up a little there, sir. Can you repeat?

18 A. I do (indiscernible).

19 Q. Sir, can you tell us what your background is or knowledge of
20 the *Scandies Rose* is?

21 A. I (indiscernible) on the *Scandies Rose* from 1998
22 (indiscernible).

23 Q. And so from -- can you repeat the last part, from what
24 period, the last time you were on board the *Scandies Rose*?

25 A. 2000 (indiscernible).

1 Q. Okay, sir. We're having a little bit of trouble hearing you.
2 You're just breaking in and out a little bit. So the last time
3 you were on --

4 A. 2000.

5 Q. 2000, thank you. And at that time, was there anywhere else
6 from the crew or Captain Cobban, were any of those crewmembers on
7 board at the time that you worked on board the *Scandies Rose*?

8 A. Negative. Not (indiscernible) for him, and I knew
9 (indiscernible) at that time.

10 Q. Okay, so not at the time that you worked on the *Scandies*
11 *Rose*, correct?

12 A. Yeah, the people that were involved in the incident that
13 we're discussing at this moment, I have worked (indiscernible)
14 none of them.

15 Q. Roger, you have not worked with any of them. Okay, sir,
16 because we're having some communication troubles, I really want to
17 try to take advantage of understanding -- can you talk to us about
18 where you were for the period of 26 December through 31 December
19 2019?

20 A. Yeah, let me pull my notes out here so (indiscernible)
21 points. I arrived (indiscernible) Kodiak on the 28th of December.
22 (Indiscernible) and heading for (indiscernible) on the 29th of
23 December. Arrived in Dutch Harbor on the 1st of January.

24 Q. Okay, can you tell us where you were located -- like, when
25 you were in Kodiak, where about you were when you were in Kodiak?

1 A. (Indiscernible) head up into a stall (indiscernible) working.
2 So when I arrived, the boat was in the stall, but once I arrived,
3 I moved the boat to the city dock to get groceries loaded, water,
4 things like that, to prepare for the trip.

5 Q. Okay, and at any point, had you seen the *Scandies Rose* at any
6 point while you were in Kodiak?

7 A. I saw the *Scandies Rose* as we were departing Kodiak. We were
8 passing by (indiscernible).

9 Q. I'm sorry, sir. Can you repeat one more time when you saw
10 them as you were departing?

11 A. Yeah, saw the *Scandies Rose* as we were departing on the 29th
12 at approximately 2000 hours.

13 Q. At approximately 2000 hours, is that correct?

14 A. Correct.

15 Q. And what was your basic observation as you passed by the
16 *Scandies Rose*?

17 A. As we drove by the *Scandies Rose*, myself and one of my
18 crewmates in the wheelhouse, we both worked on the boat together
19 at the same time. And we looked at the boat, and we both looked
20 at each other and said at the same time, that boat looks heavy
21 right now. Rub rails were practically in the water. The stack of
22 pots, we knew (indiscernible) pots to us. (Indiscernible) years
23 that we knew what that looked like.

24 Q. Okay. Sir, the last I got that you and one of the
25 crewmembers had said that boat looks heavy.

1 CAPT CALLAGHAN: If you don't mind, because we're having some
2 trouble, I'm going to call a quick two-minute recess just to see
3 if we can check comms with you to see if we can just get it a
4 little more clear. And then we'll come back on.

5 THE WITNESS: Yeah, let me try and call you -- let me make
6 sure I call you from a different sat phone.

7 CAPT CALLAGHAN: That'd be great.

8 So we're now going to go to a -- it's now 1011; we'll go to a
9 few minute recess here.

10 THE WITNESS: Okay.

11 (Off the record at 10:11 a.m.)

12 (On the record at 10:14 a.m.)

13 CAPT CALLAGHAN: The time is 1014. We're back in session.

14 BY CAPT CALLAGHAN:

15 Q. Mr. Songstad, sorry about that, and thank you for hanging
16 with us and trying something different so we can get some better
17 communications here. Appreciate that.

18 A. Yeah, you guys hearing me okay, now?

19 Q. Much better, sir, much better.

20 A. Okay.

21 Q. So just want to go back, we were talking about your outbound
22 transit and observations. Can you just repeat that for us?

23 A. Yeah. So as we were departing Kodiak in route for Dutch
24 Harbor, approximately 2000 hours on the 29th, we passed by Ocean
25 Beauty where the *Scandies Rose* was tied up. It was myself in the

1 wheelhouse driving, and one of my crewmembers on the other side
2 who had also worked on the *Scandies Rose* with me, we both looked
3 at the boat as we drove by and looked at each other and agreed
4 that the boat looked heavy, i.e. overloaded. Estimated about 198
5 pods on board, and the rub rails were sitting lower to the water
6 than -- than we thought it should be sitting at the dock, given
7 the current weather conditions that we knew that were coming up.

8 Q. Okay, and during your time on board, so is that observation
9 an estimate of number of pots based on your previous time on
10 board, or just from being around the vessel in the past?

11 A. Probably a combination of both. Being on board the boat,
12 though, I've taken that stack on and off that pot -- that boat
13 enough times to know what that load looks like. You know, it was
14 -- it was essentially filled up as much as it could be to still
15 have an operational deck to be able to set the pots without having
16 a top spine on it, which would have given it a 208-pot limit. But
17 the spine was not present. But that was (indiscernible) 198 pots.

18 Q. Okay, thank you. And as far as the observation, you say
19 looked heavy. Had that been a condition, you know, had you
20 ever -- when you were on board the vessel, is that something you
21 experienced when you had operated on board that vessel in the
22 past?

23 A. Yeah, we would fish with actually more gear than that aboard
24 the vessel several times during king crab over the years. And
25 that wasn't an uncommon load to take out for (indiscernible)

1 loads, given the time of year. There was no -- very little to no
2 threat of icing conditions. However, you know, it's hard to
3 speculate what it looks like from the outside when you're sitting
4 on the boat also.

5 So, you know, I couldn't tell you -- I was just a deckhand at
6 the time, so I couldn't tell you exactly how much fuel was on
7 board at the time that I was actually working on the boat, to tell
8 you -- you know, and I don't know what gear he had on the boat
9 before he left Kodiak either, so -- but it looked like, you know,
10 the load of pots was similar to what I was used to fishing with
11 when I was on that boat.

12 Q. Okay, no, and I appreciate that clarification. And so, the
13 observation that it looked overloaded, was that based on other
14 conditions that you were considering at the time?

15 A. It just looked a little more squat in the water than I would
16 have expected to see at the time. I would have -- I was surprised
17 to see the rub rail underwater. I had -- I couldn't recall
18 previously having seen that before.

19 Q. Okay, and as far as whether -- and you said you were leaving,
20 but had you noted whether or not the *Scandies Rose* was making
21 preparations to leave at that point?

22 A. Yeah, I had heard that they were leaving town right behind
23 us, and we were in a rush to get out ahead of the storm because we
24 knew it was going to get bad. It was going to get cold and
25 potentially heavy freezing spray, so we wanted to get out ahead of

1 it. So we didn't hesitate to -- we didn't stick around town to do
2 extra projects. We just loaded up our groceries and left town.

3 Q. Okay, so you said you got underway as soon as you could. And
4 where were you basing your weather forecast off of?

5 A. The weather forecasting came from the NOAA, and also from the
6 Windy app, which is, at times, more accurate.

7 Q. So you're saying it's more accurate from your experience than
8 the NOAA forecasting center?

9 A. That's correct.

10 Q. Thank you, sir. And then had you had any communication with
11 anyone on board the vessel prior to your transit or as you
12 observed the vessel at the pier there?

13 A. No, no communication directly with anybody aboard that
14 vessel. My crew had run into the *Scandies* crew at Kodiak Marine
15 while they were picking up gloves and raingear. I think that's
16 where they had picked up the information that they were going to
17 be leaving town shortly also.

18 Q. Okay, and so you had been on the *Scandies Rose*, and, you
19 know, it's your observation that the vessel was sitting pretty
20 heavy. Did it cause enough concern for you to reach out to anyone
21 on board the vessel, to kind of check in and relay that to them?

22 A. No, no. I mean, you know, that's a decision that the skipper
23 has to make for himself. He's the only person to make that call.
24 You know, that's not my -- I would feel -- I would be overstepping
25 my bounds if I did that, I believe. That's not a call that I

1 should be making to somebody. That's up to the skipper of the
2 vessel.

3 Q. Appreciate that. And you had previously mentioned that,
4 during your time on *Scandies Rose*, you hadn't worked with any of
5 the crewmembers that were on board. But from that time on, any of
6 the crewmembers on the *Scandies Rose* or Captain Cobban, ever
7 worked with them in the past or had contact with them around the
8 fishing industry?

9 A. No. No, I hadn't. I actually hadn't had any contact with
10 anybody with the exception of Gary Cobban.

11 Q. Okay, and what was your -- what kind of contact? Was it kind
12 of a casual relationship with Captain Cobban, or what kind of
13 relationship was that?

14 A. Yeah, acquaintances, you know. We work in the same industry,
15 you know, so we crossed paths quite often over the years.

16 Q. And so, obviously, you said kind of crossed paths over the
17 years and a lot of, you know, talk amongst industry. Can you give
18 us a general sense of the type of reputation that Captain Cobban
19 had across the industry as a captain and a fisherman?

20 A. Yeah, I mean, I guess he was -- he had been around a long
21 time. He had also grown up in the fishing industry as well as I
22 did. So, you know, he was well-known, well-liked, good natured,
23 good hearted, a bit of a storyteller. But I think the general
24 consensus was that he was -- he was respected, well-respected
25 within the industry.

1 Q. Okay, thank you for that. I'm going to shift a little, go
2 back to your time on the *Scandies Rose*. And can you tell us what
3 your position was when you were on board the *Scandies Rose*?

4 A. I was a deckhand.

5 Q. Okay, and at that time, what were your general observances of
6 the vessel itself?

7 A. The vessel itself was in good shape. There was a few issues
8 with some of the older steel in the starboard void area that we
9 had to address several times over the years while I was aboard
10 that vessel. And also in the area with -- they call the forward
11 lazarette, which is a dry storage area that's up below the
12 forepeak. There was -- there was occasional issues up there also
13 with fractures in the (indiscernible) from the forward tank.

14 Q. Okay, sir. And unfortunately, because we're on the phone, we
15 can't really work through exhibits with you. But can you try and
16 help us understand a little more about that space between what
17 you're calling the lazarette there, the forward lazarette, and the
18 adjoining forward tank?

19 A. Sure. So working forward to aft, you've got the bow area,
20 which is the forepeak, which is the main level, main deck level,
21 up in the bow area, which is where tools are kept, you know,
22 supplies and things like that, where the bait freezer's located.
23 Underneath that area is an open dry area which was used to
24 store -- where the hydraulic pumps were kept and where the extra
25 line for the pots was kept and buoys and just general storage for

1 the vessel. It was the only place there was real storage for
2 anything else on the boat was that area, so we always referred to
3 it as the forward laz -- some people call it the hydraulic room or
4 dry storage -- but that was located under the bow, forward peak
5 area. And that space took up the whole bow area, below the
6 waterline, up to the forward tank, which would be the number one
7 fish hold.

8 Q. Okay, so essentially, the aft bulkhead of that space shared
9 the forward bulkhead of the forward fish hold, is that correct?

10 A. That's correct.

11 Q. And so, you mentioned there's some issues there. Can you
12 talk about, now that we've kind of established the location, tell
13 us what you had observed during that time, that you described to
14 as some issues between those spaces?

15 A. So, over the years while I was on the boat, and then even
16 more so after I had left the *Scandies Rose*, but I still kept good,
17 close contact with the crewmembers and with Lafe (ph.), who owned
18 the vessel at the time; we would tie up together quite often. But
19 from the time I was on that boat and for years past, that bulkhead
20 that shared that space between the forward lazarette and the
21 number one fish tank, the welds would fail occasionally in certain
22 areas. Nothing overly catastrophic, but enough for water to be
23 seeping in if there was -- if that tank was pressed, meaning full
24 of water. So that would leak in, so you would have to go and pump
25 that tank down. You know, put a fresh patch of weld across the

1 crack or put an angle iron across it and weld that up to secure
2 that area.

3 Q. Okay, and at the time that you left the vessel, I guess
4 sometime around 2000, had that still been an ongoing issue?

5 A. Yes, yes, as far as I know, that was an ongoing issue for
6 years past. Even after rationalization, I want to say in 2005 and
7 maybe a little further -- I can't remember when they sold the
8 boat, but I do recall them working on it many times over the
9 years.

10 Q. Okay, so you had contact with the previous owner who had
11 indicated they had still been doing some of that work. But had
12 you had any contact with anyone on board following the sale of the
13 vessel that would indicate that that might still be a problem?

14 A. No, no, I had not. I had not.

15 Q. Okay, thank you. And so, to go back, you said there was also
16 some issues in that starboard void space. Can you tell us what
17 kind of issues you had experienced on board in that space?

18 A. Yeah, that space originally -- there was two hauling stations
19 on that boat when it was originally built, when it was the
20 *Enterprise*, which means that there was two pot launchers, two
21 davits, two crab blocks. And so, in that void area, there was a
22 lot of extra plumbing and hardware in that -- in that void space
23 to be able to supply both hauling stations that were once on that
24 side of the boat.

25 And so, over the years, as the -- as the metal got older and

1 (indiscernible) set in and things like that, a lot of the
2 (indiscernible) started rotting out. So the hydraulic fittings
3 that were supplying hydraulic fluid to the deck level that had to
4 go through the plate, there was a lot of (indiscernible) nature
5 happening. So there was a pretty consistent welding process of
6 fixing those, patching those spots up on the deck level and
7 underneath in that void area to keep those from rotting out, or
8 replacing the true fittings that had rotted out.

9 Q. Okay. Is any of that work, is any of that work below the
10 waterline?

11 A. You know, I think that void maybe goes right to the
12 waterline.

13 Q. Okay, and is that the same void that the -- the waste chutes,
14 do they run through that --

15 A. The shit chutes?

16 Q. Do they run through those?

17 A. Yeah.

18 Q. And so was the damage you're referring to in way of the inner
19 bulkheads, the side shell, or more in the area of these waste
20 chutes?

21 A. More of the top shell. Not the side shell, but the top, the
22 deck shell.

23 Q. And at any point when you were on board, doing -- conducting
24 any of that work in that void space, had you witnessed any
25 intrusion of water?

1 A. No, no, had not.

2 Q. Okay.

3 A. The only intrusion I did ever witness in that space, and it
4 happened several times over the years -- I want to say, you know,
5 I personally saw this happen twice, and I know that it happened
6 after I left the boat. The hydraulic lines that run in that void
7 had failed and would fill that void space up with hydraulic fluid
8 if the pumps were running.

9 Q. Okay, and can you tell us, you know, how -- what the access
10 points to that space were, how many access points there were, and
11 were they manholes, dog hatches?

12 A. There was two manholes. One was in the engine room, on the
13 aft side of that space, and then the forward side is in that
14 forward laz area. Two manholes, one on each end of that space.

15 Q. Were there any -- at the time that you worked on board, were
16 there any access points to that void from the deck itself?

17 A. Negative, not that I'm aware of. I don't think there was.

18 Q. Okay, fair enough, thank you. And then you had mentioned
19 that you knew at some point, there was an issue after you left.
20 How was that communicated to you? How were you made aware of an
21 issue after you had departed the vessel?

22 A. The crew and I kept in close contact. We would see each
23 other very regularly in town, either, you know, side-tied to each
24 other or in town at the restaurant or the bar or just in passing,
25 getting work done. But we stayed in pretty close contact.

1 Q. Okay, and then just one more time, with regards to since the
2 vessel had been sold to new ownership, had you had any
3 communication after that with anyone in that regard?

4 A. No -- well, when it was initially sold, one of the guys that
5 I worked with stayed aboard the boat to help guide the new owners
6 in the ins and outs of the boat. And so he stayed on board for a
7 very brief period. I think he just did it for maybe a tendering
8 season, a salmon tendering season, before he got off that boat, if
9 my memory is correct.

10 Q. Okay. I'm going to shift --

11 A. And so my communication -- go ahead.

12 Q. No, go ahead, sorry. I didn't mean to cut you off. I think
13 we've got a little delay, so my apologies.

14 A. No, it's fine. And so I had some communication with him
15 directly in that transition period. And he currently works for
16 me. He left the *Scandies Rose* and came to work for me.

17 Q. Okay. I'm going to shift a little to your -- so you were
18 outbound on the 29th, and you had gotten underway to try and get
19 ahead of a weather window. And can you talk to us about your
20 observations? What route did you take, and where were you heading
21 for that voyage?

22 A. We departed 2000 hours from the city dock headed north,
23 through North Channel, and then west through Whale Pass to come
24 down the Shelikof Strait heading south, southwest down Shelikof,
25 in route to Dutch Harbor. The conditions at the time were light

1 winds when we left Kodiak. The following day, wind started up,
2 notes here in my logbook that say (indiscernible) weather coming
3 up quickly. That's what I have written down here, and that was at
4 1330 on the 30th.

5 Q. Okay, and does it -- does it indicate an estimate of where
6 you were in Shelikof Strait at that point, just to give us a sense
7 in relation to --

8 A. I can give you my position, or -- (indiscernible).

9 Q. Yes, if you have it, that would be good. You know, for the
10 record, we can have that.

11 A. Okay, my position at that time was 57 degrees 04.00 North,
12 155 degrees 42.47 West.

13 Q. Thank you, sir. And so you said weather was coming up. Can
14 you tell us, from that point, what you observed during the rest of
15 your transit through this strait?

16 A. Yeah, sure. Weather started to come up, but we were
17 expecting that south wind. And as we, you know, as we traveled
18 further, further into our journey, the winds began to turn around
19 and come up to the more northerly end of direction.

20 Q. Okay, and after you left -- well, I guess before you left,
21 was there anyone that may have made the transit ahead of you that
22 you reached out to get any observations from them on what you
23 might expect in the coming days?

24 A. No, actually, I think I was one of the first ones to leave
25 town heading that direction. So I don't believe there was anybody

1 out in front of me.

2 Q. Following on that, was -- do you recall any conversations
3 with anyone who may have reached out to you along the same
4 regards, to see what observations you had during your voyage?

5 A. Negative, negative. Nope, hadn't talked to anybody.

6 Q. Okay, thank you. All right, sir. Going back to your
7 reference as you passed by the *Scandies* and made notation that she
8 looked a little heavy, aside from the rub rail, was there anything
9 that you could reference on the hull that could give you an
10 indication of maybe where she was in, I guess, in terms of draft?

11 A. I couldn't say with 100 percent certainty that there was
12 anything else that caught my attention other than the -- other
13 than the rub rail location in relationship to the waterline.

14 Q. Okay.

15 CAPT CALLAGHAN: Sir, I want to make the best use of the
16 time, particularly with your connection, and I appreciate you
17 being with us today and answering all these questions. But I want
18 to offer the opportunity to my colleagues at the National
19 Transportation Safety Board to ask a few questions, so I'm going
20 to pass it to Mr. Bart Barnum with the NTSB.

21 THE WITNESS: Okay.

22 BY MR. BARNUM:

23 Q. Hi, Captain Songstad. This is Bart Barnum, NTSB. Thanks for
24 talking to us. Follow up on -- following up on Captain
25 Callaghan's last question there regarding the rub rail on the

1 *Scandies Rose* and, as you said, the overloaded condition when you
2 sailed by there on the 29th.

3 I'm looking at a picture of her right now. I know you don't
4 have it, but I'm going to bring it up for the benefit of the
5 public. Lieutenant, can you please bring up Coast Guard Exhibit
6 14, page 1?

7 Captain Songstad, we're looking at a photo of the *Scandies*
8 *Rose* loaded with pots, appears to be underway, and looking at the
9 starboard side, there appears to be what is the rub rail. When
10 that rub rail was underwater, like you said, was it the entire rub
11 rail was underwater, or just the aft section, the forward section?

12 A. I believe it was the -- from mid-ship to the aft section.

13 Q. Okay. Mid-ship to aft. Was the starboard side or the port
14 side?

15 A. I was looking at the starboard side.

16 Q. Did the vessel look trim, or did it look like it was leaning
17 one way or the other?

18 A. It appeared to be trim at the time.

19 Q. Okay, and you stated before you'd never seen the vessel
20 sitting this low during your time on board or thereafter. When
21 the vessel was sitting that low, could you -- would you suspect
22 that there would be water on deck?

23 A. No, no, no, the deck boards were -- would have been probably
24 another 18 inches above that waterline.

25 Q. Understood.

- 1 A. That's an estimate.
- 2 Q. The deck boards, yeah. What about the false deck, or the
3 deck underneath it, the steel deck?
- 4 A. I believe the space between the deck boards and the false
5 deck is approximately eight inches.
- 6 Q. Okay. So it wouldn't have been up on the deck or underneath
7 the end?
- 8 A. No.
- 9 Q. Okay. Could you see the frame ports? Are they located above
10 the rub rail?
- 11 A. The frame ports are above the rub rail. Yes, I could see the
12 frame ports.
- 13 Q. So those were not submerged?
- 14 A. No, they were not.
- 15 Q. Okay, great. Thank you.
- 16 A. But they were close.
- 17 Q. Understood. How close? An inch or two? What would you
18 estimate?
- 19 A. I would say mid-ship, they were probably within six inches.
- 20 Q. Okay. Okay. Thank you, sir, for clarifying that. The
21 fishing vessel *Handler*, your vessel, Captain, how big is it? What
22 size is it?
- 23 A. I'm sorry, can you repeat the question?
- 24 Q. Yes, what size is your vessel, your fishing vessel?
- 25 A. It's 126 feet.

1 Q. Okay. How many tons, do you know?

2 A. 189.

3 Q. Okay. Very similar to the *Scandies Rose*?

4 A. Yes, very similar.

5 Q. Your journey to Dutch Harbor when you left on the 29th from
6 Kodiak through Whales Pass and Shelikof, did you experience any
7 icing?

8 A. I did not. No, I did not. I got out ahead of the weather
9 change enough to where I didn't -- I didn't experience any icing
10 at all during my journey.

11 Q. Okay. Did you have to seek shelter from the weather along
12 the route, or did you proceed the entire journey?

13 A. Proceeded the entire journey.

14 Q. Proceed, okay. All right. So back to icing a little bit.
15 You know, we were talking a lot about it for this hearing now, and
16 I just want to get your perspective on it and your experience in
17 it. You know, conditionally, when you do experience icing and you
18 have a load of pots on board and you're transiting -- you know,
19 kind of similar to the *Scandies*, what the *Scandies Rose* was doing
20 -- how much ice on your vessel do you feel comfortable with?

21 A. None. Any time you have gear -- any time you have gear on
22 board and you're accruing any kind of ice buildup, it's an
23 uncomfortable feeling for any Captain. The amount of weight that
24 it adds is -- it's surprisingly a large amount when it seems like
25 it's just a small amount on the surface areas. But when you start

1 adding up the surface areas, not only the frames of the pots, but
2 the rub and how (indiscernible) up or close up.

3 And then, also the added ice that you can't see because it's
4 closed up with ice, you know, the webbing and things like that.
5 So it happens very, very quickly, and it's -- sometimes you don't
6 notice it right away, especially when you're traveling at night.
7 You know, a quick, snappy roll can -- over an eight- or 12-hour
8 period can turn into a slightly slower roll without anyone really
9 noticing it.

10 Q. Would you say that ice accumulation is exponential and that,
11 once it starts, it progresses quickly?

12 A. Absolutely, absolutely, yeah.

13 Q. Okay. Your stability booklet for your vessel, does it
14 specifically spell out how much ice your vessel can carry and
15 accumulate?

16 A. No, it does not. The only thing it spells out to my
17 stability is under icing conditions to reduce the amount of pots
18 on board to a certain amount.

19 Q. Okay, and you know, what is that -- what's the percentage?
20 How many do you decrease when expecting to see icing conditions?

21 A. My boat's rated for 280 pots, and it reduces it to 190 pots.
22 But my pots are also substantially smaller than the pots that
23 we're using as examples for the *Scandies Rose*. The *Scandies Rose*
24 pots are seven-by-eights, seven-foot-by-eight-foot pots, and a lot
25 heavier. My pots are six-and-a-half-foot-by-six-and-a-half-foot.

1 They're about 200 pounds lighter, each pot.

2 Q. Great, thank you for that clarification. Okay. So your
3 stability instructions specifically spell out -- they tell you to
4 reduce the number of pots you carry in icing conditions. Do you
5 know and are you aware of how much ice that the regulations allow
6 for your stability instructions to account for?

7 A. No, no. I have -- I just recently looked through it again,
8 too, and there is -- it's an impossible number to actually -- I
9 mean, I didn't -- I didn't see any calculations on what it -- what
10 it was accounting for.

11 Q. Okay, great. Understood.

12 MR. BARNUM: Well, I appreciate your testimony, sir, and
13 that's all the questions I have right now. Captain Songstad, my
14 colleague here, Paul Suffern, has a couple follow-ups as well.

15 THE WITNESS: Okay.

16 BY MR. SUFFERN:

17 Q. Good morning, Captain Songstad. I appreciate your time. I
18 just have one or two follow-up questions with regards to the
19 weather sources that you mentioned there, the Windy and NOAA
20 information. On what device do you check the Windy app? Is that
21 something you check on the computer, your phone? What source do
22 you use that from?

23 A. I use it on my phone.

24 Q. Is that something you can only do while in port, and then
25 while you're underway you only have the VHF?

1 A. No, no, I have broadband aboard the vessel, so I have got an
2 internet connection at all times.

3 Q. Okay, so the Windy app on your phone is something you can
4 check while you're underway as well, if, you know, you see weather
5 changes --

6 A. Correct.

7 Q. Great. Now, as far as looking at the Windy app, I know we
8 don't have the possibility of bringing up exhibits to you, but on
9 the right side of the application, there are different tabs,
10 things for like wind and (indiscernible).

11 A. Yep.

12 Q. Do you check those other tabs on there, and if so, which ones
13 do you regularly check?

14 A. I use wind, wave height, and temperatures.

15 Q. Okay. As far as their --

16 A. This time of year.

17 Q. Okay, thank you. As far as their -- on the application, I
18 believe there's a weather warnings tab; have you ever clicked on
19 that part of the application?

20 A. I've set my notifications for areas that I'm interested in to
21 notify me if there's any warnings that are issued for those areas.

22 Q. Okay, and do you receive those warnings, you believe, in a
23 timely manner if something does pop up?

24 A. Yes.

25 Q. Okay, great.

1 MR. SUFFERN: Thank you for your time today, Captain. I
2 appreciate it. That's all the questions I have for right now.

3 CAPT CALLAGHAN: Thank you, sir.

4 And, Captain, I'm going to go ahead -- at this time, I'm
5 going to ask our parties in interest, starting with counsel from
6 two survivors, Mr. Stacey.

7 MR. STACEY: No questions, thank you.

8 CAPT CALLAGHAN: Thank you, Mr. Stacey.

9 I'll shift over now to counsel for the vessel owners,
10 Mr. Barcott.

11 MR. BARCOTT: Thank you, Captain.

12 BY MR. BARCOTT:

13 Q. Captain Songstad, this is Mike Barcott. I represent the
14 *Scandies Rose*. Can you hear me all right?

15 A. I can hear you fine, Mr. Barcott.

16 Q. Okay, good, thank you. So I want to talk for a minute about
17 the plumbing in the starboard void section. My understanding was
18 that at the time you were on -- my understanding is, at the time
19 you were on board the vessel, there were two pot launchers, is
20 that right?

21 A. No, no, the plumbing was still in place for those two
22 locations, but when the *Enterprise* was sold to Lafe back in the
23 '80s, they removed that second pot hauling station and just had
24 the one. But the plumbing was still there for that station, that
25 secondary station that was removed.

1 Q. Do you know if that was removed later on?

2 A. It -- as far as I know that it couldn't really be removed
3 because it was integrated with the forward hauling station.

4 Q. Okay. Was there a 12-ton crane on board when you served?

5 A. Oh, no. So that crane got put on after I left the vessel.

6 Q. I want to talk about access to that void, and we heard
7 testimony from a fellow from High Mark in Kodiak that underneath
8 the false deck on the wheel deck, there was a manhole access to
9 that void in 2019. Do you know anything about that manhole access
10 from the deck, but underneath the false deck?

11 A. No, I never saw that, but then again, I never had the deck
12 off in that area when I was working on the boat.

13 Q. Okay, okay.

14 A. So I was not aware of that manhole being there.

15 Q. Okay, that explains that, thank you. So talking about the
16 bulkhead, the forward bulkhead, my information is that that
17 bulkhead -- my information is that that bulkhead was repaired at
18 some substantial expense in 2012. Did you ever talk to any
19 crewmembers after 2012 about that bulkhead?

20 A. Negative, I did not.

21 Q. Got it. So I want to take you to the night of December 29th,
22 when you're going by the *Scandies Rose*. She's at the Ocean Beauty
23 dock as I understand it, right?

24 A. Correct.

25 Q. And it's about 8:00 for people who -- 8:00 in the evening on

1 a regular clock?

2 A. Correct.

3 Q. So at that time of night in Kodiak, it's pretty dark. Do
4 they have (indiscernible) that light up the boats?

5 A. It was actually fairly light still at 8:00. I would say, you
6 know, bordering on dusk.

7 Q. So did you first notice this rub rail being along --
8 underwater when you were basically alongside the boat?

9 A. That's correct, yeah. I was alongside the boat heading in a
10 northern direction, probably 50 yards off the boat.

11 Q. All right, and so we have had testimony, I believe, from one
12 of the survivors of this vessel that when she left port, she had a
13 starboard list. And you testified you thought the vessel was
14 trim. I'm wondering how closely you looked at the trim, or might
15 we just be looking at that rub rail underwater because of the
16 starboard list?

17 A. I did not closely look at the trim. Because of the angle, I
18 was almost exactly parallel to the vessel, so I couldn't -- I
19 couldn't for certain give testimony saying that, that the boat was
20 trim at that time.

21 Q. Right, exactly. That's kind of what I thought.

22 MR. BARCOTT: Thank you, Captain. We appreciate you being
23 here, and I don't have any questions beyond that.

24 Thank you, Captain.

25 CAPT CALLAGHAN: Thank you, Mr. Barcott.

1 Sir, we've got just a couple more follow-up questions from
2 the Coast Guard. I'm going to pass it back to Commander Denny.
3 Commander Denny?

4 CDR DENNY: Thanks, Captain.

5 BY CDR DENNY:

6 Q. Thanks, Captain Songstad, for being here today. I'd really
7 like to get some clarity on the rub rails some more. I know we've
8 talked about it a lot, but can we -- when you were a crewmember on
9 the *Scandies Rose*, did the crew of the *Scandies Rose* check the
10 draft marks of the vessel prior to departure?

11 A. Typically, no. Especially with a young crew, it's not
12 typical for one to think about doing that. You know, that's --
13 that would be something you'd expect the captain, the engineer,
14 and the experienced crewmembers to do -- sorry.

15 Q. Keep going.

16 A. Yeah, so no, that's not something that most deckhands would
17 think about checking. That would come with time and experience.

18 Q. All right. Well, do you check the draft marks on your
19 vessels now?

20 A. Do I? Yes, I do, every time that we leave port.

21 Q. Okay. Would you say that it's industry practice to check the
22 draft marks on vessels before departure?

23 A. I'm sorry, I can't hear you.

24 Q. Oh, no worries, Captain. We just had some technical
25 difficulties, so I apologize for that. I'm just going to repeat

1 my question. So is it industry practice -- to the best of your
2 knowledge, is it industry practice to check draft marks before
3 departure on commercial fishing vessels?

4 A. Absolutely, absolutely.

5 Q. Do you have a device on board, a chronometer, a device on
6 board to check for the list and trim of your vessel?

7 A. Yes, I do.

8 Q. Is it a -- is it like a bubble-type or a mechanical device?

9 A. It's a bubble-type.

10 Q. To the best of your recollection --

11 A. Similar to the one that was on the *Scandies Rose*.

12 Q. Oh, that was exactly my question, thank you.

13 A. Yeah.

14 Q. And then, for the benefit of the public, could you just
15 briefly explain what draft marks are used for? What are they, and
16 what are they used for?

17 A. Draft marks are to indicate how much of the hull is under the
18 water, and by doing so, allows you to understand, you know, what
19 your -- or how your boat's sitting weight-wise, both for listing
20 and for trim.

21 Q. Okay. So, you know, you've been talking about departure a
22 lot, and we've talked about the draft and the list and trim. Is
23 that something that -- that's on like a pre-departure checklist?
24 Is there -- there's certain commercial fishing vessels that are
25 required to have and use pre-departure checklists. For any

1 fishing vessel that you've been on, has anyone ever used a
2 checklist to make sure the vessel was ready for seas before
3 departure?

4 A. Any vessel I've ever worked on have all fallen under the
5 classification needing to have those pre-departure checklists.
6 However, it's very common practice for every captain to do one of
7 those. To look around your vessel, you know, make sure it's trim,
8 makes sure it's sitting right, you know, dot your Is and cross
9 your Ts, so to speak. You know, it's a non-written expectation
10 that the captain is responsible for making sure that's done before
11 you sail.

12 Q. Okay. So your vessel, the *Handler*, you said that it was
13 about the same size and construction as the *Scandies Rose*. Does
14 it have a load line?

15 A. It does not have a load line.

16 Q. Okay. Do you know if a vessel with a load line would be able
17 to be loaded so that they could exceed the load line values?

18 A. Can you repeat the question please?

19 Q. Yeah, do you know if a vessel that has a load line, if it can
20 be loaded to a condition where it can exceed the load line values?

21 A. I do not know the answer to that.

22 Q. Okay, no problem. No worries. And the last question is --
23 two last questions. One is, as a vessel captain, could you -- and
24 I'm not asking you to speculate about the *Scandies Rose*
25 specifically, but based on your experience, what are some of the

1 reasons that a vessel would have been sitting so low in the water
2 at the dock? What are some potential reasons?

3 A. Obviously, the pots on board would be a consideration.
4 However -- actually, I'll stop there. The pots on board would be
5 a consideration. How much fuel and water is on board the vessel,
6 and if the (indiscernible) tanks are full or empty. Those would
7 be the three biggest factors, pretty much the three only factors
8 that would -- sorry, I'm trying to navigate here --

9 Q. No worries. Take your time.

10 A. -- that would contribute to the drafting.

11 Q. Okay, thank you, Captain. And then last question is back to
12 when you were on the *Scandies Rose*. To the best of your
13 recollection, when you guys were underway on -- it was the
14 *Enterprise* at the time, did you guys operate, as a normal matter
15 of course, with the internal doors or hatches open? How did you
16 operate underway? Did you leave those doors closed, those hatches
17 closed or open?

18 A. When we were traveling, all the doors at deck level were kept
19 closed and dogged. The interior doors, specifically like the
20 engine room, from the mechanical space to the engineering space,
21 were -- the one door was left open. But for the most part, all
22 the doors were kept closed underway.

23 Q. Okay. Again, thank you so much for your time.

24 CDR DENNY: Captain Callaghan, I have no further questions.

25 CAPT CALLAGHAN: Thank you very much.

1 Thank you, Mr. Songstad. Sir, your testimony's extremely
2 valuable. And I do want to offer to see if anyone else has any
3 more questions. So I'll offer my colleagues at the NTSB, any more
4 questions?

5 MR. BARNUM: No questions from the NTSB.

6 Thank you very much, Captain Songstad. Appreciate it.

7 CAPT CALLAGHAN: And then, Mr. Stacey, any follow-on
8 questions?

9 MR. STACEY: Nothing further from here.

10 CAPT CALLAGHAN: Thank you.

11 Mr. Barcott, any follow-on questions?

12 MR. BARCOTT: Nothing, Captain, thank you.

13 CAPT CALLAGHAN: Okay.

14 Again, Mr. Songstad, I want to thank you for your time. I do
15 just want to make note for the record that we would -- as part of
16 the Marine Board looking into the investigation here, we would
17 like to reach out to you and have a follow-on with you in regards
18 to collecting a copy of your logbook if you would, so we can get
19 some record data of your position and weather observations during
20 that time of your voyage. So we will reach out at a date
21 following the hearing, sir.

22 THE WITNESS: Okay, that sounds fine. I will be traveling
23 for the next few days and then flying home, but I will take my
24 logbook with my when I travel so I have that available.

25 CAPT CALLAGHAN: Greatly appreciate it, sir. And we'll reach

1 out to you short -- you know, we'll give you some time, and then
2 we'll be in contact.

3 Sir, again, I want to take the opportunity to thank you. I
4 know as a prior employee of the *Scandies Rose* and not necessarily
5 a direct relationship or contact with the members that were on
6 board during the incident, but a loss in the fishing community is
7 a loss, nonetheless. And so, on part of the Board here, we do
8 offer our condolences for a loss of your community and the loss of
9 the vessel.

10 THE WITNESS: Well, thank you, and thank you for taking my
11 answers and asking the questions. I think we're all interested in
12 finding out, you know, what happened and how to avoid it happening
13 in the future.

14 CAPT CALLAGHAN: Absolutely. Thank you for your time, sir.
15 And at this time, you are now released as a witness of this formal
16 hearing. Thank you for your testimony and cooperation. And if at
17 any later date I determine that this Board needs additional
18 information, I will reach out and contact you directly. If you
19 have any questions, you may contact the investigation recorder,
20 Lieutenant Ian McPhillips.

21 Thank you again for your testimony, sir.

22 THE WITNESS: Thank you.

23 (Witness excused.)

24 CAPT CALLAGHAN: The time is now 1107. Our next witness is
25 scheduled to begin testimony at 1300 today. If for any reason we

1 are able to begin sooner, we will update the time displayed on
2 livestream. This hearing will now go into recess and resume as
3 scheduled.

4 (Off the record at 11:07 a.m.)

5 (On the record at 1:00 p.m.)

6 CAPT CALLAGHAN: The time is 1300. This hearing's now back
7 in session. We'll now hear from Mr. Bryce Buholm.

8 Captain Buholm, Lieutenant McPhillips will now read your oath
9 and ask you some preliminary questions.

10 Lieutenant McPhillips?

11 (Whereupon,

12 BRYCE A. BUHOLM

13 was called as a witness and, after being first duly sworn, was
14 examined and testified as follows:)

15 LT MCPHILLIPS: Please be seated. Please state your full
16 name and spell your last name.

17 THE WITNESS: Bryce Aksel Buholm, B-u-h-o-l-m.

18 LT MCPHILLIPS: Please identify counsel or representative if
19 present.

20 THE WITNESS: None present.

21 LT MCPHILLIPS: Please tell us, what is your current
22 employment and position?

23 THE WITNESS: Unemployed. I was previously the captain of
24 the *Western Mariner* until last month.

25 LT MCPHILLIPS: What were your general responsibilities in

1 that job?

2 THE WITNESS: I was the master of the vessel.

3 LT MCPHILLIPS: Can you briefly tell us your relevant work
4 history?

5 THE WITNESS: I've been -- so I started salmon fishing at six
6 years old, crab fishing at 17 years old, sailed as master at 21
7 years old. Started working for Dan Mattsen at 22 years old
8 until -- so that was 2002 until 2018. I also own a marine
9 surveying business and inspect vessels for -- I do condition and
10 valuation and damage surveys.

11 LT MCPHILLIPS: Okay. What is your education related to your
12 positions?

13 THE WITNESS: I'm a master 100 to 200. I've done all the
14 firefighting and all the follow-up courses necessary for a
15 1600 ton license.

16 LT MCPHILLIPS: Do you have any other professional licenses
17 or certificates related to that position?

18 THE WITNESS: Bridge resource management, just all the SCCW
19 stuff I had to complete.

20 LT MCPHILLIPS: Thank you. Captain Callaghan will now have
21 follow-up questions for you.

22 THE WITNESS: I'm sorry. Can you repeat that?

23 LT MCPHILLIPS: Captain Callaghan will have some follow-up
24 questions for you.

25 THE WITNESS: Oh, oh.

1 CAPT CALLAGHAN: Thank you, Lieutenant McPhillips.

2 And welcome and thanks for being here today, Captain Buholm.
3 Certainly appreciate it. Your testimony today will help us just
4 better understand things and help us to make changes moving
5 forward. At this time, I'm going to turn it over to Commander
6 Karen Denny for questions.

7 EXAMINATION OF BRYCE A. BUHOLM

8 BY CDR DENNY:

9 Q. Good afternoon, again, sir.

10 A. Hello.

11 Q. So, sir, Lieutenant McPhillips gave you -- asked you some
12 questions about your background.

13 A. Um-hum.

14 Q. Could you elaborate a little bit on your fishing experience?
15 Could you tell us what fisheries you've fished, the geographic
16 locations, and how much experience you've had with those?

17 A. Well, I've tendered salmon for 36 years in southeast --
18 through every area of Alaska. I've fished crab. Started fishing
19 crab at age 17, Bering Sea, snow -- opilio, king crab, bairdi.
20 I've fished black cod. Tendered a lot of different fisheries, and
21 I've done every fishery as a master as well.

22 Q. Okay, so you have a lot of experience as a vessel captain.

23 A. I also was a port captain for Mattsen Management, which
24 managed *Scandies Rose* and all the other vessels.

25 Q. And we're going to talk about that in a little bit. So let

1 me ask you a couple questions with the, you know, the hat of the
2 vessel master.

3 A. Okay.

4 Q. So when you were fishing or preparing to go out, what tools
5 did you use to manage risk or plan your voyages?

6 A. Well, I take the weather -- you know, I look at the weather,
7 I look at my gear, I kind of just kind of go around, check off
8 every list I can, and make sure that everything I'm doing is for
9 the best of everybody. You know, safety first, money second.

10 Q. How did you check the weather? What kind of tools did you
11 use to check the weather?

12 A. Oh, I used, you know, Windy on my phone. I listened to the
13 National Weather Service. You know, I watched -- I look at the
14 radar pictures. I'm kind of a weather nerd, so my whole life,
15 I've been always studying weather maps and weather pictures.

16 Q. Okay.

17 A. And try to -- you know, two weeks ago, I left Dutch Harbor --
18 a week and a half ago, I left Dutch Harbor at the end of a big
19 storm just so I could make it through the pass when the weather
20 came down on it. You know, it's kind of a -- it's kind of a
21 juggling act trying to make sure you get out at the right time,
22 and it's all about timing. You screw up the timing, and we're all
23 here today because of that.

24 Q. Okay. Are there any other third-party apps that you use?

25 A. Pretty much just Windy. Sometimes I'll use -- oh, what's the

1 other app? There's another one I used to use. I predominantly
2 use Windy and the National Weather Service.

3 Q. Okay. Do you ever listen to weather reports or forecasts on
4 VHF?

5 A. Oh, yeah.

6 Q. Do you --

7 A. That's National Weather Service. That's what I consider
8 National Weather Service.

9 Q. Perfect. Do you ever like pull up the NOAA forecast? It
10 looks like a message.

11 A. Oh, well, I don't pull the messages, but I go in and I look
12 at the radar forecast and the old school weather pictures like you
13 used to get on (indiscernible).

14 Q. Okay. Do you -- is it common practice for you to, when
15 you're fishing, talk to other vessels that are maybe in the area
16 ahead of you or where you're heading to?

17 A. Oh, yeah. Yeah, very much so. It's a lot of -- you know,
18 Gary -- I talked to Gary up until the last couple years when I was
19 trying not to fish anymore. I talked to him just about every day
20 of my captain's career. We'd always talk weather and -- you know.
21 But yeah, all of our partner boats, we all help relay information
22 to each other and try to make it work as safely as possible.

23 Q. Okay. Were you aware of any communication gaps, or are you
24 aware of any communication gaps up in the Aleutian Chain?

25 A. I'm sorry, I'm kind of hard of hearing.

1 Q. Sorry, I'll speak up.

2 A. Thank you.

3 Q. Are you aware of any communication gaps up in the Aleutian
4 Chain, in terms of like dead areas, dead zones?

5 A. Oh, they're all over the place.

6 Q. Okay.

7 A. I mean, the whole -- I mean, it all depends on where the
8 satellites are. You know, I mean, even out in the middle of the
9 Bering Sea, in the wide-open, all last winter, if we were
10 traveling east or northeast, we had no satellite coverage.

11 Q. Okay.

12 A. I missed a delivery date because of that.

13 Q. I'd like to shift to another topic. I'd like to talk about
14 icing with you. Can you tell me -- as a vessel master, can you
15 talk to me a little bit about how do you know when your vessel is
16 having issues with the vessel stability because of icing? What
17 are some of the physical signs that you'd see?

18 A. Slowing of the roll, you know. I was -- my family's been
19 fishing the Bering Sea for 100 years, and the way we've all
20 survived is we count the rolls. It's kind of a, you know, three
21 (indiscernible) by beam. You divide the beam by meters, and
22 that's your kind of (indiscernible) rolling period. It's not
23 exact science, but it's kind of how I've always gotten myself to
24 sleep. So whenever my boat rolls differently, I count the rolls.
25 And that's how I've always been able to calculate it. If the boat

1 sits -- you know, I know what my boat's supposed to feel like with
2 a load of gear on. And as she rolls, and if she hangs, it's kind
3 of just something imbedded in my head.

4 Q. So what do you do if that happens?

5 A. We change direction, stop, break ice. You know, there's --
6 it's kind of -- there's no real, set plan, because there is no set
7 plan in the Bering Sea. We kind of have to shoot from the hip a
8 lot of time and, you know, we also take -- if the weather's going
9 to be crappy, a lot of us will stop or don't go, and it's just --
10 you just kind of pay attention to the boat.

11 You've kind of got to feel the boat. And that's how I was
12 taught by my father. He was taught by his father. He was taught
13 by his grandfather. So we just -- we just kind of go with how we
14 feel. And, you know, my stability book on my boat is always dirty
15 and bent up and stuff because I consult it consistently throughout
16 the season, before the season, and after. Yeah, you know, it's a
17 different kind of -- it's different up there than anywhere else in
18 the world, and we just kind of go with what we feel is right and
19 hope for the best.

20 Q. So you mentioned your stability book and that you consult it
21 a lot. Since you're pretty familiar with it, let's talk about
22 that. Does it have a delineation between how many pots or gear,
23 how much weight you can carry in icing versus non-icing
24 conditions?

25 A. Yes, of course.

1 Q. So your stability book does specifically, in writing, say --

2 A. I've never seen one without it.

3 Q. Okay, and to the best of your recollection, what is the
4 difference? What's your max pots?

5 A. Oh, it's huge. I mean, on the *Western Mariner*, it was 126
6 pots, or 125. And during icing, we were down to -- it said 95 in
7 the book, and then when the Dutch Harbor safety came down, you
8 know, we'd check in with them. They came down and weighed a
9 handful of pots. They limited me down to, I believe it was 81
10 pots.

11 Q. And why is that?

12 A. Because pots all weigh differently. You know, some pots are
13 36 inches tall, some are 34 inches tall. For king crab, during
14 king crab, we fish two shots of line. Opilios, we fish three
15 shots. There's just a culmination of factors that change the
16 weight of the pots.

17 Q. Okay. So tell me about that. Walk me through it, like why
18 is that important that you take those things into consideration?

19 A. Well, because everything's different. You know, we've been
20 -- you know, when I was a child, my father's -- one of my father's
21 boats, right after the *Avos* (ph.), went down. He would just run
22 around with 120 pots on it, because that's what they could fit
23 out. And then the stability came out, and the boat was rated for
24 60 pots. And, you know, there's old fishing and there's bold
25 fishing, and there's no old, bold fishermen. And I plan on being

1 an old one.

2 Q. Okay. Based on your experience, how frequently does -- do
3 icing conditions happen?

4 A. Well, it depends on the area. The Bering Sea, it's always --
5 you know, like I was in Dutch Harbor all last week, for
6 two-and-a-half weeks, and it rained every day. And before the
7 Privlofs, above the -- just the Privlofs and above, it was solid
8 icing conditions. So it's -- you know, a lot of stuff can change
9 from leaving Dutch Harbor to our fishing grounds.

10 The area where the *Scandies* went down is probably one of the
11 worst icing areas I've ever experienced in my life. I spent 10
12 years doing cod around that round, around Sutwik Island and Kodiak
13 and Samiades (ph.). Unfortunately, Gary's the one that taught me
14 that whole area. The first time I crab fished down there was with
15 him in 2005. And I still don't know why he was there.

16 Q. Okay, so I'd like to get a sense of -- let me run you through
17 a scenario, okay? You're the vessel captain of a pot cod boat,
18 and the forecast calls for icing conditions. As an experienced
19 vessel captain, what do you do if you notice ice starting to
20 accumulate on the topsides of your vessel?

21 A. When do I notice it?

22 Q. What do you do when you start noticing icing?

23 A. Oh, we watch it very carefully. There's written instructions
24 in the wheelhouse that if it starts building or starts building
25 more, to wake me up immediately and bring it to my attention.

1 Q. And when you say --

2 A. And what they see and what I see are -- you know, from what I
3 see and what a deckhand sees is two different things. Deckhands
4 don't always have the eyes that captains do. And they don't --
5 suddenly, they're like, oh, we've had ice like that. It's not a
6 big deal. Where it's, you know, on my boat, it's a very big deal.
7 No matter how much ice there is, I get notified immediately.

8 Q. So you said written instructions. Is that like a standard
9 operating procedure?

10 A. Yeah, when I make up a watch schedule, I put -- you know, I
11 separate experienced with non-experienced, in order. And then
12 there's a written instructions on what time their watch is to and
13 from, as well as driving instructions. You know, make sure the
14 VHF's turned up. Make sure if any boats come within a mile and
15 half, two miles of us, I get woken up. Or if any ice is building,
16 wake me immediately. It's pretty standard.

17 Q. So is that common practice in the industry?

18 A. Very common practice.

19 Q. Okay. So on that scenario that we were talking about, so you
20 would watch it if you start seeing it accumulating?

21 A. Yes.

22 Q. As the voyage continues in our scenario, the ice keeps
23 accumulating. What happens from your standpoint as a vessel
24 master, what do you do?

25 A. Well, I always try to keep it off the boat, because if you

1 keep the small stuff off, the big stuff won't grow. But a lot of
2 what -- I mean, I've been caught off-guard in that same area where
3 I didn't have any pots onboard, so I just continued going until I
4 got somewhere safe, because I wasn't going to put my crew outside
5 in such a horrible area. And I've spent many, many days behind
6 Sutwik Island breaking ice off a boat.

7 Q. Okay, so what are some of the things that you can do to
8 mitigate the negative effects of icing? What can you do?

9 A. Well, a lot of us, we wrap all our railings and stays, and
10 anything from the house below, we try to wrap with shrink wrap and
11 electrical tape. It looks like crap, but it keeps the ice from
12 binding on to the paint as well.

13 And, you know, change direction. You know, I'm not afraid to
14 run for an extra four hours to keep the vessel from making as much
15 ice. Instead of going straight into the seas, I'll quarter it.
16 I'll put on the starboard bow, or I'll put it on the port bow.
17 And I try to keep the spray down. Slow the vessel down. Just,
18 you know, do whatever we can. Sometimes it's unavoidable.

19 Sometimes -- I've spent a week going 10 miles north, idling
20 into it, and then every four hours, we'd turn around and we'd get
21 15 miles backwards trying to break all the ice off the boat. We
22 were losing five miles every day -- every three hours, just trying
23 to keep the ice off the vessel. It's just part of the game up
24 there.

25 Q. Okay. So you said that you have a -- you've mentioned that

1 you have sense of experience with Captain Cobban.

2 A. Oh, yeah, he was my partner boat forever.

3 Q. So tell me briefly about your experience professionally; what
4 was your impression of Captain Cobban, Captain Cobban's experience
5 level as a fishing captain?

6 A. Gary started running boats at 16-years-old. You know, Gary
7 was one of the most experienced captains I've known. I've sailed
8 with him. My last time sailing on deck was with him, as his chief
9 engineer on the *Adventurer*, in -- this was in '05 or '06. And
10 Gary's always professional. Gary, he'd seen bad stuff happen. He
11 used those in all of his safety drills. I use his topics in
12 safety drills that he's brought up to me. And, you know, I always
13 expected Gary to die in the boat, I just figured it was going to
14 be of old age at 100 years old. You know, he was -- he taught me
15 that whole area.

16 When I started working out of that area, running the *Amatuli*
17 in 2009, he -- I was on the radio with him every day, you know,
18 because there was different -- there's so much -- Shelikof and
19 Chignik, there's so many different variations with tide. There's
20 so much tide coming out of there. There's so many different --
21 you know, the mountain pass -- all the mountains coming from the
22 Bering Sea over to the Gulf of Alaska, you know, it's -- there's
23 certain areas in Chignik where if it blows northeast in Kodiak,
24 and it's calling for northeast in Chignik, it'll still blow
25 northwest because of the way it funnels through mountains. I

1 mean, there's a lot of -- a lot of local knowledge that I was
2 taught by Gary explicitly about.

3 Q. So what was your impression of his like risk management?

4 A. Excuse me?

5 Q. His risk management. How would you say he managed risk?

6 A. Well, he did what he always thought was best. Nobody goes
7 out there -- not one of us will ever go out there thinking we're
8 going to die. That's how we did our job; we never think about it.
9 And Gary was always on top of stuff, very much on top of stuff.
10 He just -- he just did it, and he was the best at what he did. I
11 mean, I can hands-down say Gary is one of the top five captains
12 I've known in the Bering Sea. My family's been in the industry
13 for over 100 years, and he was one of the top five captains I've
14 ever known in my life. The other ones are all passed away and
15 old.

16 Q. Okay, so we've talked a little bit about Captain Cobban. How
17 about other members of the *Scandies Rose* crew? Do you have any
18 experience or professional knowledge of Mr. Art Ganacias?

19 A. Well, just from -- we worked alongside of each other. We
20 tied up to each other a lot, tendering. I knew him from the
21 shipyards. I know his reputation. He's always had a great
22 reputation. He was a good man, a real good man. I knew everybody
23 on there but Seth. Seth was the only person I didn't really know.

24 Q. You know what, so let's take a few minutes and just walk me
25 through your professional experience, your observation of those

1 crewmembers.

2 A. Well, David Cobban, he worked for me three different times on
3 two different boats. David -- David wasn't really a fisherman,
4 but he really wanted his dad's approval, so he kept going back to
5 fishing. David was just a kind kid, really smart, but he just
6 wasn't quite -- he just wasn't really a fisherman. But he kept
7 doing it because he wanted to be like his dad.

8 Art, like I said, we -- we'd share parts with each other.
9 We'd bullshit with each other. Excuse my language. We, you know,
10 we were just part of -- it was part of the family. We all worked
11 on the same company, and it was just we were -- he was a great
12 man.

13 Brock, he was a little kooky, but what crab fisherman isn't?
14 And he was one of the hardest working guys in the world, and he
15 loved working on that boat. And he worked his butt off for years
16 for Gary on that boat and the *New Venture*. And I knew him for
17 probably 10 to 12 years. I mean, he was a good -- he was a hell
18 of a deckhand.

19 And, like I said, Seth, I really don't know much about.

20 John Lawler, he fished king crab with me the season before on
21 the *Western Mariner*. Good hand, knew what he was doing. The only
22 reason I let him go is because he was trying to put together
23 buying his own boat, and he thought he was going to get a deal
24 gone through and was kind of lollygagging on saying he was going
25 to come back or not. And I just hired somebody else.

1 And then Dean-o, he's the closest thing to a brother I've
2 ever had in my life, Dean Gribble. His dad was the captain of my
3 father's boat growing up. We spent -- you know, I think he was 11
4 years old the first year he came tendering with us. I was 13 or
5 14.

6 And I think a lot of that -- a lot of him making it off the
7 boat has to do with us as kids because, you know, when you're a
8 young kid on a boat, we'd sit in our stateroom and figure out
9 plans on how'd we'd get out of the boat, and if anything ever
10 happened -- you know, we'd be sitting there in crappy weather, we
11 were just little kids. We were like, okay, well, this is what
12 we're going to do. We're going to climb on this wall, and we'll
13 do this, and we'll do that. And, you know, I think that had a big
14 thing -- that, and him and John had just both been working
15 together, and they were both the new guys on the boat. I think
16 that was the main reason both those men survived, was just doing
17 what they were supposed to do.

18 Q. Okay. So having worked with Captain Cobban for an extensive
19 period of time, would you -- would it be a fair statement to say
20 that he developed an environment on his vessel where -- if
21 somebody was concerned about something, do you think they would
22 have felt comfortable saying something to Captain Cobban?

23 A. That's kind of a loaded question, ma'am. I don't mean it in
24 a bad way, but the captain -- when my crew comes on my boat, they
25 look at me to keep them alive. I'm the one person. That's my

1 sole responsibility on every voyage is to bring my crew home
2 safely. And it's hard for somebody to say we shouldn't be doing
3 this, because that's our job is to keep them alive. And you don't
4 question the captain on the boat. And if you do, you should
5 leave. But there's no -- nobody's going to go do something they
6 think they shouldn't do.

7 And it's -- it's kind of hard for somebody to come up and say
8 that, because they don't want to look lame. They don't want to
9 upset the crew. They don't want to upset the captain. And it's
10 kind of a -- I don't know how to describe it, but it's just kind
11 of a -- you don't want to -- you want to keep everybody on a team
12 together. And when one person starts breaking that up, and if
13 they do say something -- you know, I mean, I've had guys come up
14 and say, you think we really should leave? And I'm like, you
15 know, I'll take that into consideration and everything.

16 But it's -- especially with somebody like new coming on the
17 boat, they aren't going to say much because they don't know the
18 rotation of the crew. They don't know how everybody works
19 together. And very rarely have I ever had a new guy come on the
20 boat and ask me that. I've had a couple of experienced guys
21 going, eh, and we'll sit there, and we'll talk about. And I'll
22 say, well, this is what we plan to do. I plan on leaving now.
23 The weather's going to be crappy. Should come down by time we get
24 to this point, you know.

25 It's just -- there should be more ways to do that, but

1 it's -- when somebody comes up asking that, they're not trusting
2 me, and they're not trusting my judgement. And by not trusting my
3 judgement, I can't trust that they're going to do what I tell
4 them, because it's very important for everybody to listen to the
5 captain, because if I tell them something and they go do something
6 else and somebody gets hurt, it's still on me. You know, when I
7 leave the dock, when I get on the airplane to go home or fly up
8 from home, and I get on that boat, there's nothing else.
9 Everybody has to listen to me. And everybody has to just do their
10 thing. And there's nobody else to -- I make that decision to the
11 best of my ability.

12 And with the weather forecast, I'm genuinely pissed off at
13 Gary for leaving. But Gary was also one of the toughest captains
14 I've ever known, and he -- the thing was is he ran around on
15 little piece-of-crap boats his whole career. I mean, little, old,
16 tiny benders for his whole career. And he survived -- he fished
17 through storms that I never would have fished on. But he -- Gary
18 had a gift of just -- that's what he did. And he was very gifted
19 as a captain, because he -- he thought like a crab, he thought
20 like a fish, and he thought like a captain.

21 And, you know, I think a lot of it has to do with a couple
22 other boats, very small boats, left with him out of Kodiak. You
23 know, 58-footers and I think a 70-footer. I can't remember the
24 other -- I can't remember the third boat; I want to say it was the
25 *Ruff N Reddy*, but I don't think it was. They all left the same

1 time as Gary did. You know, the *Alaska Dream* left, and that was a
2 58-by-28-foot boat. So, I mean, it's -- nobody could -- I was on
3 the phone with Gary for an hour-and-a-half before he left that
4 night. Everything seemed fine with him.

5 Q. Well, let's talk about that, actually, for a bit.

6 A. Okay.

7 Q. Tell me -- tell me where you were and tell me about that
8 conversation.

9 A. I was stuck in traffic trying to drive from downtown Seattle
10 up to my house, and then up to the Tulalip Reservation to go buy
11 fireworks for my daughter's birthday. And so I was stuck in
12 traffic for a solid hour-and-a-half, and we just -- we just talked
13 about, you know, he was going to go to east side. I was going to
14 go to the west side. We were going to work together all season.
15 We actually had a long talk about the stability regulations, how I
16 was dropped down to so many pots, and how his didn't change.

17 Q. Did he say anything about that? Did he give you any details
18 about that stability report?

19 A. No, he just -- I mean, me and him had multiple conversations
20 about it. We had one before king crab, and he was just like, he
21 goes, my stability went up a couple pots. I said, even for icing?
22 He goes, yep, that's what they did. I'm like, cool, because my
23 boat, you know, got dropped down to 80-some pots, which was not
24 even a full layer on my deck.

25 And fishing for as long as I have, I was pretty disappointed

1 that I couldn't bring out more gear because it kind of makes my
2 life -- really makes it a pain in the ass to bring the boats back
3 and forth, having to go run -- I ended up fishing 450 miles,
4 almost 500 miles from Dutch Harbor at one point. That's a long
5 trip to go back for pots and leave your pots out there with the
6 ice going down.

7 He said he was going to fish 196 pots because that was all
8 the shots that he had. And we just BS'd and, you know, he told me
9 a couple stupid stories. And we were talking about my kids and
10 how my daughter was turning four that next day and how we were
11 buying fireworks. And, you know, he was on another phone yelling
12 at David to run down to Kodiak Marine Supply and get more zip
13 ties. And David said he had already parked his truck. So his dad
14 said, you better walk. And, I mean, it was just a regular BS
15 session that we've had thousands and thousands of times.

16 Q. So, and remind me again, what day was that?

17 A. It was -- well, they were just getting ready to take
18 (indiscernible). I believe that was -- I want to say it was New
19 Years Eve, but it must have been the day before New Years. It was
20 the day they left town. It was, you know, in the evening.

21 Q. Okay.

22 A. Yeah -- no, it was the day before, because that's when they
23 left because he was just waiting for them to get everything
24 finished up. And they had just loaded some bait on at Trident,
25 and the fuel dock -- I don't remember exactly. And I told him to

1 take care of my little brother and take care of Johnny and be
2 safe, and I'd give him a shout when I got up to Dutch on the
3 second.

4 Q. Okay.

5 A. And that was the last that I ever heard from him.

6 Q. Did he happen to mention where he was going to be going, or
7 what route he was going to be taking?

8 A. No, not really. I just didn't even question Gary because,
9 you know, he's the one that taught me all that stuff.

10 Q. Sure. So --

11 A. He was going to go cod fishing. He was going to go do a trip
12 of cod and make a delivery and, you know, do a little prospecting
13 for crab on the way. He was going to try to fish cod where he was
14 fishing crab.

15 Q. So in the course of, you know, this very -- talking about a
16 bunch of different things for an hour-and-a-half, did the weather
17 come up at all?

18 A. Not really, no. I mean, I wasn't going to be in that area.
19 I wasn't -- I was flying to Dutch on the second, I didn't
20 really -- I didn't really think about it.

21 Q. Okay. Did you sense that Captain Cobban was concerned about
22 anything at all? Did he give you the impression that he was
23 concerned about anything?

24 A. As a captain, none of us ever sound concerned. We always try
25 to stand behind what we say and how we approach stuff. You know,

1 during a bad situation, we crack jokes. We try to keep our crew
2 calm. And rarely do we ever -- you know, we don't try to make it
3 look like anybody's nervous or have any qualms about anything,
4 because the crew has to accept us as the leader of the boat, and
5 if we don't keep cool and just do what we think's best, you know,
6 you're going to end up with -- I don't want to say a mutiny, but
7 you're going to end up with a crew uprising, not knowing how --
8 going, well, if this guy's not confident, we're not confident with
9 him being on the boat; we're not confident being on the boat.

10 Q. Right, that's fair. I understand what you're saying. But
11 you -- like having a conversation captain to captain, did he
12 express any kinds of concerns about anything --

13 A. No.

14 Q. -- or excitement about anything?

15 A. No, it was just -- it was just another season. I mean, it
16 was just another season for all of us. It was just, you know --

17 Q. Did he happen -- did he happen to mention to you that he was
18 looking to buy additional shares in the *Scandies Rose*?

19 A. Oh, yeah, yeah, he had actually said he had just sent down
20 John Walsh fifty-some thousand dollars, and he was going to buy
21 Dan out in the fall.

22 Q. How'd he sound about that?

23 A. He was excited. He was excited. I mean, me and him had been
24 talking about it for, I don't know, a couple weeks. And, you
25 know, as a marine surveyor, I -- you know, he was asking me about

1 values, and we were just kind of just BS'ing about all the
2 different things and different values. And we thought it was --
3 he thought what he was doing was right. And, you know, that was
4 about it.

5 Q. Did he happen to mention why he was -- why he wanted to buy a
6 bigger share or why he wanted to buy Mr. Walsh out?

7 A. Well, John's getting up there in age, and John was part of --
8 became part of our company when he was 22. He had bought into the
9 company. And John wanted to get out, and Gary wanted to get
10 out -- or wanted to keep going. And, you know, Dan was -- Dan's,
11 you know, he's like my second father. He's like 66 now. He's
12 probably yelling at his TV right now that he's 65, but he, you
13 know, he -- that was all kind of the plan from the beginning was
14 they were going to stay in as long as they could, and then slowly
15 start working their way out into retirement and try to enjoy their
16 lives.

17 Q. Okay. Did Gary happen to -- in his excited state about
18 staying in, did he say anything about what his intentions for the
19 future were? Did he have any projects he wanted to do or any
20 specific kind of vision for the *Scandies Rose*?

21 A. No, no. I mean, that boat, that boat was in shipyard twice a
22 year just about every year. I mean, that boat was -- he had done
23 all the stuff he'd wanted to do to it so far that I knew of. I
24 mean, there's always stuff you want to do to the boat, but he --
25 no, he was -- that boat was set up how he wanted it.

1 I mean, he got it in 2008, and -- or was it '07? Yeah, 2008,
2 he took over that boat and really did a hell of a job bringing it
3 back. And it was being sold, so it had a few maintenance deficits
4 at the time, but it was very minor stuff. Just, you know, little
5 things that got overlooked and didn't get redone. And then all
6 that boat -- I mean, that boat just was -- all of us else were
7 jealous because that boat got number one attention compared to any
8 other boats that we had in the company.

9 Q. Well, hey, let's talk about that. Let's talk about your time
10 working for -- so was it for Mattsen Management then?

11 A. Yeah, I started with Mattsen Fisheries in 2000, I think it
12 was 2001 and 2002. And then when Mattsen Management was formed, I
13 became a core captain of it. And we managed a bunch of Ocean
14 Beauty's vessels, BBDC vessels, and Van Dant's (ph.) personal
15 vessels.

16 Q. Okay, so let's talk about that a little bit. So when -- you
17 just made a comment that some folks were a little jealous because
18 the *Scandies* did get a lot of the resources. And can you
19 elaborate on that?

20 A. Well, let me just take a step back. Every vessel in the
21 company was its own entity. Every boat was its own. So every
22 boat had to live on their own. Obviously, the *Scandies* made
23 significant more money than all the rest of our boats did, because
24 it was the only boat that fished crab. All the rest of our boats
25 tendered or fished cod. And, you know, there was just -- they

1 made a lot of money with that boat, and they had quota
2 shareholders with a lot of crab on that boat, and so they made
3 sure that all the Is were dotted and the Ts were crossed, because
4 that boat could cost them a couple million dollars.

5 And, you know, there was no -- there was never -- how do I
6 say this? They -- there might have been some arguments over price
7 and stuff we needed to do, but it always got done. You know, it
8 was just the fact that there was -- when you're doing shipyards on
9 a boat, you have to find a place to stop. And so sometimes, some
10 of the small little things, like kitchen cabinets and just stupid
11 little things that you want to keep doing and redoing different
12 parts of the boat that you want to redo, but it doesn't have --
13 but they always made sure everything on that boat was very safe.
14 The safety and integrity of the boat never -- they never were shy
15 to spend money on it.

16 Q. So did you ever see -- were there ever examples that you
17 observed where you could have had a more permanent repair done,
18 but in order to kind of triage or hold it off --

19 A. Oh, we all do that. I mean, if you can't MacGyver something,
20 you can't be on a fishing boat.

21 Q. Okay.

22 A. But, when you're done, that's usually either to get you to
23 town, or if it's very minor, it gets you through the season.

24 Q. Okay. How about the bycatch chute?

25 A. I'm sorry.

1 Q. Can we talk about the starboard bycatch chute?

2 A. Oh.

3 Q. Yeah, can we talk about that? Right around 2011, we've heard
4 through previous testimony that it was -- that the metal there was
5 replaced. Do you have recollection of that?

6 A. I do not. I was -- I was a port captain for the boat, but I
7 spent the majority of my time with the other boats, so they could
8 focus on that. But no, I don't recollect that whatsoever. That
9 happens, it's not un-normal -- uncommon, excuse me. It's happened
10 on, I don't know, four or five different boats I've been on.

11 Q. And what is that, that you just said it's not uncommon --

12 A. Well, because it has running water going out of it. And when
13 those -- when all the boats were built, they were built -- now
14 most of us have stainless chutes and stuff that the water goes
15 over, so it doesn't go through the deck. But back when those
16 boats were built, they just went over the water. So you had just
17 continuously flowing water for months on end. And those areas
18 were kind of always (indiscernible) spots.

19 Q. Okay. Is it common practice in the fishing industry to, if
20 there are either bad welds or there's problems with watertight
21 integrity, to just put Splash Zone on it --

22 A. It's a common practice to finish the season or get home, you
23 know. I mean, you think about it, if you've got something
24 dripping in there, and I've been taught by all the safety classes
25 I've been in, you don't need to stop the leak, you've just got to

1 slow the leak. And having a little bit of water dripping out of a
2 chute on our way back to town or to finish the season off really
3 didn't -- it's very common practice.

4 Q. So is it also common practice to then make permanent repairs
5 or --

6 A. Yes, yes, you get in there and, you know, when you get done,
7 you finish -- you go back and you fix everything that broke on the
8 boat after winter. I mean, it's the Bering Sea. It's hard on
9 boats. It's hard on people. And, you know, Splash Zone's our
10 friend. It's in every one of my safety kits. It's -- we always
11 carry lots of it on the boat because you never know what's going
12 to happen. I mean, the United States has one of the oldest
13 fishing fleets in the world. And, I mean, there's only a couple
14 boats in my life that I've worked on that are newer than me.

15 Q. Okay. So when did you hear about the sinking of the *Scandies*
16 *Rose*?

17 A. It was my daughter's birthday. She threw up cake all over
18 the house at 1:00 in the morning, so I stayed up until 4:00 in the
19 morning cleaning. I shut my phone off because it was my last day
20 at home before I flew up the next day. And I woke up, and I had
21 about 37 missed calls. And I was thinking I was pretty popular on
22 New Years Eve. And then I looked, and Dan had called me about
23 four or five different times. And his phone was ringing again,
24 and he was pretty upset and wanted to make sure I heard it from
25 him.

1 Q. And that's -- when you say Dan, you're talking about
2 Mr. Mattsen?

3 A. Yes, yes, ma'am.

4 Q. So why did Mr. Mattsen call you?

5 A. Well, I worked for him my -- he's -- I'm his illegitimate,
6 red-headed stepchild, and he -- you know, me and him been through
7 a lot of stuff over the years. And he wanted to make sure I heard
8 it from him, because there was a lot of rumors. There was a lot
9 of BS. You never know what happens. And then he told me that the
10 boat went down that night and that Dean-o and Johnny had made it
11 into the raft, and that was all they knew.

12 Q. Okay. Captain, at this time, that's the end of my questions
13 at this time.

14 CDR DENNY: Captain Callaghan, I have nothing further at this
15 time.

16 CAPT CALLAGHAN: Thank you, Commander Denny.

17 At this time, Captain, I'm going to ask -- pass it over to my
18 colleagues at the National Transportation Safety Board for any
19 follow-on questions from them.

20 THE WITNESS: Okay.

21 BY MR. BARNUM:

22 Q. Captain Buholm, Bart Barnum, NTSB. Thanks for coming in
23 today. Appreciate your testimony. I just had a couple questions
24 for you here. First off, you stated earlier you consult your
25 stability report, stability instructions, quite frequently, pages

1 are dirty?

2 A. It's just -- it's just a good practice.

3 Q. Yeah. You know, since you're using it quite a lot, is it
4 safe to say that you trust those stability instructions?

5 A. Yes, very much so. We have to. I mean, we all have to
6 mitigate what we do and what we don't do, but we always try to
7 stay under the stability, what it's saying. And, you know, I've
8 got little kids at home. I'm doing everything I possibly can to
9 get home. And different boats burn fuel from different ways. You
10 know, the boat I ran for the last couple years, we burned it from
11 forward aft, where the other boats, we burned from aft to forward.
12 And there's different things in there that -- it's just handy. I
13 try to teach my -- it has all the different volumes of fuel, and I
14 use that to teach my engineers more about it. I always have it on
15 the dash for if anybody wants to look at it. They're always
16 looking for something stupid to read. Give them something good to
17 read and at least they might learn something.

18 Q. Okay. Understanding you spent virtually your entire life on
19 vessels and ships and your understanding of their stability is
20 probably extensive, but have you ever taken any formal stability
21 training?

22 A. Yes. Yeah, I took stability training when I sat for my
23 license, as well as last year, the NPFVOA -- must have been last
24 December I took a stability class at NPFVOA in Seattle.

25 Q. Was that part of your credentialing for the 100, 200 ton?

1 A. No, no, it was just a -- it was just a refresher course.
2 Everybody -- they -- I can't remember. It's one of the partners
3 in Hockema and Whalen puts it on at NPFVOA. It's just, I'm never
4 going to turn down learning something.

5 Q. Did you find it useful?

6 A. Very useful.

7 Q. Would you recommend it?

8 A. 100 percent. I wish it would be longer.

9 Q. Yeah.

10 A. It's the only class I've ever taken that I wish it was
11 longer.

12 Q. Really? You know, since, obviously, the tragic sinking of
13 the *Scandies Rose*, have you talked to any of your fellow
14 fishermen? Are you doing anything differently?

15 A. Yes and no. You know, it's kind of -- after a sinking,
16 everybody's a little more on edge and a little more doing their
17 thing. But we're still doing -- we still got to do what we got to
18 do. There's no real change in what we do. It's just -- we just
19 do what we think's best.

20 And I was a little hesitant. I flew out the day after the
21 boat sank, and we sat in Dutch. And there was a couple little
22 blows that went by that normally I probably would have gone out
23 on, but I was little gun shy at that point, you know, after just
24 losing all my brothers. But when it's all said and done, it's
25 crab fishing in the Bering Sea. It's just not -- it's not safe.

1 We just do what we do, and hopefully we make it home to our
2 families. That's the whole point of it is -- but --

3 Q. Anything that you think that could be done to make it safer?

4 A. Yes and no. We have -- from when I started and from what
5 I've -- you know, my family's been in it since the beginning of
6 crab fishing, and we've made so many big strides over the last 25
7 years for losing boats. And, I mean, the *Destination* blew us all
8 -- blew all of our socks off. And then the *Scandies*, I mean, that
9 was the first house-aft crab boat in crab fishing history to roll
10 over. There's never been a schooner that's rolled over crab
11 fishing. Plenty of them sank, but there's never been one that's
12 rolled over. And it's -- you know, I think we've done a lot, I
13 think.

14 I think everybody should take that stability class. I think
15 every crewmember should do -- what do they call the -- basic
16 safety training. You know, it's \$400 or something, and it
17 tells -- it teaches everybody. I think that -- I think that could
18 be the best thing for everybody. That was one of the best classes
19 I've ever taken, basic safety training, where I learned a lot of
20 different stuff and learned stuff that I'd been doing wrong when I
21 was training people. You know, I think that would be a very
22 minor, minor -- cost minor money for a lot of people to get more.

23 And that stability class that I took, I think that was a
24 wonderful class, and I think there's a lot to be learned because
25 there's a lot of people take it for granted what the book says.

1 Q. I do appreciate that. I think having your testimony of being
2 an experienced fisherman and stating that is very useful. I
3 definitely think -- definitely take that into consideration --

4 A. There's nothing wrong with learning. That's how I see it. I
5 mean, everybody goes, you got to take some stupid class. I like
6 taking the stupid classes, because usually, if there's one thing
7 that sticks out in those stupid classes, that's all that matters.
8 Even if 99.9 percent of it's redundant, but there's always that
9 one thing that came out going, oh, well, this came out from this,
10 or this came out from this.

11 Q. So you mentioned that *Scandies* is the first schooner in
12 history to roll over. Ultimately, what are you hearing or what do
13 you think happened to the *Scandies Rose*?

14 A. Well, I have three different scenarios. And to be honest, I
15 think they all happened at the same time. You know, and nobody
16 can confirm it, because -- but my biggest thing is the boat had
17 large wave walls around port and starboard sides to keep the crew
18 safe. And I think the scuppers on the starboard side froze up.
19 And I think they created --

20 Q. Free surface?

21 A. I'm sorry.

22 Q. Go ahead.

23 A. Free surface.

24 Q. Okay.

25 A. They created free surface, and I think there was a lot

1 of -- I mean, this is just going -- I mean, I fished on that boat
2 for one -- I filled in for a couple weeks during salmon, and I was
3 the mate on it for a government charter when they first bought it.
4 So I don't -- you know, I've got like eight weeks on that boat.
5 But that boat always was run -- they always ran the aft two tanks
6 down, the forward tank open or empty. And I think they got slack
7 tank -- or excuse me, I think they got free surface on the deck,
8 and the boat went down.

9 And, you know, anybody that's ever seen down-flooding knows
10 it's probably the scariest thing on earth next to a fire on a boat
11 because it happens quick. And I mean, you can think about it by
12 just taking a soda can and putting in a bottle of water -- or a
13 pot of water and putting it underneath of it and watch how fast
14 all that water goes down into that can. And that's how fast it
15 goes into it. And once the boat gets a list, you know, free
16 surface, there's no stopping it.

17 And for whatever reason, Gary pulled the boat out of gear.
18 God only knows why. He'll -- God's the only person that does know
19 why, and I think that just intensified it. And, you know, from
20 what I've heard from the survivors, it was as soon as he pulled
21 the boat out of gear, she started going over. And I'll never
22 second guess Gary's judgement. Gary taught me -- Gary's forgot
23 more than I'll ever know, and he's taught me more than any other
24 captain has, with the exception of maybe Mattsen or my father.
25 But it was just -- people do weird things in a panic situation,

1 and I've just never seen -- I've never known Gary to panic; that's
2 what really is the thing that I don't know is, I mean, he -- Gary
3 never panicked.

4 Q. Did you -- did you ever consider a hull breach in any way as
5 one of those possibilities?

6 A. No. There's been a lot of talk about that void where the
7 shit chute was cropped out and redone. One, that void was so
8 small, and it wasn't that large of a void. I mean, it's a lot of
9 water, and yes, it could have had problems. But I just -- you
10 know, I really think that they -- I mean, this is just what I'm
11 thinking, and I've thought about it night and day for over a year
12 after losing these friends.

13 And the only other thing that could have exasperated it --
14 actually, there's two more things -- is if that forward tank got
15 slack and it breached the bulkhead in the forepeak, but I don't
16 see that considering the boat stood on end before she went down.
17 I don't think that is.

18 But also, you guys have to take into consideration is the
19 area they were in. There is no area worse than where they were at
20 for icing. It's -- I've called it the freezer hold of hell,
21 because the problem is, if you get a westerly or a northwest
22 coming through the mountains of Chignik, there's glaciers all over
23 that. And you get -- a 30- to 40-knot wind comes across that
24 mountains and it picks up all this fresh water, and this cold,
25 cold water, and it turns into ice crystals. Then, when it comes

1 down, it hits the hot water, and the ice -- I've never iced up so
2 bad in my life as I've iced up in that area, within 50 miles of
3 where that boat went down. It's unbelievable the way the wind
4 comes out of those bays and it just rips that fresh water.

5 And I'm not a scientist, but I am a weather nerd. And there
6 is a captain, he's documented about 3,000 shipwrecks. His name is
7 Captain Warren Good. He was from Kodiak. He was actually friends
8 with Cobban. And what he was explaining to me one day when we
9 were BS'ing about this, amongst many other things, is there's a
10 water current that comes up, and there's the wind current that
11 comes down, and it super freezes so much there that it's -- every
12 stability test you could do, every book you could write, nothing
13 can prepare for being around Chignik.

14 It's just -- I mean, the -- you know, they have their own
15 terms for weather down there because nothing is what it's forecast
16 to be. And I spent a lot of time with one of the former U.S. --
17 Rich Courtney, he was part of the National Weather Service out of
18 Kodiak for a long time. Spent a lot of time on the radio learning
19 all the different areas from him because that area for Shelikof
20 Straits or Sitkinak past the Cape, there really should be about
21 five different weather, weather areas for Kodiak instead of three,
22 because everything changes by the geography of the land and the
23 mountains.

24 MR. BARNUM: Well, Captain Buholm, I really appreciate your
25 insight there and your observations and answering my questions. I

1 really appreciate it, helping the investigation. That's all the
2 questions I have for you, sir. My colleague has a couple.

3 BY MR. SUFFERN:

4 Q. Thank you, thank you, Captain Buholm, for your time today. I
5 just have a couple follow-up questions. If we could bring up
6 Exhibit 026, please, Exhibit 026.

7 A. Um-hum.

8 Q. And being that you are knowledgeable of Windy, it sounds
9 like, have you ever used the tabs on the right side of the screen
10 there --

11 A. Oh, yeah, I use everything.

12 Q. Okay. So which ones are your most popular that you use?

13 A. Mainly, I just do wave height and wind. Mainly it's wind. A
14 lot of time I don't even worry about the wave height because I
15 know what the wind's going to do, unless it's going to be
16 something bad, I'll check out the wave height. Predominately,
17 it's just the wind.

18 Q. Okay, and at the bottom right of the corner, it has the -- if
19 we could zoom in, maybe, on the weather warning tab there, kind of
20 three from the top there. Have you ever clicked on that
21 particular one?

22 A. No, honestly, I haven't.

23 Q. Okay. If you do have a warning for, say, a storm-force winds
24 or freezing spray, where do you typically get that information
25 from?

1 A. Oh, I just -- I watch the weather three or four times a day.
2 You know, I'm always on the phone. Every time, you know, three or
3 four times a day, I check the weather because it gets updated
4 constantly. And hours can make a difference from 30 knots to 50
5 knots or northerly to southerly. I mean, it's just, it's so
6 unpredictable. We consult weather multiple times a day.

7 Q. Okay. Thank you, Lieutenant McPhillips. You can take that
8 down. As far as what you review while you're a captain or while
9 you're out at sea, do you have internet access and able to view
10 Windy, or are you just --

11 A. Most boats do. Most boats now do. A lot of them don't, but,
12 you know, either way, we're still consulting with other boats
13 constantly. The boat I just ran -- I just ran the *Western Mariner*
14 from Dutch Harbor to Kodiak last week, and the Internet was shut
15 off, and the owners weren't going to be using it for a while, so
16 we didn't turn it on. And, you know, I called my dad, and I
17 called Dean Gribble, Sr., and I called a couple other captains I
18 knew and had them look at the weather for me to make sure it was
19 the same as I was hearing on the VHF versus Windy and stuff.
20 Having a good network and a good solid crew base -- base of
21 partner boats is huge for being a captain up there.

22 Q. Okay. As far as the observations that you're seeing, do you
23 ever pass those on to the National Weather Service? Do you know
24 if there's an avenue?

25 A. We used to. We used to when Rich Courtney did it, on the

1 sideband or on the satellite phones, we would pass it off to him.
2 Now it's kind of -- that was kind of the thing back in the day.
3 When I started, it was in the mornings, you'd have Peggy or you'd
4 have one of the other people, Peggy Dyson, they'd be giving out
5 the weather. And every fishing boat tuned into it.

6 You know, I was just coming from Dutch to Kodiak, and I
7 couldn't even find one weather -- I never got one weather forecast
8 off the radio other than the VHF. They don't do it on the
9 sidebands anymore. So it's kind of weird after always being able
10 to do it -- just doing it by radio for all those years, and then
11 now we've got the Internet. And now we're all kind of fixed on
12 the Internet and got to relying on it.

13 Q. Yeah, I understand, thank you. One more question relates to
14 -- Lieutenant McPhillips, if we could bring up 055, 055.

15 A. I'm sorry.

16 Q. Bringing up Exhibit 055 here. This is an experiment freezing
17 spray graphic that the National Weather Service has developed. If
18 we could zoom in on the pictures a little bit, and this shows how
19 freezing spray will accumulate per hour over Bering Sea locations,
20 the Aleutian Chain, Southeast Alaska. Would you find something
21 like this useful as a captain?

22 A. Oh, very much so. I mean, the biggest thing about the
23 National Weather Service webpage is, since they redid it a few
24 years ago, it's just a pain in the butt to find anything on it.
25 But this would help. I mean, the thing is, is we take all -- we

1 use every tool we possibly can. And, I mean, this would be a
2 great tool. All the weather tools are great tools, but the thing
3 is, it's not always exactly what they forecast in the spot you're
4 at. And you've got to take your experience and use your
5 experience, and you just do what you got to do. But no, I would
6 very much use one of those if I could.

7 MR. SUFFERN: Thank you, Lieutenant McPhillips, and thank
8 you, Captain. I appreciate your time. That's all the questions I
9 have.

10 CAPT CALLAGHAN: Captain Buholm, I'll ask if you could put
11 the headphones in. So I'm going to go through a couple virtual --
12 next round of questions will come virtual. So make you be able to
13 hear. I'm going to turn it over to counsel for the two survivors.

14 Mr. Stacey?

15 BY MR. STACEY:

16 Q. Thank you. And, Captain, can you hear me all right?

17 A. Yes.

18 Q. Captain Buholm, can you hear me, sir?

19 A. Yes, sir.

20 Q. Perfect. My name is Nigel Stacey. I'm representing Johnny
21 Lawler and Dean Gribble. First, they wanted me to pass along
22 their thanks to you for testifying today. They really appreciate
23 it.

24 Two very quick questions for you, sir. You talked about how
25 -- the amount of time you've worked with Dean-o and John. Would

1 you consider them good deckhands?

2 A. Oh, yeah. Both of them are excellent hands.

3 Q. All right. And when you went through -- changing topics to
4 icing -- when you would go through the freezer hold from hell, as
5 you called it, how quickly, in your experiences, would you
6 accumulate ice right in that area?

7 A. That's not an answerable question because it depends on the
8 humidity, the weather, the wind direction. I mean, there's so
9 many different things that can combine on that. You know, spray.
10 But very fast. I mean, it's scary fast.

11 Q. Yeah. Would you have instances where you would go from not
12 concerned to concerned in less than an hour?

13 A. Yes, oh, yes. No, I mean, we came out of a bay one time 30
14 miles from there, and we had just cleared the whole boat with ice.
15 And I turned the corner, and within 5 minutes I couldn't see out
16 my windows, and every door was iced shut. I mean, no, it's a very
17 -- I wasn't expecting it. I just told the guys to go to sleep,
18 and I idled down the hill, and then suddenly we're a block of ice
19 again.

20 Q. Yeah, yeah.

21 MR. STACEY: Okay, thank you very much, Captain. Those are
22 all questions I have for you. Thank you, sir, for your testimony
23 today.

24 THE WITNESS: Yep.

25 CAPT CALLAGHAN: Thank you, Mr. Stacey.

1 Now I'm going to turn it over to counsel representing the
2 vessel owners, Mr. Barcott.

3 MR. BARCOTT: Thank you, Captain.

4 BY MR. BARCOTT:

5 Q. Thank you, Bryce -- Captain Buholm. I just have one
6 follow-up, and the Board is interested, I think, in all the
7 information -- you've used a name, I suspect they don't know who
8 she was or what she did. Who's Peggy?

9 A. Oh, Peggy Dyson. She -- well, other than being -- she gave
10 out the weather for many, many years to all the fishermen on 4125,
11 and she was the one that passed off half the kids that were born
12 in Kodiak to their dads. I think she told my dad I had a -- I
13 can't remember if I was the (indiscernible) baby or a Peggy baby,
14 but I still have her barometer she shipped out to our boat in the
15 '70s when my dad had -- his barometer broke. So I still have that
16 on my wall.

17 Q. And who was her husband?

18 A. Oscar Dyson.

19 Q. Who's he?

20 A. Well, that's a big argument, because my great-grandfather
21 built the first crab boat for crab fishing, and he built the
22 second. And he always argued that the *Peggy Jo* was launched --
23 (indiscernible) the day before the (indiscernible) was laid. But
24 we were in the water first.

25 MR. BARCOTT: Thank you, and no further questions. Thanks

1 very much.

2 CAPT CALLAGHAN: Thank you, Mr. Barcott.

3 Just have a couple follow-up questions for you. I'm going to
4 go to Lieutenant Commander Comerford first for a couple questions,
5 sir.

6 THE WITNESS: Of course.

7 BY LCDR COMERFORD:

8 Q. Good afternoon, Captain. First question, you mentioned Dutch
9 Harbor Safety earlier for weighing the pots. Just help me
10 clarify, who is Dutch Harbor Safety?

11 A. It's the Coast Guard Safety Division, the MSI or Marine
12 Safety.

13 Q. Oh, okay.

14 A. (Indiscernible) acronym.

15 Q. That's fine. And when they weighed the pots, is that a
16 requirement or what initiated that?

17 A. It's -- I don't really believe it's a requirement. I don't
18 think it's -- but we are requested to call 24 hours before we
19 depart with a full load of gear for the first trip of the season.
20 But it doesn't make sense because that's for crab, but they don't
21 do it for the cod boats. And that's always been a weird thing is
22 yeah, I mean, we go further up for crab, but, you know, they never
23 -- they don't do it on any of the cod boats that go out cod
24 fishing January 1st. It's always been a weird thing in my mind.

25 Q. So help me kind of get a little bit of geographic reference

1 here. You said crab go out further but the cod are less.

2 A. Well, the cod fish have to be delivered every three days, so
3 they traditionally fish around Dutch Harbor and Unimak Pass and up
4 the peninsula, you know, closer to land. But the same crab pots
5 on the same boats.

6 Q. And then I'd like to pull up Exhibit 24, page 1, and when it
7 comes up, it's going to just show a nautical chart, a little bit
8 of Shelikof Strait, and there's a buoy that's circled up there,
9 and there's another buoy down to the south and the east, if the --
10 Mr. McPhillips, can you just kind of highlight that second buoy
11 down there?

12 A. Oh, yeah, no, I'm aware of them well. They don't mean squat
13 for the rest of that area. There should be about eight buoys in
14 this area.

15 Q. I think you just answered my question. Would you be -- so,
16 re-summarizing it, you would see value added to additional
17 observation points for these weather buoys?

18 A. Can I use my handy-dandy little thing here?

19 Q. Yes, please.

20 A. So yeah, because here's the thing. If you get the northwest
21 -- you see these lakes? And if you had a topographical chart, you
22 could see. If it blows northeast here, it circles back here. And
23 what was it, about four or five years ago, I was on my way to
24 Sutwik Island to go pick up fish with the *Retriever*, you know,
25 140-foot old military boat. And from when we were -- I drove for

1 16 hours, and it was a 24-hour run. And I went down in the
2 evening, and four hours later, I got up, and the entire boat was
3 encapsulated with ice. And it's from right about here.

4 This whole area is just -- you know, you've got the Samiades
5 here, but it's this whole area coming off the beach is just --
6 it's a scary area. And it's -- you've got to keep her on your
7 toes or it will bite you. But you also have so many -- there's so
8 many on here, these mountain passes, there's so many -- so many
9 passes that the wind changes directions and gathers coldness, and
10 it's just like nothing I've ever seen before. I spent 10 years
11 doing it in that area. And I just wish Gary would have made it
12 that last two miles.

13 Q. In your opinion -- there's been mention of Sutwik Island as a
14 lee before. Is that, in your opinion and experience, a good
15 anchorage, a good place to seek shelter from those elements?

16 A. Can you zoom in to Sutwik? Yeah, because I've anchored up in
17 -- you can't even see. There's areas right here where there's a
18 huge area. It shows you going over rocks, but they're not there.
19 I've got a lot of local knowledge. I've got a lot of friends and
20 family from Chignik that have taught me these areas along with
21 Gary. Where Gary was about to be, it wasn't the best anchorage,
22 but it was a good anchorage for the direction the wind was going.
23 There's three anchorages: there's one right here, there's one
24 right here, and we call this one, this one here -- there's another
25 one here, we call that the stupid spot because it doesn't even

1 show the mountain that's on the chart.

2 Q. Actually, we can pull up a closer chart --

3 A. Yeah, I mean, there's a tremendous amount of anchorage around
4 Sutwik, and I've anchored up in every single one of them many,
5 many times. Gary's the one that taught me Sutwik. He knew where
6 he was going. He was heading to the spot he could.

7 Q. And then, just one last related question. The -- oh, sorry,
8 wrong program. So one last question, just getting all that ice on
9 the boats, working to keep it free of ice, at what point can you
10 really be effective to start removing the ice as it's
11 accumulating? Is it one inch, is it two inches? Is there kind of
12 a general area where you know that you have to -- you can start
13 effectively managing ice on your --

14 A. It's usually when it starts -- when you can't see the paint
15 underneath of it anymore. When it glazes over, when it starts
16 building the thickness, you stop seeing the paint underneath the
17 boat, underneath the ice.

18 Q. So like where it turns white --

19 A. Oh, it's probably an inch-and-a-half or so. You know, it's
20 all different. I mean, we try to stay ahead of it because there's
21 nothing worse than working 20 hours a day on deck and then having
22 to go break ice for six, eight hours. Versus you send a couple
23 guys up between strings, and they break off the small stuff, and
24 then it doesn't accumulate as fast. And that's pretty much how
25 we've all worked on it.

1 There's no real -- like I said before, there's no -- there's
2 no chart. We don't have a chart of what we should be doing,
3 because there's just not. There's no way to guess -- you can't
4 guess with Mother Nature, and you can't guess -- you just kind of
5 do what you've got to do.

6 Q. Thank you very much, Captain.

7 LCDR COMERFORD: That's all the questions I have.

8 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

9 I'm now going to ask Commander Denny for a few follow-up
10 questions.

11 BY CDR DENNY:

12 Q. Okay, Captain, I do have just a few questions based on stuff
13 that you have said to us. You mentioned that you ran the *Scandies*
14 *Rose* a couple times. One was for a government charter.

15 A. Oh, no. I never sailed as captain. I sailed --

16 Q. Sir, go ahead.

17 A. Oh, I -- the very first season Gary had it, his crew had to
18 leave, and I went over and sailed as the engineer for a week and a
19 half with him, and then that next week, I got on, and Dan Mattsen
20 took over as master for a fish and game charter up in the
21 (indiscernible).

22 Q. Okay. So question based on your experience. Why did they
23 require Dan Mattsen to be a captain? Did they require it because
24 of a license? Did they require -- did that particular charter
25 require a licensed captain?

1 A. Yes.

2 Q. Why do you think that would be?

3 A. Because we had federal observers on board or just government
4 observers on board, and it was just their requirement for that.
5 And I just about had my license done, but -- plus Dan had just
6 bought the boat, and he bought the biggest and the baddest crab
7 boat in the Bering Sea, and he wanted to go out and go do this
8 little government charter we did together. You know, it wasn't
9 actually fishing. It was five pots every five miles.

10 Q. But it -- any thoughts on -- any thoughts on why a licensed
11 mariner? Do you think it might have to do with the training or
12 credentialing part of it?

13 A. It's just a requirement for -- probably for the government
14 insurance. I've done a lot of research -- I've done a lot of
15 research programs that, you know, every -- if anybody's going to
16 send their people on a boat, they want to send them with a
17 licensed master. But that being said, I've had my license. I'm
18 up for my -- I'm up for renewal here next month, and I've used my
19 license one time in my entire life, and that was to sail as a cook
20 on a tugboat.

21 Q. Okay, that's fair.

22 A. I mean, Gary was ten times the captain any of us will ever
23 be, and there's no piece of paper, and it's -- and honestly, the
24 caliber of people that sat in my class, taking my -- sitting in my
25 license, anybody that can study for -- that knows how to study and

1 has been to college can past a masters exam. The hardest people
2 -- the hardest of us to get them were those of us that actually
3 have been captains and sailed our whole lives. It's harder for us
4 to get our license than it is for some Joe Blow that comes off the
5 street and sits down and goes, oh, I know how to study, and can
6 study and passes it and still has no clue what he's doing.

7 I've said that hundreds of times over where suddenly the
8 company's hired a -- I've been doing my surveying stuff. You
9 know, they'll hire a master to go move a boat, and I'm like, I
10 wouldn't let this guy drive my go-kart, let alone a boat. And you
11 can train all you want, you can take all the tests you want, you
12 have all the credentials you want, but nothing's -- no
13 credential's going to prepare you for the Bering Sea unless you've
14 done it, anywhere in Alaska, honestly.

15 Q. Well, thank you for that candid answer. I appreciate your
16 thoughts on that.

17 A. Gary was colorblind. He was going to get his license, he was
18 colorblind, and that's the only reason he didn't have a license.
19 He sat for a license 25 years ago down in Alabama when they were
20 working on one of the boats. He passed everything, but then he
21 couldn't pass his colorblind test.

22 Q. Okay. So I just want to shift topics a little bit. I wanted
23 to ask you about drills. You said that safety is super important
24 to you; it's a high priority. When you do drills with your crew,
25 how often do you do it?

1 A. Try to get them done every month.

2 Q. Okay, and then when you run through drills, do you have
3 everyone put on their immersion suits?

4 A. Yes.

5 Q. Do you ever practice entering a life raft or how do you do
6 that? Walk me through it.

7 A. Well, that's one of the problems. I mean, actually about 20
8 years ago, Dan Mattsen had us go up and go play around in one of
9 the rafts at one of the raft stores. And I actually took my crew
10 and couple of the other mariner boat crews over to one of the raft
11 shops this winter, and I conducted a drill for 15 of us at the
12 raft shop and had the manager of the raft shop -- we broke out all
13 the goodies and all the stupid stuff and the paddles, and we
14 actually broke out the bag, and the guys could actually see what's
15 inside of it.

16 And that's one of the things that I've really been upset
17 about is, pre-rationalization, we used to have -- before every
18 crab season, you guys would be up there doing the -- we'd have the
19 flooding thing at the fire station next door to the Marine Safety
20 Division. We'd have the swimming pool thing. They still conduct
21 it a little bit, but it's not what it used to be.

22 And I've actually been in the process of trying to build a
23 fisherman's memorial in Dutch Harbor so we can raise money to put
24 on multiple safety courses. And I'm in Dutch Harbor prior to
25 seasons and during the seasons, because nobody can do it down here

1 because, I mean, we've got guys flying in from all over the
2 country, and trying to get people into Seattle, it's just --
3 trying to get people to Dutch Harbor is a logistic nightmare, and
4 then trying to get a bunch of people to show up days before they
5 have to leave their families anyways to do stuff down here is kind
6 of -- it just doesn't work.

7 And I think we need -- you know, you can never have enough
8 training, and that's -- we need to continue on with the training
9 and build what we can and try to learn from all these -- all these
10 horrible things that have happened to our friends and family and
11 just keep training. It's never going to stop. Crab fishing's one
12 of the most dangerous things in the world, and it'll always be.
13 There's nothing -- there's nothing that nobody can do to make crab
14 fishing 100 percent safe. Unless somebody can build some sort of
15 rafts that explode out of the boat and keep the boat from sinking,
16 you know, there's no -- it's just crab fishing. We know what
17 we're getting into.

18 I mean, I've been watching my family's friends die since I
19 was a little kid, and it's -- it sucks, but we still do it. I
20 don't know if we're stupid or if we just don't care or -- it's
21 just most of us were just bred that way. Fishing's provided for
22 my family since the beginning of time, and it still provides for
23 my family now.

24 Q. Thank you. I appreciate your candid answer.

25 CDR DENNY: Captain, sir, that's all I have.

1 CAPT CALLAGHAN: Thank you, Commander Denny.

2 And so I've just got one follow-on questions for you, sir.
3 And this is probably not the easiest question to answer, but it's
4 why we're here. And I get, we just do what we do. But with
5 multiple incidents in the past few years, what needs to change to
6 make it safer?

7 THE WITNESS: I think training for the crew. I think
8 training for the crew's a big thing. Because it's one thing -- I
9 mean, I got training out the wazoo, but what happens if I'm dead?
10 I'm not -- I mean, it's -- we need more training with the crew.
11 And I think having -- not only does the training help the crew,
12 but doing it in Dutch Harbor, one, it gets the guys off the boat
13 for a day, and they get to go to the swimming pool and go play
14 around and not -- and it brings the crew together.

15 And you've got all -- you've got the whole crew. You've got
16 the captain, the engineer. You've got the whole crew together.
17 You're already a family, and it creates crew morale. And you have
18 other boats competing against your boats for -- you know, the
19 Coast Guard, you guys always give out little corny little prizes
20 like flashers for your suit or bung plugs for the emergency kits
21 and just stupid little stuff. But that stupid little stuff
22 creates crew morale, and it teaches the guys to trust each other
23 and how to operate in those situations.

24 I personally would love to be certified by AMC (ph.) or by
25 the NPFVOA and help put these classes on myself, because it's such

1 a huge thing for me. In 2003, we lost a guy off the *Shaman* in
2 king crab. And I dove over the side, didn't put my suit on. Got
3 it half-way on and dove over after him, and he died in my arms.
4 And I had to go face his mother who'd lost three sons in five
5 years to the ocean that next week when we buried him. And I never
6 want to see that again.

7 I don't want my crew -- I think about it every single day of
8 my life. There's not a day that goes by that I don't think about
9 losing Terry over the side and watching him take his last breath
10 in my arms. And I don't want my guys to ever have to go through
11 what I go through, because I don't sleep at night. I mean, I had
12 one death. I can't even fathom what Dean and Johnny are going
13 through right now, and it's -- it's not fun.

14 CAPT CALLAGHAN: I appreciate that, sir, and multiple times
15 you kind of recognized them as your family, your friends, your
16 shipmates, and I greatly appreciate the stance you take about
17 taking care of your crew and owning that role as a captain and a
18 master of your own boat.

19 THE WITNESS: When I get on that boat, anything that happens
20 to that boat is my responsibility. No boat owner's ever told me
21 what to do, and if they have, I don't follow it. I just do what I
22 think's best. Nobody's ever going to tell me to put too many pots
23 on my boat, to leave town, to do anything. The only thing -- the
24 only thing I've ever been able to -- when I get on the boat, every
25 single thing on that boat, if somebody breaks a fingernail, that's

1 my responsibility. And that's the responsibility of every captain
2 that sails, should have that stance.

3 CAPT CALLAGHAN: All right. We couldn't ask for anything
4 more. And you mentioned these were your family -- these were more
5 than friends; these were your family. And any -- as I've said
6 before, any loss in the fishing industry is a loss in and of
7 itself. And these guys were close to you. And for that, on
8 behalf of the Board here and on behalf of the Coast Guard, offer
9 my deepest condolences on the loss of your friends and family.

10 THE WITNESS: Thank you, sir. I appreciate that.

11 CAPT CALLAGHAN: And so I really thank you for being here
12 today. Thank you for taking the time out to help us along with
13 this investigation, to really better understand how we can work
14 together with the fishing industry to make it safer.

15 THE WITNESS: Well, and I think there's a lot -- like the
16 biggest thing about working with the fishing industry is having
17 former fishermen and people that are still involved in the
18 industry to work alongside of them. Because I see it every day
19 when I'm doing -- I own a marine surveying business. When I'm
20 doing surveys, you know, everybody's like all afraid to be around
21 me until they realize I'm a fisherman like them and -- because
22 there's a lot of stuff that you guys see black and white, and go,
23 oh, well, we shouldn't do this. But there's stuff like we're
24 going, wait a minute, that works for this fishery, but it doesn't
25 work for this fishery, it doesn't work for this fishery. And I

1 think there could be a lot of -- I think if we all work together,
2 you know, if we just save one freaking life, we've done well. And
3 that's how I see it. You know, if we can make one person -- save
4 one life out of this horrible thing with the *Scandies*, they didn't
5 all die in vain.

6 CAPT CALLAGHAN: Couldn't have closed it out any better, sir.
7 And it sounds like we have some use for you down the road. Sounds
8 like --

9 THE WITNESS: I would really appreciate that. I'd love to be
10 a part of it.

11 CAPT CALLAGHAN: Industry needs some representatives, and we
12 certainly need those -- that direction to work with you all to
13 make it safer. So thank you.

14 So, Captain, you are now released as a witness from this
15 formal hearing. Thank you for your testimony and cooperation. If
16 at any later date we determine that we need more information from
17 you, we'll contact you directly. If you have any questions about
18 the investigation, you may always contact us through the
19 investigation recorder, Lieutenant McPhillips.

20 Thank you again, sir.

21 THE WITNESS: Thank you, all. I really appreciate being out
22 there.

23 (Witness excused.)

24 CAPT CALLAGHAN: The time is now 1419. We'll take a recess
25 and back in session at 1430.

1 (Off the record at 2:19 p.m.)

2 (On the record at 2:30 p.m.)

3 CAPT CALLAGHAN: It is now 1430. This hearing is now back in
4 session. We'll now hear from Mr. Mark Stichert and Ms. Krista
5 Milani.

6 Mr. Stichert, Ms. Milani, Lieutenant McPhillips will now read
7 you the oath and ask you some preliminary questions.

8 (Whereupon,

9 KRISTA MILANI and MARK STICHERT
10 were called as witnesses and, after being first duly sworn, were
11 examined and testified as follows:)

12 LT MCPHILLIPS: Please be seated. I will be asking each of
13 you questions about your background, starting with Ms. Milani.

14 Ms. Milani, please state your full name and spell your last
15 name.

16 MS. MILANI: My name is Krista Milani, and my last name is
17 spelled M-i-l-a-n-i.

18 LT MCPHILLIPS: Please identify counsel or representative if
19 present.

20 MS. MILANI: Yeah, I have two present: one from NOAA general
21 counsel and one from our Department of Commerce.

22 LT MCPHILLIPS: Will each member of your counsel please spell
23 their last name as well as their company relationship?

24 MR. JONES: My name is Levi Jones, J-o-n-e-s, and I'm an
25 attorney with the U.S. Department of Commerce, Office of General

1 Counsel.

2 MR. SCHANE: And this is Demian Schane, S-c-h-a-n-e. I'm an
3 attorney with NOAA's Office of General Counsel in Alaska.

4 LT MCPHILLIPS: Ms. Milani, please tell us, what is your
5 current employment and position?

6 MS. MILANI: My current employment position is a Natural
7 Resource Specialist with Sustainable Fisheries Division in the
8 Alaska Region.

9 LT MCPHILLIPS: What are your responsibilities for that job?

10 MS. MILANI: My main responsibility is to track the harvest
11 at different quotas to ensure that we don't exceed any of our
12 quotas in fisheries, and then I also maintain a field office in
13 Dutch Harbor, the port of Dutch Harbor, and I answer questions
14 that the fishermen might have about regulations and other
15 questions that they might have.

16 LT MCPHILLIPS: Can you briefly tell us your relevant work
17 history?

18 MS. MILANI: Prior to working for the National Marine Fishery
19 Service, I worked for the Alaska Department of Fish and Game. I
20 was employed as a crab observer through the Department of Fish and
21 Game. I was an observer and debriefer for the observer program.
22 My last three years for the Department of Fish and Game, I worked
23 as an assistant (indiscernible) biologist for the ground fish
24 fisheries in the Bering Sea/Aleutian Islands. And then since
25 2009, I have been working in my current position.

1 LT MCPHILLIPS: What was your education related to the
2 position?

3 MS. MILANI: I have a bachelor's in biology from the
4 University of Oregon, and the rest is all training, on-the-job
5 training.

6 LT MCPHILLIPS: Do you hold any professional licenses or
7 certificates related to your position? Please explain if so.

8 MS. MILANI: No.

9 LT MCPHILLIPS: Thank you very much.

10 Mr. Stichert, please state your full name and spell your last
11 name.

12 MR. STICHERT: My name is Mark Stichert, last name is spelled
13 S-t-i-c-h-e-r-t.

14 LT MCPHILLIPS: Please identify counsel or representative if
15 present.

16 MR. STICHERT: None present.

17 LT MCPHILLIPS: Please tell us, what is your current
18 employment and position?

19 MR. STICHERT: I work for the State of Alaska Department of
20 Fish and Game as a fisheries management coordinator for ground
21 fish and shellfish fisheries based out of Kodiak, Alaska.

22 LT MCPHILLIPS: What are your general responsibilities in the
23 job?

24 MR. STICHERT: In general, I provide technical and
25 administrative oversight over a group of biologists and other

1 staff that are responsible for the in-season management observer
2 program and the catch accounting programs, primarily focused on
3 Bering Sea and Aleutian Islands crab fisheries.

4 LT MCPHILLIPS: Okay. Can you briefly tell us your relevant
5 work history?

6 MR. STICHERT: Sure. I'm in my 16th year with the
7 Department, fifth year in this position. Prior to that, I was
8 Area Management Biologist for the Alaska Department of Fish and
9 Game in a couple different capacities. And then I worked for the
10 U.S. Forest Service as a fisheries biologist prior to my
11 employment with the department.

12 LT MCPHILLIPS: What is your education related to that
13 position?

14 MR. STICHERT: I have a bachelor's degree from the University
15 of Wyoming and a master's degree from the University of Alaska
16 Fairbanks.

17 LT MCPHILLIPS: Do you hold any professional licenses or
18 certificates related to your position? Please explain if so.

19 MR. STICHERT: None in this position.

20 LT MCPHILLIPS: Thank you, sir, and Captain Callaghan will
21 now have follow-up questions for you.

22 CAPT CALLAGHAN: Thank you, Mr. Stichert and Ms. Milani. I'm
23 now going to pass it over to Mr. Keith Fawcett for questions.

24 Mr. Fawcett?

25 MR. FAWCETT: Thank you, Captain.

1 Good afternoon, Ms. Milani and Mr. Stichert.

2 EXAMINATION OF KRISTA MILANI AND MARK STICHERT

3 MR. FAWCETT: We are going to go through some testimony here,
4 and if you need to take a break, please do. And also, the
5 recorder, Lieutenant McPhillips, will have some exhibits that I
6 asked to put up which you will be able to see on your screen. And
7 we can -- if you need us to, like if you're answering a question,
8 we can ask him -- we can ask him to zoom in or move to a certain
9 place on the document. And we'll leave the documents up there for
10 enough time so that you can take a good look at them.

11 So the first thing I'd like to do is talk to you -- sort of
12 go in a panel discussion, and if you would, one of you can answer
13 the question, and if the other one wants to amplify the
14 information afterwards, please do so. But it's a little hard with
15 Zoom here, so kind of give a little nod of your head if you'd like
16 to ahead and answer the question. Is that okay?

17 So I'm trying to understand, and the public is watching us,
18 and they're trying to understand some of the terminology that
19 we've used through this testimony. And we've talked about --
20 Ms. Milani, you mentioned a quota. Would one of you explain, if
21 you would, what a quota is for a particular species, like crab,
22 like a type of crab, or cod?

23 MS. MILANI: Well, so I can answer.

24 MR. STICHERT: Go ahead, Krista.

25 MS. MILANI: Sorry, Mark.

1 I can answer that. So for federal fisheries, quotas are set
2 by the National Marine -- the North Pacific Fisheries Management
3 Council. And so they're basically setting a certain amount of
4 metric tons (indiscernible) to fish for a species. And so then
5 once the council sets those quotas -- we call them TACs, total
6 allowable catches -- then we have regulation that further splits
7 out those quotas by different -- different sectors, different user
8 groups. And so that's the maximum amount that we would want that
9 user group to fish. It's the number of pounds or metric tons that
10 they'd be available to fish.

11 MR. FAWCETT: So these quotas for a specific species, would
12 it be correct to say that government entities, either Alaska or
13 the Federal Government, sets those quotas?

14 MS. MILANI: So the North Pacific Fisheries Management
15 Council sets the quota, and then National Marine Fisheries Service
16 accepts those quotas. But we only set the quotas for ground fish
17 species, and the State of Alaska sets the quotas for the crab
18 species.

19 MR. FAWCETT: So, Mr. Stichert, how do you do that when it
20 comes to crab?

21 MR. STICHERT: So the crab fisheries in the Bering Sea are
22 co-managed by the State of Alaska and the National Marine
23 Fisheries Service under provisions of a Federal Fisheries
24 Management Plan. So in terms of setting an annual quota, the
25 process first starts with the federal stock assessment process,

1 which is a cooperative process where a -- it's called a crab plan
2 team meets. That group is ultimately responsible for providing
3 guidance and recommendations for what an annual removal limit
4 should be.

5 That recommendation then gets escalated to the Science and
6 Statistical Committee that's associated with North Pacific
7 Fisheries Management Council, and they ultimately adopt what's
8 called ADTROFL; those are really meant to be called biological
9 reference points or harvest limits that are meant to approximate
10 sustainable yield.

11 So once those federal harvest limits are established, the
12 State of Alaska then uses much of the same process and similar
13 information, and we set the actual TAC or co-allowable harvest
14 because crab fisheries are a little bit unique in that only male
15 crab of a certain size get harvested. The state then only uses
16 information and sets a TAC specific to male crab of a certain
17 size.

18 And so there's a little bit of a distinction in the process
19 there, but we generally follow the federal process up until the
20 department, the State of Alaska, sets the actual harvest limit on
21 the exploitable male crab in the population.

22 MR. FAWCETT: So moving on to another term that has been
23 mentioned here. That's the individual fish quotas. Since we're
24 talking about cod here, Ms. Milani, would there be any individual
25 fish quota for cod?

1 MS. MILANI: No, so the -- I mean, there are some cod
2 fisheries, but since we're talking specifically about the Bering
3 Sea/Aleutian Islands 60-foot and over specific cod fishery, that
4 fishery does not have any kind of quota system associated with it.
5 So it's not part of any kind of catch-share program.

6 MR. FAWCETT: Okay. We'll be talking more about that in a
7 minute. But, Mr. Stichert, from the Alaskan perspective, speaking
8 of that, are there individual fish quotas established and what are
9 they?

10 MR. STICHERT: Well, for Bering Sea and Aleutian's crab, most
11 crab species, there are -- there is a rationalized fishery
12 quota-share system established for those fisheries. As I
13 mentioned, the fisheries are co-managed by the state and federal
14 government.

15 The rationalization or how those crab get allocated is one of
16 the federal contributions to the fishery, but once the state sets
17 the TAC in process, that TAC is then further subdivided, and
18 individual quota-shares are issued to different vessels and
19 entities within the fishery such that each quota-share holder then
20 has guaranteed access to their portion of the available crab to be
21 harvested in that particular year. Specific to most of the Bering
22 Sea crab fisheries, the Bristol Bay king crab, bairdi, opilio, and
23 St. Matthew's blue crab, as well Aleutian gold and king crab
24 fisheries.

25 MR. FAWCETT: So the *Scandies Rose* was heading out to go for

1 cod, and then they were going to shift into the crab season. So
2 what I would like to do, Mr. Stichert, since we're talking about
3 fish quotas, individual fish quotas, I want to give you some
4 questions and see if you can provide answers.

5 So if I lived down in the United States, in Ohio or somewhere
6 like that, could I buy a share into a particular species through
7 this quota system?

8 MR. STICHERT: I think the short answer is yes. There's a
9 lot of conditions associated with how those quota-shares are
10 distributed. But yes, there's no residency requirement or
11 anything similar to that, in terms of who has access to the
12 ability to own those shares.

13 MR. FAWCETT: Can those shares be transferred or sold?

14 MR. STICHERT: Those shares can be transferred or sold or
15 even leased to each other -- each other, qualifying quota-share
16 holders within the -- within the rationalized quota-share system.

17 MR. FAWCETT: So who keeps track of how the shares are -- who
18 owns the shares?

19 MR. STICHERT: I'll start and maybe Ms. Milani can pick up.
20 But the restricted access management office within Alaska Region
21 National Fisheries Service is the entity responsible for tracking
22 and actually issuing quota-share once the TAC is set. And I'll
23 turn it over to Ms. Milani now.

24 MS. MILANI: Yes, Mr. Stichert, that was an excellent
25 description. That is exactly what occurs. Restricted access

1 management program folks are in charge of tracking and
2 transferring quota around between individuals.

3 MR. FAWCETT: So one of the things that has been discussed
4 here are the fish co-ops. Can one of you explain how fish co-ops
5 tie into the individual shares? I've heard someone talk about
6 negotiating prices for catch and maybe the term arbitration is
7 used. Can one of you explain those concepts?

8 MR. STICHERT: Krista, can (indiscernible) from maybe more of
9 a federal function? Do you want to start?

10 MS. MILANI: Yeah, so it is a federal function. So one of
11 the parameters that was put into the crab rationalization program
12 was that people that were issued individual fishing quotas had the
13 ability to form co-ops and fish the IFQs cooperatively. So they
14 could all fish off of each other's IFQs, and it would all be
15 pooled together.

16 Unfortunately, I don't know that much about the arbitration
17 system, so I can't really answer any detailed questions about how
18 that works exactly.

19 MR. FAWCETT: So we also mentioned in testimony and you both
20 brought up it was the term rationalization. Can someone explain
21 that for us?

22 MR. STICHERT: Sure, I can start on that. Rationalization --
23 sorry, Krista. (Indiscernible) recognizes a fisheries management
24 program where similar to what we were just talking about. Instead
25 of having an open-access fishery where fishermen are openly

1 competing with each other to catch their own competitive share of
2 the annual TAC, rationalization is a system where the TAC is,
3 again, divided up and issued to individual quota-share holders,
4 and those quota-share holders then have an opportunity to fish
5 those quota within (indiscernible) regulations but more freely.
6 And so it reduces competition and allows greater flexibility and
7 innovation within the fishery.

8 MR. FAWCETT: So I know this is cumbersome, this panel style,
9 and I promise we will move out of it in just a few more questions.
10 But would you say that rationalization is sort of a term that
11 captures the shift from derby-style fishing moving into this quota
12 system?

13 MR. STICHERT: Yes.

14 MR. FAWCETT: And --

15 MS. MILANI: Actually -- sorry, I know there's a bit of a
16 delay because I'm out on Dutch Harbor. So the rationalization
17 is -- for federal management, there are two types of fisheries.
18 There's the catch-share plan or catch-share program-type
19 fisheries, and then these limited-access fisheries. And so crab
20 rationalization is a type of catch-share plan fishery.

21 And then, prior to crab rationalization, it was a limited
22 access fishery, which can sometimes present sort of a derby-style
23 management fishery, where there were no individual -- no
24 individual quotas given to individuals, and so everybody was
25 fishing off the same quota until the fishery closed.

1 MR. FAWCETT: So when we shifted from, in crab -- speaking of
2 crab, from derby-style to the quota system, did the number of
3 vessels that are engaged in fishing increase or decrease?

4 MR. STICHERT: This is Mark. So when the shift in 2005
5 occurred from more of a limited access or derby-style fishery to
6 rationalized fishery occurred, the amount of effort, the number of
7 boats participating in a fishery, substantially decreased. We
8 went from an average of sometimes 250 to 300 boats, to what is now
9 closer to 65 vessels that actively participate in the fishery.

10 MR. FAWCETT: So is one of the byproducts, the intended
11 byproducts, of this shift to the quota system the improvement of
12 the safety of operations?

13 MR. STICHERT: I think that was one of the primary drivers of
14 shifting away from a derby-style fishery towards rationalization.
15 You know, one of the -- one of the downsides of derby-style
16 fisheries are vessels are functionally competing against each
17 other. And so there's a tendency to push harder if the weather
18 was poor, or conditions were such that was not conducive to being
19 on the fishing grounds. But for fear of losing out on opportunity
20 and catch, boats would oftentimes push to get there.

21 So one of the primary motivators were to provide some
22 stability for the fishery, flexibility for the fishers to be able
23 to harvest their portion of the quota at a time that makes the
24 best sense for them, and ultimately to improve safety within the
25 fishery, among other things.

1 MR. FAWCETT: So, Ms. Milani, turning to cod fishing. Is
2 there any timeline for moving cod fishing, that you can share with
3 us, to the quota system?

4 MS. MILANI: So, in order for something to move into a
5 catch-share program, it has to be, you know, reviewed and analyzed
6 and approved by the North Pacific Fisheries Management Council.
7 And in 2019, or 2018, industry did go to the council, some of them
8 did, and asked that the fishery be moved into a quota-share
9 program. The council, at that time, chose not to move forward
10 with that action. And so, as of right now, there's no scheduled
11 plan by the North Pacific Fisheries Management Council to move
12 forward with a quota-share program for this fishery. That doesn't
13 mean it won't happen, but right now, there's just nothing
14 scheduled for it.

15 MR. FAWCETT: So would it be fair to say that cod fishermen
16 get out there in the season, and when they get their catch, they
17 get in the port to unload? And that their co-ops, in general,
18 would negotiate fixed prices for their catch to reduce commercial
19 pressure?

20 MS. MILANI: Do you mean for pacific cod?

21 MR. FAWCETT: Yes, ma'am.

22 MS. MILANI: So I think there is some negotiation that the
23 fleet does with processors, negotiate a price before the beginning
24 of the season. But I know it's not -- I don't think that the --
25 they're not in cooperative. So it would just be sort of an

1 informal conversation between the fleet and processing plants on
2 what the price might be. So I wouldn't say that there's any
3 formal or regular occurrence at that, of them negotiating as a
4 group, as a cooperative. I hope that answers your question.

5 MR. FAWCETT: Yes, it does. So turning our attention to
6 competition and commercial pressure, I just want to be clear. So
7 for the waters that -- of the United States and the Alaskan
8 waters, can a foreign vessel fish for cod or be engaged in crab
9 fishery?

10 MS. MILANI: You have to have a --

11 MR. STICHERT: Go ahead, Krista.

12 MS. MILANI: I was just going to say, you have to have a
13 permit in order to participate in those fisheries. And to be
14 honest, I'm not sure what the parameters are for buying those
15 permits. I'm not sure if, as a foreign entity, if you'd be able
16 to buy those permits or not. I'm not 100 percent sure on that.

17 MR. STICHERT: This is Mark. It's my understanding, for the
18 State of Alaska waters, or waters that are under jurisdiction of
19 the state, you need to be a United States flagged vessel in order
20 to participate in those fisheries.

21 MR. FAWCETT: Okay. So now, you've been very helpful there.
22 And I'd like to shift my attention and speak about Ms. Milani and
23 the work of the National Marine Fishery Service.

24 Mr. Stichert, if there's any amplification you can provide to
25 the questions, please let me know. Just I can see a yellow border

1 around your screen, and that will help me know that you may want
2 to answer, so just tap that.

3 But if you could expand a little more, Ms. Milani, on what
4 you do. And what I did in preparation for this interview, I
5 pulled up Wikipedia and looked at -- could you talk about the
6 North Pacific Management Council and what that organization does,
7 how its -- who it gets its direction from and so forth?

8 MS. MILANI: So the North Pacific Fisheries Management
9 Council -- so under the Magnuson Stevens Act, there's a provision
10 in there that each of the regions of the United States create
11 fisheries councils. And the job of these fisheries councils is to
12 review different regulations and programs and proposals that
13 industry or sometimes National Marine Fisheries wants to put in to
14 change regulations or amend the FMP, which is the Fisheries
15 Management Plan.

16 And so, they're made up of -- well, I can't remember how many
17 people are on there, but they're made up of various people from
18 various sectors. So we have it -- so National Marine Fisheries
19 has a seat, somebody from the Alaska Department of Fish and Game
20 has a seat. You know, there's folks in industry that hold seats
21 on the council.

22 And so they review any new programs, any new fisheries
23 programs, that industry might ask for. And they look at -- they
24 look at the feasibility of a program, and they kind of take into
25 account the pros and cons of any new program.

1 And they've got -- they've got committees that help them. So
2 there's a AP committee, so that's the advisory panel committee,
3 and that's made up of industry folks who also review the same
4 actions and give advice to the council on whether or not they
5 think if the program is a good idea. And then we have a science
6 and statistical committee, and so that's a group of scientists
7 whose main job is to review any kind of proposals that are coming
8 up before the council for scientific integrity. And they give
9 advice to the North Pacific Fisheries Management Council based on
10 their scientific background.

11 MR. FAWCETT: So if -- Lieutenant McPhillips, if you could
12 pull up Coast Guard Exhibit 123. And these are screen captures
13 from the website that faces the public about the council. And
14 page one -- 125, excuse me, I'm sorry. And page one, if you'll
15 scroll down and hold it right there, Lieutenant, thank you.

16 So it talks about the -- it talks about the Gulf of Alaska.
17 And my question will be, does this apply to the Bering Sea also?
18 But in that website entry, it says that ground fish fisheries are
19 among the few remaining limited access, not-rationalized fisheries
20 in Alaska. And then, later it says Pacific cod fisheries are
21 permanently capped at the number of available licenses, and new
22 entrants will have to purchase an existing license if they want to
23 fish in federal waters. Does that apply to the Bering Sea?

24 MS. MILANI: Yes, so you have to have a limited license
25 permit in order to participate in the fishery. And there's a set

1 number of limited license permits that are in existence. So we
2 don't -- if somebody wants to come and fish in the fishery and
3 they don't have one, we don't create -- Management Fisheries does
4 not just create another license to give to them.

5 So the only way you can obtain a license is if somebody, you
6 know, wants to sell their license to you. So they do sell
7 licenses on the free market, and you can purchase them if they're
8 available on the free market, if you want to join the fishery.
9 But that's the only way you are able to join a fishery, because we
10 don't create any new licenses.

11 MR. FAWCETT: Okay. Lieutenant, if you will scroll down on
12 that page to where there's a graphic image of a VHF radio. Right
13 in the middle there.

14 So on this website, there was a -- and what I did is I did a
15 search on the website for the word safety to see if safety was
16 part of the mission outlined in the fisheries council. And this
17 came up, and it was dated December 13th of 2019. And it talks
18 about some communications issues involving VHF radios in the
19 vicinity of Kodiak and Shelikof Strait. Do you know how safety
20 items are put into the website of the council?

21 MS. MILANI: Yeah, I'm sorry, we have -- there's a specific
22 council staff that deals with that, and I'm not sure how they
23 choose what to put on there. This looks like something that they
24 put on there just to inform -- that they thought was important to
25 inform people about, but I'm not sure how they came to that

1 conclusion to put that on there. But safety is a main concern and
2 one of the main directives of the council is to make sure that any
3 programs that they're putting in place take into account safety.

4 MR. FAWCETT: Can you give some examples of some of the items
5 that that council has discussed regarding safety?

6 MS. MILANI: Well, there's definitely discussion when it
7 comes to any kind of catch-share program. It's one of the main
8 things. And in any catch-share program that you go back and look
9 at, that's one of the main things that they will -- they will talk
10 about. There has -- safety in regards to icing conditions in the
11 crab fisheries up north and the ability to get into the port of
12 St. Paul due to icing conditions. And the ability to retrieve
13 gear that might be lost in the ice. There has been discussions on
14 that as well. I'm sure there's other things as well, but those
15 are the two that come off the top of my head.

16 MR. FAWCETT: So, Lieutenant McPhillips, could you pull up
17 Exhibit 46? So this is a safety alert, when it comes on your
18 screen, that the Coast Guard has designed to alert fishermen
19 regarding the dangers of icing. Do you know if these type of
20 safety alerts or other information from the Coast Guard is
21 discussed in the council?

22 MS. MILANI: There is a Coast Guard representative at the
23 council. You know, I'm not -- I can't tell you for sure if these
24 particular things have been discussed. But there is a
25 representative from the Coast Guard at most of the council

1 meetings, who I would assume would talk about some of these
2 issues.

3 MR. FAWCETT: And if -- do you think that if this type of
4 information was given to the council, the council might consider
5 including it on the website for -- to make sure that fishermen and
6 fish vessel operators knew about this critical safety information?

7 MS. MILANI: Yeah, there might be -- they might be willing to
8 do that. But again, I don't work for them, so it's difficult for
9 me to -- to say for sure.

10 MR. FAWCETT: So, Lieutenant McPhillips, if you would, please
11 put up Exhibit 124. And this is from the Anchorage Daily News and
12 the date of the article -- and I'm just going to talk about a part
13 of it -- is December 31st, 2019. And it talks about the cod
14 harvest, and it references the Gulf of Alaska.

15 But in there it says Alaska's -- the headline is Bering Sea
16 Cod Fishery Opens 2020 in Alaska. It says, "Alaska's seafood
17 industry is open for business starting January 1, when some of the
18 biggest fisheries get underway long before the start of the first
19 salmon runs in mid-May." Then it goes on to say, "Cod begins in
20 all the Bering Sea, which has 305.5 million-pound catch quota,
21 down about a million pounds from 2019. Less than 6 million pounds
22 of cod fish will come out of the Gulf."

23 So in terms of the quota for cod for 2020, in your
24 perspective, was -- did the fishermen have the ability to get out
25 there and get more cod or less cod or shorter season?

1 MS. MILANI: So 2020 -- you know, I went back and looked all
2 the way into the '80s, and 2020 was the -- had the second-smallest
3 quota out of any of the years that I looked at. 2021 being small,
4 but 2020 was the smallest. And there is not any mechanism for
5 them to get more cod than the allocation in the TACs that the
6 North Pacific Fisheries Management Council put in place. And
7 that's because there's other parameters at play such as
8 over-fishing levels, and we don't want to (indiscernible) fishing
9 levels because that puts -- permanent harm to our stocks. And as
10 sustainable fisheries, we need to keep those limits,
11 (indiscernible) fishing limits.

12 MR. FAWCETT: So in a lot of fishery and in some of the
13 investigations I've been involved with, the start of the season
14 might be a movable date. So for cod, is the start of the season
15 fixed on a particular date?

16 MS. MILANI: Right, yes. So for federal Pacific cod, the
17 season start date is set by regulation, and there's not any
18 flexibility to change that date, currently. I mean, basically,
19 you know, industry could go to the council and ask for a change in
20 that start date or some flexibility in that start date, but that
21 has not happened for Pacific cod fisheries. And so it's set in
22 regulation, for now, and there's no -- there's no room to change
23 it.

24 MR. FAWCETT: Okay. The closure of the season, is that a
25 flexible date, or is that a fixed date?

1 MS. MILANI: So there is a regulatory closure to all of our
2 fisheries. So for example, the over-60 Bering Sea/Aleutian
3 Island, or the 60-foot and over Bering Sea/Aleutian Island Pacific
4 cod pot fishery, has a season closure date of June 10th. So that
5 seasonal closure date that's in regulation cannot be changed.

6 However, in a fishery like that, where it's a (indiscernible)
7 at the beginning of the season, the fishery closure date normally
8 (indiscernible) at the harvest -- when we harvest the full quota.
9 And so it's usually much sooner than the season dates that we have
10 in place in regulation. And we have flexibility in the sense that
11 we're managing that in season.

12 And so we're constantly updating the harvest that we see and
13 projecting forward how much harvest we think is going to be taken
14 in order to decide on those closure dates. And we do typically
15 take into account the weather towards the end of the season, to
16 ensure that, you know, people don't feel pressure to go out during
17 bad weather at the end of the season.

18 MR. FAWCETT: So with the start of the season January 1st for
19 2020, what was the closure date of the season?

20 MS. MILANI: The closure date -- the closure date in 2020 was
21 January 15th. And that was the same in 2019. And that's the
22 shortest season that we've seen for the fishery.

23 MR. FAWCETT: Mr. Stichert, I think importantly, speaking to
24 the *Scandies Rose*, they were going to go out and fish for cod,
25 take their catch in, and then when did crab season, which they

1 intended to fish for, when would that have started?

2 MR. STICHERT: So the crab season in question, we're talking
3 about snow crab season. The season technically opens on October
4 15th. However, most -- almost all snow crab fishing effort
5 doesn't start until early January for a number of different
6 reasons. But the majority of the fleet starts fishing, usually
7 first half of January, and that season runs through the end of
8 May.

9 MR. FAWCETT: So, Mr. Stichert, the plans to -- for the
10 *Scandies Rose*, it was their own -- the season was open from --
11 during the entire timeframe of January, and even from the time
12 they left port. Is that correct?

13 MR. STICHERT: Correct.

14 MR. FAWCETT: And so what would be one of the reasons --
15 either of you can answer -- that they went out and fished for cod
16 in 2020, from a business standpoint? Maybe not so much as landing
17 catch, is there another reason?

18 MR. STICHERT: So as we discussed, crab fisheries are
19 rationalized. And so the *Scandies Rose* had their quota-share, and
20 they knew exactly how many crab they had to catch and were allowed
21 to catch. And given the long season, they really have flexibility
22 on when and where they go ahead and fish.

23 So if given the opportunity to delay their crab fishing,
24 understanding that there was no competitive cost, right, their
25 quota-share was theirs to catch, and they had until the end of May

1 to catch those crab. It may be advantageous then to delay your
2 crab season to start cod fishing, where it is a competitive
3 fishing, so you could go and fish in cod. When that season
4 closed, you could then switch over and fish for crab.

5 MR. FAWCETT: So, Ms. Milani, what would have happened if the
6 *Scandies Rose* had decided not to fish for cod in early January?
7 Would that have had a potential impact on if the species went to
8 the international -- the individual fish quota system?

9 MS. MILANI: If they decided not to fish cod in 2020,
10 obviously, they would have missed (indiscernible) cod fishery.
11 The cod fishery is divided into two seasons. There's an A season
12 and a B season. So they could maybe still participate in the B
13 season, which is open on September 1st.

14 And the way that the council has specifically approached
15 catch-share for ground fisheries is that they choose a set of
16 years, six years. So say they choose 2005 to 2010, and they say,
17 okay, we're going to look at all the fishing that occurred in this
18 fishery for these years. And if you have history of fishing in
19 these years, then we're going to give you an allocation based on
20 your history for those years.

21 So, you know, fishing's not -- in a catch-share program, and
22 the council has not looked a catch-share program for this fishery,
23 but if they chose years to look at to base the future allocations,
24 and one of the years they chose was 2020, then at that
25 (indiscernible) IFQ, or individual fishing quotas, if they did not

1 fish that year.

2 MR. FAWCETT: So, Lieutenant McPhillips, could you pull up 44
3 and -- Exhibit 44, which is a GAO report on commercial fishing
4 safety from 2017? And we've added a page in there for the record.
5 And so if you'd shift to page three, please. There's a section in
6 there which describes the function of the National Marine Fishery
7 Service.

8 Okay, so the bottom part of that says, "Fishing vessels that
9 carry a fishery observer" -- and we'll talk about the fishery
10 observer program -- "as part of a required or voluntary observer
11 program generally must pass a Coast Guard commercial fishing
12 safety examination and be issued a safety decal. Further, under
13 Federal regulations, fishery conservation and management measures
14 must, to the extent practical, promote the safety of human life at
15 sea and should minimize or mitigate the safety impacts where
16 practical."

17 So you mentioned that you were involved with the fishery
18 observer program. Could you elaborate a little bit on, just very
19 briefly, on what the observers do?

20 MS. MILANI: So I was -- I'm sorry, I couldn't see the
21 screen. It never came up on my Zoom, but I think I heard
22 everything you said there. So I was a crab observer, I was not a
23 ground fish observer, so they might have, you know, different
24 standards on what the observers look at.

25 So as a crab observer, when you got in the vessel, you had to

1 check and make sure the vessel had certain safety things in place.
2 And so that included things like a current Coast Guard decal,
3 survival suits on board, whether or not the life raft had a
4 hydraulic release should it hit the water, fire extinguishers.
5 I'm sure there was -- you know, going through a drill, a safety
6 drill with the vessel.

7 I'm sure there's other things, too, I'm not remembering
8 because that was 15 -- 10 to 15 years ago. And then if the vessel
9 passes all the safety requirements for an observer to sail with
10 them, the observer would go out with them, and while they're out
11 fishing, collects biological data during the commercial fisheries.

12 MR. FAWCETT: So if a fish observer was aboard a commercial
13 fishing vessel and there was an accident, would they file a
14 report?

15 MS. MILANI: I mean, definitely a federal ground fish
16 observer would, yeah. I imagine it would be the same with the
17 crab observer program. Mark might -- or Mr. Stichert might have a
18 better idea on the current system for crab.

19 MR. FAWCETT: Mr. Stichert?

20 MR. STICHERT: So within the crab fisheries, the observer
21 program is a responsibility of the State of Alaska. And so we
22 generally mirror the federal regulations. And so, similar to what
23 Ms. Milani said, as soon as a crab observer deploys on a vessel,
24 they check the decal, run through a vessel safety checklist
25 looking at all the things that Ms. Milani outlined, and then will

1 check off on that before they're able to disembark on that boat.

2 Certainly then, when they are deployed, if something were to
3 happen on board the boat -- we -- in sensitive cases have
4 decrypted coding capabilities where a crab observer could identify
5 and report back to our crab observer office of safety violations
6 and issues in a way that the boat or skipper or anyone that was
7 sensitive to that information would hear. And so there's a number
8 of different mechanisms for observers to report back to vessels --
9 or report back to the department if there are safety violations.
10 And we are certainly empowered and have asked our observers to do
11 that.

12 MR. FAWCETT: So, Ms. Milani, do you know of any fish
13 observers who have been injured or lost their lives on commercial
14 fishing vessels?

15 MS. MILANI: I don't work for the observer program, so I
16 don't typically track that kind of information. I do know
17 observers do occasionally get injured. I don't recall any loss of
18 life, but again, I don't work for them, so I don't necessarily
19 track that.

20 MR. FAWCETT: So I'm finished with my questions for you,
21 Ms. Milani, but I want to give you this opportunity before we
22 shift over to Mr. Stichert, is there anything related to the
23 sinking of the *Scandies Rose* that I might have not asked you about
24 that you'd like to -- like a question I probably should have asked
25 that you might want to share with us?

1 MS. MILANI: No, I can't think of anything at this moment.

2 MR. FAWCETT: Okay, thank you.

3 Mr. Stichert, turning to the Alaska Department of Fish and
4 Game, you mentioned reports from observers. When your agency does
5 its work, are they able to access databases maintained by the
6 Coast Guard to look up vessel histories, information on vessels in
7 regards to their operation?

8 MR. STICHERT: I'm not sure we have that as a standard
9 practice. You know, there are -- we have a field office in Dutch
10 Harbor and an office here in Kodiak. There are Coast Guard Marine
11 Safety detachment offices in each area -- in fact, I think they
12 share our same building in Dutch Harbor, so we certainly have
13 close working relationships and access to each other.

14 But I don't know that we specifically look up Coast Guard
15 specific vessel safety information relative to management, our
16 portion of them in the fishery, but we do take safety seriously.
17 And as Ms. Milani mentioned, we do require observers to do a
18 thorough vessel safety inspection prior to disembarking on those
19 boats.

20 MR. FAWCETT: So does your agency conduct fisheries patrols
21 that take a look at crabbers or other fishermen?

22 MR. STICHERT: Sure. So the Alaska Department of Fish and
23 Game doesn't specifically do any enforcement, but the Department
24 of Public Safety -- Alaska Wildlife Troopers are a division of the
25 Department of Public Safety who have the responsibility

1 specifically for conducting compliance for commercial crab
2 fisheries, and they are generally quite active around the state
3 and generally have vessels and as well as local troopers in most
4 of the major fishing ports.

5 MR. FAWCETT: So is there a role with like safety compliance
6 for the Alaska Department of Fish and Game -- the Coast Guard will
7 conduct a safety exam and issue a decal, or conduct a safety
8 compliance check. Is it a requirement that vessels that operate
9 in Alaska have those safety compliance checks or have those safety
10 decals in place?

11 MR. STICHERT: I don't think there's a specific -- I think
12 the federal Coast Guard requirements regarding that supersede any
13 state regulations. And so, you know, if -- the state doesn't have
14 any additional safety compliance issues, but I think rely on that
15 level of oversight coming from the Coast Guard, which I think
16 apply to any vessel operating inside the state waters as well.

17 MR. FAWCETT: So there's a regulation, is it -- I assume it's
18 an Alaska regulation, that requires crabbers going out to notify
19 the Coast Guard on departure. And then another provision is to
20 communicate the pot weight or the pot count to the Coast Guard.
21 Is that a state requirement?

22 MR. STICHERT: I don't know if it's a state requirement. If
23 it is, it's likely -- again, the crab fisheries are co-managed,
24 and so everything operates under the fishery -- federal fishery
25 management plan. And so in instances where it is, I guess, makes

1 sense that the state adopt federal regulations in the state
2 regulations to allow for greater compliance, we do that. But I
3 think that is a part of the federal contribution to the
4 co-management of those fisheries.

5 MR. FAWCETT: Ms. Milani, can you add anything on that? Do
6 you know anything about the calling to the Coast Guard on
7 departure or the pot count that's being relayed to the Coast Guard
8 on departing crabbers?

9 MS. MILANI: So I am aware of those provisions. Well,
10 actually, I wasn't aware of the pot count or the weight one. But
11 calling the Coast Guard before you leave, I was aware of that. My
12 recollection is that that was something that we asked that the
13 state put in regulation, but I could be wrong about that.

14 MR. FAWCETT: So, Mr. Stichert, it doesn't appear that that's
15 a regulation. Would that be correct?

16 MR. STICHERT: You know, truthfully, sir, I don't know off
17 the top of my head. But, again, I could look, but I don't know
18 off the top of my head. I do know that vessels do need to contact
19 the trooper -- or, excuse me, the Coast Guard prior to departure.
20 Whether that is a state or federal regulation, I don't know, but I
21 do know that this a requirement (indiscernible) I believe.

22 MR. FAWCETT: Are there any state regulations -- and,
23 Ms. Milani, you might chime in here -- on the size of crab pots or
24 the construction or the weight of crab pots for, let's say first,
25 crabbing?

1 MR. STICHERT: So the -- most of the regulations regarding
2 configuration of gear are designed to address potential loss of
3 that gear. And so there are specific regulations in the state
4 regulations that require escape mechanisms. So we have to have
5 escape mesh and escape panels, in case a pot is lost, the sidewall
6 degrades, and it'll allow fish and crab to get out.

7 There are distinctions between what defines a ground fish pot
8 and a crab pot, and that deals with the size of the perimeter eye
9 opening of each pot. So, for instance, the ground fish pots have
10 a smaller diameter opening, which are designed to decrease the
11 probability of capturing halibut as bycatch. But I don't believe
12 off hand that there are any restrictions on the size or the weight
13 of the pot in state regulation. Most of our regulations all
14 address the (indiscernible) openings and mechanisms that are
15 required of that gear to allow for escapement of crab and other
16 animals.

17 MR. FAWCETT: Ms. Milani, did you have anything to add from
18 the federal level?

19 MS. MILANI: Sure. So we actually defer all of the decisions
20 about the gear to the state, so we don't have any additional
21 requirements as far as how the gear is configured beyond what the
22 state has in place.

23 MR. FAWCETT: So would crab pots be considered fixed gear?

24 MR. STICHERT: Yes.

25 MS. MILANI: Yes.

1 MR. FAWCETT: And then, Mr. Stichert, just an opportunity to
2 talk about, if you feel like it, anything that the Alaskan Fish
3 and Game Department does in the area of promoting safety of the
4 fishermen?

5 MR. STICHERT: So nothing specific, although, you know,
6 obviously our own regulatory body, the Alaska Board of Fisheries,
7 as well as the Division of Commercial Fishery, the Alaska
8 Department of Fish and Game, certainly encourage and promote and
9 advance any regulations that promote safety and safe operations in
10 the fishery. We certainly provide a fair bit of marine survival
11 safety training for our observer and any of our own staff that go
12 out. But I think we largely defer to the good folks at the U.S.
13 Coast Guard to provide the umbrella for marine safety.

14 MR. FAWCETT: If you chartered a commercial fishing vessel
15 for work for the department, would it be required to have licensed
16 personnel on board or meet other standards than a typical
17 commercial fishing vessel?

18 MR. STICHERT: Yes, it would be very similar to the observer
19 program. They would need to have a current USCG decal, and before
20 any department staff were to board that charter, they would need
21 to undergo some drills and make sure the boat's in compliance with
22 all the safety measures. Depending on the type of charter and
23 where that charter goes, what it's used for, oftentimes in the
24 procurement process we will require a certain amount of experience
25 by the captain or the crew and/or specify certain vessel

1 requirements or licensing. So, oftentimes, those are project
2 specific, but at very minimum, we do require a vessel safety decal
3 and all the other safety equipment that goes with that.

4 MR. FAWCETT: So, Mr. Stichert, my final question is similar
5 to what I asked Ms. Milani. You know, I've asked you a lot of
6 questions, and we're investigating the loss of the *Scandies Rose*
7 and her crew. And is there anything that I didn't ask you about
8 the interaction with the department that might be helpful here?

9 MR. STICHERT: Nothing specific comes to mind, Mr. Fawcett.
10 You know, the skipper and the boat were well-known participants in
11 Alaska crab fisheries, and we're certainly saddened by what
12 happened. But nothing comes to mind specific to anything unique
13 about this situation.

14 MR. FAWCETT: All right. Thank you both very much,
15 especially for the panel side of it. I know it was a little
16 cumbersome. And I'll turn my questions over to Captain Callaghan.
17 Thank you very much.

18 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

19 We're now going to turn it over to the National
20 Transportation Safety Board, Mr. Barnum.

21 MR. BARNUM: Thank you, Captain, and thank you, Ms. Milani
22 and Mr. Stichert. I appreciate your time and continued help on
23 this investigation already.

24 So I guess I'll ask a couple questions, and they're for
25 Ms. Milani, just follow-up from Mr. Fawcett in regards to the

1 rationalization of the pot cod fishery in the Bering Sea. Could
2 you talk a little bit about the different -- I shouldn't say
3 different types, but to my understanding, the trawler fleet in the
4 Bering Sea, they recently rationalized that fishery for cod. Is
5 that correct?

6 MS. MILANI: So they are in the process -- they're in the
7 council process right now of reviewing a possible catch-share
8 program for (indiscernible) in the Bering Sea/Aleutian Islands
9 area. It's not in the -- you know, it's not official yet. They
10 haven't passed anything final yet, but they are in review of a
11 possible program for a (indiscernible).

12 And then to answer (indiscernible) there are -- there's three
13 basic types or sort of umbrellas of catch-share programs. So one
14 is the individual fishing quota idea which is part of the crab
15 rationalization program. Crab rationalization is a little more
16 complicated -- complex, because it also allows them to co-op once
17 they get their IFQs.

18 Then there's straight up IFQ fishery, so that's like
19 sablefish and halibut. So, again, that's individuals getting
20 quotas. They don't co-op in those fisheries.

21 Then there's fisheries where the allocation is given to a
22 group, so like Bering Sea pollock would be an example. So there's
23 different cooperatives, and each cooperative is given a certain
24 amount of quota, and then each cooperative is responsible for
25 making sure that they don't exceed the quota that's given to them.

1 And then the last one is community quotas and -- so where the
2 community development quota. So that's an allocation that's given
3 to specific communities, and then those communities can decide how
4 they want to fish those quotas. Those are the three basic types.

5 MR. BARNUM: Great, okay. And then off your comments
6 earlier, when going to rationalization, often catch history is one
7 of the elements that is considered. In this particular fishery,
8 60-foot and greater vessel pot cod, would the catch history for
9 both the A and B season be combined or would they only look at one
10 of those seasons to base the catch history from?

11 MS. MILANI: It's hard to know because the council has a lot
12 of flexibility on how they create a catch-share program. So for
13 example, the catch-share trawl fishery that's currently in
14 consideration for the catch-share program is currently divided
15 into three seasons. And so there is some speculation as to
16 putting some of the season into the catch-share program and
17 leaving, you know, one season as sort of a free-for-all kind of
18 season.

19 It's hard to know what the council will choose to do, should
20 this fishery move into a catch-share plan program. It's certainly
21 possible that they would look at A and B season combined and
22 rationalize for the entire fishery into the cost-share program.
23 But if they ever -- you know, down the road, they could choose to
24 (indiscernible) put the A season into a catch-share program. It's
25 hard to know, because they have the possibility to do it however

1 they -- you know, whatever they think.

2 MR. BARNUM: Okay, and this is my last question here, I'm
3 curious for clarification, we talked about how the pot cod
4 fishery, 60-foot and great vessels, there was some interest by
5 some of the fleet there, participants, to go rationalization in
6 2019, and then the North Pacific Fisheries Management Council
7 opted not to do that. Did they give a reason why?

8 MS. MILANI: They did. So what the council members said
9 during that meeting is that they didn't feel as though there was a
10 consensus among the fleet and the (indiscernible) on whether or
11 not everyone really wanted a catch-share program and also, if
12 there was to be a catch-share program, what that might look like.
13 So they didn't feel that there was a real consensus.

14 So the council asked the industry to go back and discuss
15 amongst themselves whether or not they really wanted -- if
16 everyone really wanted the catch-share plan program. But then
17 also, like what that structure of that would look like. And as of
18 -- you know, I mean, industry did come back and talk to the
19 council again at the last council meeting, but it didn't really
20 sound like there was any real consensus at that time either. So
21 the council has still chosen not to move forward.

22 MR. BARNUM: Understood.

23 Ms. Milani, Mr. Stichert, thank you both. I appreciate it.
24 That's all my questions.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum.

1 Ms. Milani, Mr. Stichert, I'm going to now pass it over to
2 our parties in interest, counsel representing the two survivors.

3 Mr. Stacey?

4 MR. STACEY: Good afternoon, everyone. Thank you very much
5 for your testimony. We have no questions for you. Thank you.

6 CAPT CALLAGHAN: Thank you, Mr. Stacey.

7 I'll now pass it over to counsel representing the vessel
8 owners, Mr. Barcott.

9 MR. BARCOTT: Thank you, Captain.

10 Ms. Milani and Mr. Stichert, can you hear me?

11 MS. MILANI: Yes, I can hear you.

12 MR. BARCOTT: So I just have a couple of questions -- I'm the
13 attorney representing *Scandies Rose* -- and let me give you a
14 scenario, and then I'm going to ask some questions about it. The
15 plan of the *Scandies Rose* was to go out and fish in the Bering
16 Sea/Aleutian Island pot cod fishery and make one delivery, and
17 then switch over to its crab gear.

18 So my question to you is, when a fishery like this cod
19 fishery, if it ever becomes rationalized, is it possible today to
20 know what rules will be applied to allocate that catch in the
21 future?

22 MS. MILANI: It is not possible at this point in time to know
23 how that might work in the future. It requires several rounds of
24 analysis and review by the North Pacific Fisheries Management
25 Council in order to come up with the parameters of the catch-share

1 program. And sometimes it can take multiple years in development
2 before they decide on something that will work. And it is a very
3 unique process for the fishery that they're looking at, so there's
4 no cookie cutter mold on how to approach --

5 MR. BARCOTT: Knowing what you know, would it make sense to
6 you that a savvy fisherman would want to make even just one
7 delivery in the year 2020 looking forward to rationalization at
8 some point?

9 MS. MILANI: I'm not sure that I can really answer that
10 question because we don't know what years that the council might
11 look at to base the history on for the fishery. And so, you know,
12 there's a chance that they could include the year 2020 when
13 they -- if they ever look at a catch-share program for that
14 fishery, but then there's also a chance that they might not. And
15 so lots of other participants don't know either. And so it's
16 better -- you know, probably beneficial for them to make landing
17 (indiscernible).

18 MR. BARCOTT: Right. No one knows how the fishery might be
19 rationalized, if it's rationalized, but does it make sense that
20 having one landing in 2020 would be better than having no landings
21 in 2020?

22 MS. MILANI: Sure, since you don't know how it's going to pan
23 out in the end, having one landing versus no landings could make a
24 difference depending on (indiscernible) of the future.

25 MR. BARCOTT: Right, thank you. And so as I understand it,

1 the Bering Sea/Aleutian Island over 60 pot cod fishery, the one
2 the *Scandies Rose* would be engaging in, in 2019, that fishery was
3 15 days long from January 1st to January 15th, is that right?

4 MS. MILANI: Correct, 2019 and 2020 both had the same closure
5 date.

6 MR. BARCOTT: Okay. So if the *Scandies Rose* got out to the
7 fishing grounds on the 6th or 7th of January and made one delivery
8 and then switched over its gear to crab gear, was there any time
9 deadline on when it had to have its crab quota caught?

10 MR. STICHERT: I think I can take that question. So as we
11 discussed earlier, the crab fishery in question is the opilio snow
12 crab fishery. And that fishery, again, opens up on October 15th,
13 and that fishery then extends into May. So that vessel would have
14 a fair bit of time between January -- mid-January and May to catch
15 their quota depending on how much quota they caught. The 2020
16 snow crab TAC was relatively small, and so I would expect then
17 that each individual fishing quota be on the lower end of average
18 as well.

19 MR. BARCOTT: Right. While the quota was small, to be clear,
20 this was not a derby fishery. These vessels had individual
21 quotas, and they could catch them as they saw fit?

22 MR. STICHERT: That is correct. So the *Scandies Rose* would
23 have opportunity to catch their crab at any point during the open
24 season, which again, extends through May.

25 MR. BARCOTT: Okay. Thank you both very much. Those are all

1 the questions I have on behalf of *Scandies Rose*.

2 Thank you, Captain.

3 CAPT CALLAGHAN: And I've just got two follow-on questions
4 for you both. And so, in describing process, kind of talked about
5 it being a unique process, but is there any lobbying at any point
6 by individuals or quota holders or the cooperatives themselves on
7 behalf of the individual constituents of them?

8 MR. STICHERT: So this is Mark. Maybe you can clarify, what
9 do you mean by lobbying?

10 CAPT CALLAGHAN: So I guess is there any pressure or any one
11 party that's, you know, trying to push -- one side trying to push
12 to move towards the rationalization more than the other side?

13 MS. MILANI: So you're talking about for the Pacific cod
14 fishery?

15 CAPT CALLAGHAN: Yes.

16 MS. MILANI: So there is -- there is a group, I can't
17 remember what they're called, maybe Bering Sea cod -- pot cod
18 harvesters or something. I forget exactly what their name is.
19 But they have some members in that group and, you know, I'm not
20 intimately involved with that group, so I'm not really sure what
21 all they do. But I do talk to sort of the head of that group, and
22 he sort of acts as the go-between between him and the other folks,
23 so in our group and his group. So those guys do have meetings,
24 from my understanding. They do talk about things together, from
25 my understanding. But I don't know that all of the vessels that

1 participate in the fishery are part of that group.

2 CAPT CALLAGHAN: Okay, thank you. So just trying to
3 understand now season end times. So understand they can drop
4 their gear in the water. How long after the season ends do they
5 have to pick that gear up if they've laid it before the end date?

6 MS. MILANI: In the ground fish fishery, we don't really have
7 a -- I mean, we encourage them to get the gear off the ground and
8 undated and doors open as close to the closure of the fishery as
9 possible. We do not have any regulations, federal regulations,
10 that give a timeline on when that has to happen for the Pacific --

11 CAPT CALLAGHAN: Okay. Well, thank you very much. Thank you
12 both. That concludes my line of questions. But I do have one
13 question for the both of you with regards to things that we've
14 considered here in relation to the *Scandies Rose* incident. For
15 the benefit of this investigation, from where you see it, is there
16 anything else that we should be considering as part of this
17 investigation?

18 MR. STICHERT: Nothing comes to mind from my point of view.

19 MS. MILANI: Yeah, me either. Nothing comes to mind.

20 CAPT CALLAGHAN: Well, thank you both again for taking the
21 time to be with us today. Thanks for bearing with the technology
22 and conducting this virtually. Greatly appreciate your testimony
23 and the time you've allowed for us today. At this point, you are
24 now both released as witnesses from this formal hearing. I thank
25 you both for your cooperation and your testimony.

1 name and spell your last name.

2 THE WITNESS: Anthony Scott Wilwert, W-i-l-w-e-r-t.

3 LT MCPHILLIPS: Please identify counsel or representative if
4 present.

5 THE WITNESS: Lieutenant Commander Pekoske.

6 LT MCPHILLIPS: Counsel, please spell your last name as well
7 your firm or company relationship.

8 LCDR PEKOSKE: Matthew Pekoske, P-e-k-o-s-k-e, Coast Guard
9 Judge Advocate.

10 LT MCPHILLIPS: Thank you, sir.

11 Mr. Wilwert, please tell us, what is your current employment
12 and position?

13 THE WITNESS: I'm currently employed with the U.S. Coast
14 Guard at the 17th District in Juneau, Alaska. I am the commercial
15 fishing vessel safety program manager.

16 LT MCPHILLIPS: What are your general responsibilities in
17 that job?

18 THE WITNESS: General responsibilities for the position are
19 to support the Coast Guard field unit examiners, the five civilian
20 examiners as well as the active-duty, as well as keep abreast of
21 fishing vessel safety issues and regulations in the industry, and
22 provide information to the command on those issues.

23 LT MCPHILLIPS: Can you briefly tell us your relevant work
24 history?

25 THE WITNESS: Relative work history, I've been the District

1 17 fishing vessel safety program manager for approximately seven
2 years. Prior to that, I was a fishing vessel safety dockside
3 examiner at Sector Juneau for also approximately seven years.
4 I've been with the Coast Guard for 36 years, 20 years active, a
5 variety of units during active duty, and 16 as a civilian
6 employee.

7 LT MCPHILLIPS: Thank you. What is your education related to
8 your position?

9 THE WITNESS: Related to the position, attended the
10 commercial fishing vessel safety examiner resident course in
11 Yorktown, Virginia, back in -- I believe it was 2008, when I first
12 started into fishing vessel safety. Since then, the Alaska Marine
13 Safety Education Association, or AMSEA, Marine Safety Instructor
14 six-day MSIT course, as well as the drill conductor course. Other
15 OJT, on-the-job training, along the way, conducting dockside
16 exams. Took the National Cargo Bureau's stability for fishermen
17 course years ago; that's kind of a correspondence course. And
18 that's about it relative to fishing vessel safety.

19 LT MCPHILLIPS: Do you hold any professional licenses or
20 certificates related to your position? Please explain if you do.

21 THE WITNESS: I do not.

22 LT MCPHILLIPS: Thank you, sir. Captain Callaghan will now
23 have follow-up questions for you.

24 CAPT CALLAGHAN: Thank you for being here today with us,
25 Mr. Wilwert. Mr. Keith Fawcett is going to question for the Coast

1 Guard.

2 Mr. Fawcett?

3 EXAMINATION OF ANTHONY S. WILWERT

4 BY MR. FAWCETT:

5 Q. Good afternoon, Mr. Wilwert.

6 A. Good afternoon.

7 Q. Okay, thanks for being here. So all of my questions will
8 relate to the realm of commercial fishing safety unless I specify
9 otherwise.

10 A. Okay.

11 Q. So we'll have exhibits which will display on the large screen
12 in front of you, and you'll also see them on your desktop monitor.
13 And if you would like to have us move around in the exhibit, you
14 can ask Lieutenant McPhillips, who is sitting behind you, to
15 scroll down or zoom in or whatever's necessary. And we don't want
16 to just pop these exhibits on you, so please take your time to
17 review them before you answer a question. If you need a moment,
18 please ask.

19 A. Okay.

20 Q. So you prepared -- when we asked you to be here as a witness,
21 you prepared a presentation, and we've identified that as Coast
22 Guard Exhibit 105, and we'll get to that in a minute. But since
23 you've operated in the Coast Guard world so long and we do --
24 please stay away from any kind of acronyms. Use plain language
25 for the benefit of the public. I know that's hard to do, but if

1 you could, that'd be great.

2 A. Yes, sir.

3 Q. So have you ever worked as a commercial fisherman?

4 A. I have never worked as a commercial fisherman. I had
5 opportunity when I was an examiner at Sector Juneau to go on a
6 eight- to 10-day king crab commercial fishing trip with a local
7 Juneau boat. It was a February opener that occurs every year, and
8 I convinced my office that it would be an industry training of
9 sorts. And after much deliberation, they let me go. So I did get
10 to experience eight to 10 days on a southeast king crab trip.

11 Also went out one more time with a seiner to do what's called
12 some cost recovery seining, which was just a day trip in a very
13 local area. And did those just for professional development, just
14 wanted to get out there and see what it was like, to the best that
15 I could for that short of a period of time.

16 Q. So turning our attention to Coast Guard Exhibit 105, which
17 Lieutenant McPhillips will put up for you, take your time and
18 please walk us through the slides that you've prepared, and give
19 us as much explanation as possible.

20 A. Yes, sir. So again, my name's Scott Wilwert. I'm the
21 commercial fishing vessel safety program manager for District 17.

22 Next slide, please.

23 So this slide here depicts our examiner locations. So the
24 way that we're staffed at District 17 for commercial fishing
25 vessel safety program and our examiners, is we have five civilian

1 examiners, which are located in Anchorage, Kodiak, Sitka, Juneau,
2 and Ketchikan, and myself, as the program manager in Juneau.

3 So we have six full-time fishing vessel safety examiners and
4 a program manager that are civilian employees. The real variable
5 is the support we get from the active-duty element. We have many
6 units like Dutch Harbor, Valdez, Marine Safety Detachment Homer,
7 that does not have the luxury of having a civilian employee there,
8 so the active-duty component are the folks that are out doing the
9 fishing vessel safety mission.

10 And this slide here, it just depicts where our personnel are,
11 and roughly right now, I'd say we have 54 or so qualified fishing
12 vessel examiners, and that number changes widely during the
13 transfer seasons in the summer. That number can drop down by 10
14 or 20, and then we build it back up through local training. So
15 that's what the slide you're seeing there depicts.

16 Next slide, please.

17 This slide here shows a little bit of an example of what we
18 kind of work with or what we have to work with in Alaska, where we
19 try to get to. We do approximately 1700 dockside examinations
20 annually in Alaska. These places that are denoted on the map of
21 Alaska are typical outreach locations for us. So when I say
22 outreach locations, many of them that you see with the red dot do
23 not have Coast Guard personnel stationed there. So that involves
24 travel, seasonal travel.

25 We do that season travel largely to coincide with fishery

1 openers, feedback from the industry as to when's the best time to
2 show up in Huna, in southeast Alaska. And we get that feedback
3 from the industry, and we try to accommodate that as best we can
4 within our challenges, which our challenges in Alaska are pretty
5 typically geography, weather, and the seasons, the seasonality of
6 a lot of commercial fishing.

7 Some of it goes on year-round obviously, but in other places,
8 it's very seasonal. So it creates some pretty tight windows, you
9 know, lots of float-plane rides, lots of interesting ways that we
10 get around on the backs of four-wheelers and snow machines to get
11 out and do what we do in some of the more rural communities.

12 Next slide, please.

13 This slide here is just a little bit of information which I'm
14 sure that you've gotten plenty of in the last four or five days
15 about the Alaska commercial fishing industry in Alaska. On the
16 right-hand side, the bar graph depicts Alaskan operational
17 commercial fishing fatalities for about a ten-year period. And we
18 define an operational fatality aboard a fishing vessel, those
19 would exclude things like a death by natural causes, a suicide,
20 but operational fatalities would be a man overboard that wasn't
21 recovered or the total loss of a vessel where there were
22 fatalities.

23 As you can see, the bar graph depicts our highest year on
24 this graph was 11 in 2011. We had a zero year in fiscal year
25 2015. And since then, 6, 10 -- or 2, 10, 2 and 7. So it's

1 relative to the amount of commercial fishermen that are out on a
2 daily basis. You know, these numbers are low -- unacceptable to
3 me, but low given the fact that we have approximately 8,500
4 vessels that are permitted to fish in Alaska that employ over
5 30,000 personnel. And it's a big industry, it's a big job, and a
6 very important job in Alaska.

7 Next slide, please.

8 So this slide here depicts some of the initiatives, some of
9 the things that the fishing vessel program tries to do. We try to
10 be very present at fishing association meetings, and that happens
11 a lot on the local level. So if there is a long-liner association
12 meeting in Sitka, we try to make sure that we have our Sitka
13 civilian examiner there just to talk with the industry, to hear
14 what they have to say, to share our thinking on things and pass
15 any regulatory updates that might be out there.

16 Of course, we have the fishing safety, I think it's now being
17 called the National Fishing Safety Advisory Committee. It's
18 undergoing a name change, but that's an advisory committee that is
19 made up of about 17 members from industry, some of them fishermen,
20 some of them in the insurance world, some of them in the training
21 world, and the Coast Guard sits on that committee and runs that
22 committee. So we have a lot of interaction, work on a lot of
23 projects with the fishing safety advisory committee, the
24 committee.

25 Alaska Marine Safety Education Association and the North

1 Pacific Fishing Vessel Owners Association, AMSEA and the NPFVOA,
2 those are training organizations. I, myself, am on an advisory
3 board member for AMSEA, the Alaska Marine Safety Association.
4 Also am an instructor for the drill conductor classes. We also
5 try to show up whenever they're doing classes, and at a minimum,
6 come in and speak to the Coast Guard regulations section, maybe
7 bring one of our trailerable (ph.) damage control trainers, and
8 run that for them. So we work with those two organizations quite
9 a bit.

10 Of course, local industry days in different communities, we
11 attend that. We didn't have a lot of that this past year, of
12 course. I mention the flooding control trainer. That's a -- we
13 have about four mobile, trailerable devices that we can drag
14 around and hook up to a fire hydrant, and it gives fishermen, or
15 anybody that wants to jump in there, a chance to work on some
16 real-time plugging and patching sort of scenarios.

17 We get a lot of interaction with the industry through expos
18 and tradeshow. Of course, the big one down here in this area, in
19 Seattle, every November is the Pacific Marine Expo where we have a
20 booth with the District 13 fishing vessel staff. And we have a
21 huge contact rate during that three or four day show when they can
22 have it. We didn't get to do that this year.

23 The Bristol Bay Expo is kind of an up-and-coming, much
24 smaller version of that, and the Com Fish in Kodiak is also an
25 expo tradeshow-type thing where we always purchase a booth and

1 make sure we're available to speak with the industry and the
2 public. One of more recent initiatives, and I say more recent,
3 the stability pot weighing focus. Since the *Destination* accident
4 back in 2017, we took a -- we made a real concerted effort and
5 purchased some large load-sale scales, and kind of revamped the
6 pot weighing.

7 I know that I had heard some testimony earlier in the week
8 that some folks had eluded to -- some of the folks from the Dutch
9 Harbor office had been doing that, or that had happened at some
10 time. I can't say that that was continuous through a couple years
11 ago when we took those scales out there and kind of revived that.
12 But that's something that's been -- it's been accepted, really
13 well accepted by the industry, weighing the pots when we're out
14 there doing our safety and stability compliance checks in the
15 Fall. So that's been a real success, and I think in some ways,
16 maybe a little bit of an eye-opener to some of the industry about
17 what their gear actually weighs as they mix in new gear with old.

18 Another thing is the fishsafewest.info website, which is an
19 amazing site. It's actually run by my counterpart here in Seattle
20 at the 13th District. His name is Dan Hardin, and he does an
21 amazing job with that. Everything fishing vessel safety that
22 you'd ever want to know and then some lives on that site. And we
23 point a lot of people to that site.

24 We have our opportunities for media, social media, articles,
25 interviews, radio shows. Maybe when we go to town, smaller town,

1 they'll ask us to come in and talk about why we're there. So we
2 take advantage of all those opportunities.

3 Internally, with our up-and-coming examiners, I referred to
4 the active-duty element especially. We have a training academy,
5 we call it. We've been having it in Kodiak every September for
6 the last four or five years, and we bring anywhere from 10 to 20
7 people who are in the process of trying to become a qualified
8 fishing vessel examiner and put them through one of the drill
9 conductor courses run by the Alaska Marine Safety Education
10 Association, as well as on the dock, dockside, exams in a
11 classroom segment.

12 So that's been a really good training for us the last four or
13 five years. And one of the best parts of that training is we
14 always get industry guest speakers. So we always have fishermen
15 come in and talk to the up-and-coming examiners, and I think they
16 get a lot out of that. And that's a really valuable interaction
17 that we have with the industry, a positive one.

18 Next slide, please -- no, okay, that was it.

19 Q. Thank you for preparing that. That was very helpful. And we
20 will talk about the operational fatality issue Monday morning when
21 we have the chief of the program here as a witness.

22 Looking at all those initiatives and the number of people
23 that you have staffed to conduct this work, can you give me some
24 historical perspective on, you've been involved for over 15 years,
25 or 15 years or more, how long all those resources have been put in

1 place and those initiatives -- has it been for the last five years
2 or ten years?

3 A. As far as the resources, resources as I think about
4 resources, I'm assuming you mean the personnel that we have to do
5 the job. That's largely been unchanged for a long time. We have
6 added a couple additional civilian examiners back around 2010 when
7 there was an authorization act that had a lot of potential change
8 to some fishing vessel safety regulations, and we knew we were
9 heading towards mandatory examinations for certain vessels that
10 operated beyond three miles from the baseline.

11 We had opportunity to up our staff, our civilian staff, by
12 two examiners. So prior to 2010, that number that I gave you of
13 five civilian examiners, was three, and a program manager in
14 Juneau. And the active-duty part of that personnel situation has
15 always been pretty consistent. Those Coast Guard units have
16 always been in those places, with generally the same staffing. So
17 I don't think the personnel has changed too drastically for us
18 with regard to that.

19 As for the initiatives, there were a lot of them on that
20 page. We've been -- I found out this year that we were the
21 second-long tenured attendee at the Pacific Marine Expo. That's
22 how you get to pick your spot for the next year. So we have been
23 going to that show for quite a long time, 20 years or more, since
24 it's been in existence. Some of the other expos are newer, so
25 we've had a presence at those. Bristol Bay is only on their

1 fourth expo, and we've been at all four. So our history there is
2 it's not extensive, but we've been there since the beginning, I
3 guess you could say.

4 All the initiatives for outreach via social media, of course,
5 is newer or newish. That didn't exist like it does today, you
6 know, 15 years ago. But the articles, the radio shows, I'd say
7 we've been doing almost all the things that I had on that third
8 slide for a long time.

9 Q. So do you get your direction from the commercial fishing
10 safety program? Do they direct you to engage in those type of
11 initiatives and outreach for the fishing vessel safety program?

12 A. Our program manager at the office of compliance, CBC3 we call
13 it, certainly encourages and supports all of those things that we
14 do. We get guidance, certainly, to attend and do certain things,
15 I think largely, and I think any program manager, any of my peers
16 around the country, will tell you that most of the things we do,
17 we happen across them.

18 Or just in the course of being out there doing business, we
19 find, hey, this would be a really good place for us to be. Or
20 someone will say, hey, you know what you guys should do? You
21 should show up here next year. And that's how we really get to a
22 lot of the things that we do, is through interaction with the
23 industry. But we certainly get the support and the nudging from
24 the program.

25 Q. So would it be fair to say that you interact with the fishing

1 community, you come up with initiatives, and the Coast Guard, at
2 the 17th Coast Guard district, gives you the latitude and the
3 resources to make those things happen if they seem to be a good a
4 idea?

5 A. Absolutely, the -- I have a great job. It's -- if it seems
6 like a good idea, it's probably a good idea. So we're budgeted
7 well, and we're able to get around to all the places and do all
8 the things that we think are important to do with the industry.

9 Q. So does the 17th Coast Guard District have a strategic plan
10 for commercial fishing safety operations in terms of the safety of
11 the vessels and a reduction of accidents? Is there a plan?

12 A. There is a commercial fishing strategic plan for District 17.
13 I will admit that it is due for a makeover. It is definitely on
14 my longer-term list of things to do, but we do have a strategic
15 plan.

16 Q. How about the Coast Guard at-large? Do you know if the
17 commercial fishing safety program has a strategic plan?

18 A. I don't know. It would seem like I should know, but I don't
19 know if there is one on paper like the one I'm thinking about that
20 we have locally at the District. But I would hate to say that it
21 does not exist because I'm not sure.

22 Q. So in your very well-prepared presentation, you talked about
23 third-party organizations. Can you elaborate on that for us, as
24 to what those organizations are as it relates to commercial
25 fishing vessel safety?

1 A. Yes, thank you, I probably did not cover the third parties
2 when I went through that slide, so I'm glad you asked me. So
3 there are third-party organizations such as the Society for
4 Accredited Marine Surveyors, or SAMS; there's also NAMS, there's
5 (indiscernible) societies, and there are places like Navtech.

6 They're all surveyors, and through their parent organization,
7 if they have met the criteria, and I don't know those criteria
8 exactly, but if they have met the criteria to show that they
9 can -- they have the background and can do commercial fishing
10 vessel safety dockside examinations on behalf of the Coast Guard,
11 then there is a process for them to qualify to do that.

12 We will work with them. We're usually part of a -- of a
13 check-ride for them. So when someone's getting close with
14 third-party, we actually just did one the other day in Juneau. We
15 have a surveyor that is fairly new, and -- but, you know, hanging
16 his shingle out there and getting ready to go out and do business.
17 And he needed to go on an accompanied dockside examination or two
18 with the Coast Guard.

19 So our civilian examiner in Juneau went out with him and
20 replied back to the people that are in charge at Navtech down in
21 Florida, and said he did fine. He showed proficiency.

22 So that's kind of how the process works. We don't have a lot
23 of those in Alaska. We have maybe a lot that come up from the
24 Seattle area that will do work in Alaska. But in Alaska, we have
25 one in Wrangell, one in Cordova, a couple in Anchorage, one in

1 Juneau, one in Sitka, and we also have reworked our third-party
2 oversight. Used to be a NAVIC, now it's a work instruction.

3 And so when a third-party goes out, there's a very rigid
4 process that we and they follow as far as when they conduct an
5 examination, where that paperwork gets sent, who enters that
6 paperwork into our database. And we also have a new requirement
7 in the work instruction that whenever is practicable, that the
8 third-party surveyor will contact the district coordinator for the
9 area they're working in, and let us know that they are going out
10 to do a dockside examination on a vessel. And every occurrence of
11 that, if possible, we'll try to provide third-party oversight.

12 So if I got a call from the Juneau third-party examiner, and
13 he said, hey, I have an exam next Thursday at 2:00 on a certain
14 vessel. I would certainly reach back to my civilian examiner and
15 say, hey, you should probably go on this with him. And the
16 oversight is -- it's been going really well. It's a two-way
17 street. We learn from the surveyors, and I'd like to think they
18 learn from us in doing the Coast Guard mission of a dockside exam.

19 Q. So if that's done, a third-party exam, can they issue a decal
20 or issue -- complete the paperwork for the compliance check?

21 A. Yes, they do. Actually, their decals and paperwork and all
22 of those logistics are provided to them through our Coast Guard
23 CVC office, our vessel compliance office. So when our program
24 manager's here Monday, might have a little more insight into that
25 process, if you're interested in asking him. But we do provide

1 them with the decals, and they are capable of issuing them if the
2 vessel's in compliance.

3 Q. Do you ever use Coast Guard --

4 CDR DENNY: Mr. Fawcett, you're on mute. You're muted.

5 MR. FAWCETT: Oh, I'm sorry.

6 BY MR. FAWCETT:

7 Q. So have you ever used a Coast Guard auxiliarist, and the
8 Coast Guard has this cadre of incredibly dedicated volunteers as
9 part of the Coast Guard? Have you ever used them in the dockside
10 compliance check or safety inspection program?

11 A. Definitely, we had -- in Southeast Alaska, in Petersburg,
12 which is one of our largest ports without a Coast Guard Marine
13 Safety presence, I'll say there are a couple cutters there, but
14 they don't really do this mission. We rely heavily on the
15 auxiliarists there, and they did a fantastic job.

16 Again, this year was a strange year, so the auxiliary, as an
17 organization, had some very stringent guidelines as to what they
18 could and couldn't partake in due to COVID. So I don't think they
19 were out there as much this year as they would've like to been.
20 But I would say throughout the state, up in the Anchorage/Eagle
21 River area, southeast Alaska, we probably have at any given time,
22 five to ten qualified auxiliarists that will go out and conduct
23 dockside exams, with us or for us, if they're -- especially if
24 they're in a place where we're not.

25 Q. You made a very good point. This year was a unique year, and

1 so I want to try to limit your testimony, and I should have
2 probably said this in the beginning to up to and including the
3 timeframe of the accident for the *Scandies Rose* in late 2019 when
4 you answer your questions.

5 So I want to turn your attention to the actual dockside
6 safety examinations, and the pot weight checks that are conducted
7 by the Coast Guard. So I think the easiest thing would be if
8 Lieutenant McPhillips would pull up Coast Guard Exhibit 34, which
9 is paperwork for a safety and compliance check.

10 And on page 16, if you could sort of put the page in front of
11 us and focus on that. That's good, Lieutenant, thank you. Did
12 you do this dockside safety inspection?

13 A. This was 2019? October 2019. Yes, I was on board the
14 *Scandies Rose* for this safety compliance check in Dutch Harbor in
15 October of 2019, as part of a -- I think there were three or four
16 of us on that safety compliance check. Three is a pretty normal
17 group that we send out for -- to do these checks depending on the
18 workload. But I was -- I was definitely on the *Scandies* in
19 October of '19.

20 A. Okay, so let's just back up just for a moment. For this
21 particular examination, could you share with us how it started?
22 Was it a phone call that someone said, please come down and do
23 this, or was it a dock walk? From the time you made the decision
24 to go do this, could you walk us through that, briefly, through
25 the process?

1 And using this as a guide, walk us through the items that you
2 inspected without great detail because the public can see this,
3 but sort of give us an overview of what you would inspect.

4 A. Sure. So the first part of your question, I can't tell you
5 that I recall how we came upon the *Scandies Rose*. So the process
6 for the safety compliance check generally starts with a phone call
7 to the Coast Guard, and a vessel will, at that point, say I am
8 departing in a certain amount of hours, and I would like a safety
9 compliance check. And of course, we respond to that.

10 Once you are in Dutch Harbor, in the two to three days
11 leading up the opener for red king crab on the 15th, that starts
12 to morph into more like the dock walk that you talked about, where
13 you're here, we're here. They're loading pots, and they just
14 happen.

15 So in the case of the *Scandies*, I could not say -- also we'll
16 also have the home office in Dutch Harbor, they'll kind of be like
17 our dispatch. So we'll be fanned out all over Dutch Harbor doing
18 this work, and we'll get cell phone calls from the marine safety
19 detachment, and they may say, hey, the *Mary Jo* called, and they're
20 ready if you can get down there at a certain dock. And we'll just
21 -- they just point us, and we go.

22 So I'm not sure on this day, if we walked out of the office
23 knowing we were going to the *Scandies* because they had an
24 appointment, or we wound up on the *Scandies* because we did the ten
25 boats that were tied up near her. So that's how the flow of doing

1 the safety compliance checks can go when it gets busy especially.

2 With regard to what we look at on the form, as you said, you
3 can see the -- and the public can see what we look at. So we
4 focus on primary life-saving. So we look at the survival craft,
5 the immersion suits, the EPIRB. Of course, we look at the
6 stability instructions, we have that discussion with the master,
7 the person in charge, about the stability instructions.

8 We have them explain to us how are you loaded, depict, if you
9 can depict to us on a loading chart in your stability
10 instructions, what are your liquid loads, how are you tanked, how
11 many pots do you have. Of course, we're weighing the pots and
12 we're at that time, and comparing those pot weights to the assumed
13 pot weights that we may see in the stability instructions.

14 So that's pretty much the flow of a safety compliance check.
15 With three or four people, it can be a fairly quick evolution,
16 because as we get on board, someone may go and do immersion suits,
17 someone may be on the bridge doing the paperwork and working with
18 the captain and the stability book, someone may be doing the raft
19 and the EPIRB. So we just kind of fan out, do the work, reconvene
20 and move on to the next.

21 Q. So do you get -- like what you're speaking about there, do
22 you get surge ops, meaning that you have to bring in additional
23 personnel to get out there and conduct those inspections prior to
24 the start of the season?

25 A. We do, in October, we do. So Dutch Harbor, the Coast Guard

1 unit in Dutch Harbor is very unique. It's a one-year Coast Guard
2 unit. It's only staffed with six or seven personnel who likely
3 arrived there that summer, so just a few months before.
4 Generally, myself or Sector Anchorage personnel or both of us,
5 we'll go out in August and give the new crew some training in
6 fishing vessel safety.

7 With the Dutch Harbor unit, you kind of never know what
8 you're going to get every year. So six or seven people all come
9 in and then they all leave. And they could all be qualified
10 fishing vessel examiners that have been doing it for a long time,
11 or there could only be a couple. So we react to that by sending
12 an appropriate amount of people from other units like Sector
13 Anchorage, or myself from the Juneau office, to go and do a little
14 pulse operation and help them with that workload for that week or
15 so leading up to the opener of the crab fishery.

16 Q. So focusing on drills-in-training, how do you evaluate the
17 requirements for the vessel to conduct drills-in-training
18 effectively?

19 A. During dockside examination, drills-in-training, so
20 obviously, as you know or you probably know, there's a requirement
21 for a vessel, a documented vessel that operates beyond the
22 boundary line, to conduct monthly drills. There's also
23 requirements for safety orientation. There's requirements for the
24 posting of emergency instructions if the crew is of a certain
25 size.

1 Drills-in-training is a very -- it's a very fluid, very
2 interesting thing during a dockside examination. The drills have
3 to be conducted monthly when the vessel is operating. So it's --
4 you find yourself a lot of times in a position where you are on a
5 boat in the spring, and maybe the boat has not fished in three or
6 four months. So obviously, there's not an expectation that a boat
7 that is cold and in between seasons is going to reconvene a crew
8 and do drills and go home.

9 So a lot of times, you know, when you're doing that
10 examination, we will put things like, do -- have they shown a
11 history of logging drills, even though as we sit here today, the
12 logging of drills is not a regulatory requirement. It's required
13 to do them, but unfortunately, right now it's not required to log
14 them. But we look at that.

15 A lot of the -- a lot of the people in the industry are
16 really good about logging drills. So you'll see that history of
17 compliance. Of course, the more you go on these boats over years
18 and years, you definitely get a sense for are the drills-in-
19 training happening, and you can talk to the crew. As we move
20 around the boat, it's not uncommon to ask a crewman, hey, you
21 know, are you guys, are you doing your drills or when's the last
22 time you did a drill.

23 So we always get a sense or a feeling for how the drills-in-
24 training and how the boat's being run. We always look to make
25 sure that the person leading the drills has a drill conductor

1 card. That doesn't have to be the master right at the moment, but
2 if someone on the crew usually has attended one of the drill
3 conductor training courses, which allows them to lead the drills
4 on board a vessel.

5 Sometimes if we're not satisfied that those are happening or
6 have happened, we, at times, have them conduct drills while -- as
7 part of the dockside exam. Or we may say if it's not appropriate
8 right at that moment, we may go back and go through the drills.
9 And we don't evaluate them, we evaluate them evaluating because
10 that's the most important part of the drill is really, is the
11 debrief, is what you talk about afterwards and corrections that
12 you make and recommendations that come up during a drill.

13 Q. So I'm going to just take two random items from an
14 inspection, and if you would tell me how you would check those
15 items. So for example, an EPIRB, what would you do as an
16 inspector to check the EPIRB?

17 A. So if it's -- category one or category two. So a category
18 one EPIRB, of course, is the kind you're going to see mounted on
19 the outside of the vessel in the white case, with the hydrostatic
20 release that automatically deploys it. EPIRBs are an expensive
21 piece of equipment. They're usually mounted in a place that if
22 you drop it, it's not going to have a real friendly landing. So
23 for that reason, as much as practicable, we try to have someone
24 from the crew remove the EPIRB from the case. It's, I guess,
25 better if they drop it than if I drop it.

1 So whenever that's practical, we'll have someone from the
2 crew come and take the EPIRB out of the case. Of course, we'll
3 inspect the hydrostatic release to make sure it's within the two-
4 year requirement. We'll check the NOAA registration sticker or
5 decal that's on the EPIRB. We'll make sure that the EPIRB has
6 battery life left. Usually a five-year battery, I guess, we have
7 some ten-year batteries now, so we'll check the battery life.

8 We'll also make sure that the EPIRB appears to be in a good
9 float-free location, and a location that's accessible to the crew
10 in the event that they didn't want to rely on the automatic
11 deployment of it, and they wanted to grab it and take it with
12 them. So we'll always give them feedback about what, you know,
13 what we thought about the location of the EPIRB.

14 The EPIRB is required to be tested monthly by the crew, or
15 the captain or the crew, the person in charge. And we'll always
16 have that test conducted during a dockside examination with
17 ideally, the person pushing the button or lifting a lever,
18 depending on the model, will be the captain or someone associated
19 with the vessel, that will do the EPIRB test and make sure that
20 does an internal (indiscernible) and satisfactory test.

21 Q. So without going into detail, would an examination for life
22 saving appliance like a life raft and its release, would it be the
23 same kind of depth of examination?

24 A. It would. Life rafts, they are -- they don't have quite as
25 many moving parts. The life raft, again, we look for the float-

1 free location or a good, the best location possible. It has a
2 hydrostatic release, which is also a two-year piece of equipment,
3 so we make sure that that's in compliance.

4 And most of everything else we need to see about the raft is
5 on signage and placarding on the raft case. So we'll look to see
6 if it's a coastal SOLAS B or SOLAS A equipment pack inside. We'll
7 look to see that the capacity is appropriate for the amount of
8 people that are going to be on the vessel. We'll look to see when
9 its next inspection is due. Generally rafts get repacked every
10 year, unless you've got a brand-new raft, then you get two years
11 until its first re-pack.

12 So not as many moving parts on a raft. Making sure the
13 painter line is reeved around and hooked into the (indiscernible)
14 correctly. And providing that feedback to the captain, especially
15 if we find an issue. You know, we always would bring the crew up
16 and say hey, this isn't hooked up correctly, and we'd talk them
17 through the fix for that.

18 Q. Lieutenant McPhillips, could you bring up Exhibit 34 again
19 and focus on that same page, page 16? So looking at this record,
20 was the *Scandies Rose* in full compliance in this safety compliance
21 exam?

22 A. They were. So if you look, if you could scroll down a little
23 bit, please? Or I guess that's up. So this table you see at the
24 bottom that says inadequate or unserviceable immersion suits,
25 inoperable EPIRB or battery, instability, lack of free board,

1 inoperable bilge, all those things, so those would be no-go items
2 for us.

3 So if there's anything that we look at, and those are the
4 things that we -- that reflect what we kind of look at above, if
5 in that scenario, if any of those things are not in compliance,
6 then we would come down to the bottom here. We would check that,
7 and we would not sign off on that until it was rectified.

8 Q. So Lieutenant, leave that up for just a minute. So let's say
9 you had conducted the inspection on a vessel similar to the
10 *Scandies Rose*, and you found a deficiency that meets one of the
11 checkboxes on that bottom table. I notice there are -- and for
12 the benefit of the public, they talk about the captain of the
13 port, which is COTP, action. If you found a vessel that was
14 deficient in terms of its safety equipment, the captain of the
15 port or the OCMI, he or she, for that geographic area, has
16 ultimate authority on commercial vessels. What are some of the
17 actions the captain of the port could take if they found a vessel
18 deficient?

19 A. The captain of the port -- so in these scenarios with these
20 particular pieces of equipment, if we were at a place where we
21 could not rectify the deficiency, if someone needed a new
22 hydrostatic release, it would be very feasible that someone could,
23 at the time, and this happens all the time, run to the local
24 vendor, get a hydrostatic release, scratch it off appropriately,
25 reinstall it while we're there, and that rectifies -- that's an

1 on-the-spot fix of that deficiency.

2 If we were doing this in a place where that was not an
3 option, or it was a fix that was not just a trip to the store,
4 maybe they needed a whole new life raft, which are not something
5 that you can generally run to the store in most of the towns that
6 we work in, that would be when we would have to reach back to the
7 captain of the port, and make that phone call, and say, here's the
8 situation. We have a boat that's intending on going -- departing
9 port tomorrow. They do not have a life raft that's in compliance.
10 They don't have the means to get a life raft before they depart.

11 And one of the actions they could take would be what we call
12 a captain of the port order, which would tell the vessel that
13 through this check, and with the known intent that the vessel
14 intends to sail, that they would restrict the vessel from leaving
15 in that scenario. Or they could restrict the vessel from
16 departing.

17 Q. So if your inspector was aboard, and there was -- during the
18 scope of the examination, there was something that was outside the
19 scope of the examination, in other words not directly related to
20 safety equipment, is there any leverage the Coast Guard would have
21 because there was some material condition deficiency that was
22 directly observed by one of your inspectors?

23 A. Absolutely. So the dockside examination, whether it's a full
24 dockside examination or a safety compliance check, which is like
25 the form that we're looking at now, which is an abbreviated check

1 of primary life-saving for this operation for the Dutch Harbor
2 crab fishery or the Bering Sea crab fishery, if we noticed
3 something that was not a checklist item, maybe it's not in 46
4 C.F.R. Part 28, but it still raises your awareness to the point
5 where you feel I don't know if I can just walk past that. We
6 uninspected, you've heard the word uninspected a lot this week I'm
7 sure, there's some glaring differences between what our regulatory
8 authority with an uninspected fishing vessel is as opposed to an
9 inspected vessel.

10 If I'm looking through a hole in the hull a couple inches
11 above the waterline, I'm probably not going to say well, that's
12 not on the checklist, I don't see that. So that would be an
13 example of something that we would definitely call back and say,
14 hey, you know, we're seeing this. Could be an intoxicated
15 operator, it could be a material condition issue, it could be a
16 variety of things that you might see that are not exactly on your
17 punch list, your checklist of things that you're there to look at.

18 Q. So for the benefit of the public, if you take a look at that
19 exhibit, you'll see over the passage of time, the series of those
20 compliance checks. And they change over a period of time, the
21 scope and intent. So at the 17th District, are you able to add
22 items to the checklist, let's say, as a result of the sinking of
23 the *Destination*, did they change, did they include stability
24 information or information about pot weights, for example?

25 A. Absolutely, so the safety compliance check form -- so, just,

1 I want to make it clear when I differentiate between -- I'm using
2 the term a full dockside examination, which is a -- that is a
3 check of everything a vessel needs to be in compliance. It's done
4 on a Coast Guard Form 5587. That's where we're looking at the
5 magnetic compass, the coast pilot, the charts, the marine
6 sanitation device.

7 When we go out on a pulse operation like Dutch Harbor just
8 prior to a crab fishery, obviously, we're not looking at that.
9 The boat already has a valid fishing vessel safety decal on the
10 window, it's required for them as a mandatory exam vessel, it's
11 also required by Alaska state statute to participate in a Bering
12 Sea/Aleutian Island crab fishery.

13 So when we go on board, we check the decal status of the
14 dockside examination, and this is the safety compliance check, the
15 form that we've been looking at most recently here, is in addition
16 to that. So those types of things are looked at a more-extensive
17 dockside. But when it comes to the safety compliance check form,
18 when we started back into weighing the pots, we altered the safety
19 compliance check form to reflect -- actually, we altered it again
20 this year for its next printing, to, just for our own -- for the
21 ease of data entry, we've now added a pot-weighing table.

22 So instead of freely writing the pot weights and dimensions,
23 we have a table that we have built into the safety compliance
24 check form, where it will have pot one, pot two, pot three,
25 however many, and then the associated weight and the dimensions.

1 So yes, we can make changes to that form as we see fit, or at a
2 recommendation or a request from someone.

3 Q. So the decal you mentioned, that's a two-year interval? It's
4 a two-year lifespan of the decal, is that correct?

5 A. Yes and no. So when we issue a fishing vessel safety decal,
6 we only punch the decal for two years. In the Authorization Act
7 of 2010, the verbiage and the law is such that a vessel that
8 operates beyond three miles from the territorial sea baseline has
9 to successfully complete a dockside examination once in five
10 years.

11 So a vessel can have a decal on the starboard window that is
12 past the date it's punched out for, but as long as it's within
13 five years from its previous, it's in compliance with the law. So
14 we still only issue the decal for two years, but they're in
15 compliance with the law if they have one within five. I know
16 that's probably a little confusing, but --

17 Q. So if -- what's the purpose of putting that decal on the
18 starboard window?

19 A. It signifies -- the decal just signifies that the vessel was
20 found in compliance on that month and year. It's an outward sign
21 to say, Coast Guard units approaching if they look up and see the
22 decal. And if, from that distance, you can see the little hole
23 punch marks, it might tell you that that vessel has shown it was
24 in compliance just this month or last month.

25 And in an environment where there are maybe many vessels out

1 there to potentially go aboard at sea, they could use that as a
2 decision tool and maybe say, okay, well we're not going to check
3 this vessel right now because they just had a dockside examination
4 in January of '21. And this vessel here, it's been three years.
5 So outwardly to the Coast Guard, it could be a sign of
6 prioritization for maybe who they would want to board at sea. And
7 the significance of it being on a starboard window, I don't know
8 actually. That's the history of that as opposed to the port.

9 Q. So there's another type of check, and that's the pot weight
10 check which has been referred to in this testimony here as the
11 Coast Guard personnel randomly selecting a number of pots, the
12 number that was mentioned was three, and then weighing them on a
13 scale. Is that a correct description of that process?

14 A. That's correct. I would say that the random selection is
15 true, and we will always ask if the captain or person in charge
16 has particular pots that they may want weighed. So if they say
17 well, I've had these for ten years, but these are brand new. I'd
18 really like to see the difference between the new one and maybe
19 one that's had a couple years to maybe rust away a little bit.
20 We'll weigh whatever they ask us to weigh. And in the absence of
21 that, if they say oh, I've been using all the same gear for 10
22 years, they're all the same, then it could be a random selection
23 of which three or four that we weigh.

24 Q. So your inspectors go out, and they do their activity. In
25 very brief terms, could you describe how you take this

1 information, Coast Guard has a database, which is the Marine
2 Safety and Law Enforcement database, could you briefly explain how
3 you put that data in, and very briefly, what the purpose of that
4 database is?

5 A. So the Marine Information for Safety and Law Enforcement,
6 MISLE, I think that's what it stands for, when we conduct the
7 safety compliance check mission in Dutch Harbor, and we depart
8 back to our units, or if some of the forms and inspection --
9 safety compliance checks were conducted by the local unit in Dutch
10 Harbor, we'll all go home with the appropriate yellow copies of
11 the papers that we were signatory to, and we'll enter those into
12 the MISLE system.

13 The reason for the MISLE system is it creates a history, or
14 it creates an activity in a vessel's history that shows how many
15 Coast Guard interactions they've had, whether it's been an
16 interaction because of an at-sea boarding, an investigation into
17 some sort of an incident, what we call an incident management,
18 which could mean it was responded to for a search-and-rescue case,
19 the dockside examinations will be in there. The safety compliance
20 checks on, like, a Bering Sea crab vessel will be entered into
21 there.

22 And it's just a -- it's just a great one-stop shopping area
23 to pull up a vessel and look at their history going back as far as
24 -- since we've had the system and before and see if they're a
25 regular participant in the dockside exams back when they were

1 voluntary, and in the safety compliance checks.

2 Q. So, Lieutenant McPhillips, if you would pull up Coast Guard
3 Exhibit 33, which is that database's exam compliance history, and
4 go to page 8, please. Would this be an example -- and if you'll
5 scroll down just a little bit, would this be an example of what we
6 would find if the Coast Guard accessed the system for information
7 on an inspection or pot compliance check of a vessel like the
8 *Scandies Rose*?

9 A. Yes, yes, this definitely is right from MISLE, the database.

10 Q. And if you'll slide down, Lieutenant, you'll see in the
11 bottom, there's an entry in the narrative. It says, "Attended
12 vessel and conducted pot weight check, verified against the
13 assumed operating condition as stated by the master of the vessel,
14 verified pot weights of three different pots that the master
15 stated was going to load, vessel stability stated that the max
16 pots allowed was 212. The master stated that he intended to load
17 170 pots. Based on the master's attested loading condition, this
18 was in compliance." Is in compliance with what?

19 A. In compliance with the stability instructions as they read at
20 the recommendation for -- in that loaded condition, in that loaded
21 condition how many pots the stability instructions say that the
22 vessel can take.

23 Q. So when you're doing the examination, do you open the
24 stability book, examine the book, and take notes, and then go back
25 when you do the MISLE entry, the database entry, I'm sorry, and

1 you can see the whole history of the vessel in this exhibit. Is
2 that when you're determining what compliance is actually -- the
3 compliance is actually happening or what compliance is actually?

4 A. We deter -- to answer your first question, we absolutely are
5 in the stability instructions during the time that we're on the
6 vessel, during the safety compliance checks. And we have --
7 that's why you see the verbiage in this narrative the way that it
8 reads is when we talk with the master of a vessel, we don't tell
9 them what they should do or how we see it.

10 We have them explain to us how they're loaded, why they're
11 loaded that way, and to show us in the stability instructions why
12 and where it says that that condition of tankage and that fuel
13 condition with that amount of pots at that weight is okay, is in
14 compliance with what your instructions say. So we try to -- we
15 try to have that all explained to us.

16 Now, if we come up to a -- in a scenario where we're not
17 seeing it that way, then we certainly could look in the book and
18 say, well, you know, it looks like this is your tanked condition,
19 so it would really mean this amount of pots. That doesn't happen
20 very often at all.

21 My experience is that almost everyone that I've dealt with in
22 the industry in this fishery has -- knows exactly what they should
23 be taking per how they're loaded, their condition of tankage and
24 fuel, and now that, you know, recently or more recently we've been
25 weighing the pots, I think they have a better idea of what the

1 actual pot weights may be if they don't align with what the
2 stability instructions assumed back when those were last done.

3 Q. So I'm almost finished with my questions, but when your
4 inspectors are out doing the dock walks or actually conducting
5 inspections, do you carry with you informative information such as
6 safety alerts or marine safety information bulletins that you
7 actually had to the crews of the vessels?

8 A. We do. For a long time, we had an old publication that I
9 would love to get my hands on it again. It was called deck safety
10 for crab fishermen. It was a -- it's probably a little antiquated
11 now and dated, but the information is still really good. I am
12 holding on to a handful of those in the hopes that I can get those
13 reproduced. But that was an example of a pamphlet, of a little
14 booklet, that we would give out.

15 And then the safety alert, the safety alert was generated
16 post-*Destination*, and we definitely had those to distribute in our
17 first trip to Dutch Harbor after that incident. And any other
18 MSIBs and things that we see, you know, we feel like would be
19 helpful, we'll put them in our bag and distribute them.

20 Q. Have you ever had -- gone down to the dock as vessels were
21 preparing to depart for season with all the activities that they
22 go one, where they just wave you off, say, no thanks, I've got
23 other things to do?

24 A. It's extremely rare, but it has -- it has happened. I think
25 that the interesting part about the safety compliance check prior

1 to the crab fishery that we do is the calling to the Coast Guard
2 within 24 hours of departure is actually a requirement in Alaska
3 state statute. I believe it's 5AAC 39-670 or something like that.

4 So it's required to make the call, but it is not a regulatory
5 requirement to have us come on board and do the safety compliance
6 check. I think a big part of the reason that that is is that
7 vessels depart for this fishery from ports where we don't have a
8 presence. So I don't think we could get ourselves into a position
9 if someone called from Falls Pass and said I'm leaving in 24
10 hours. I don't think we could say well, we don't have anybody
11 there, so I guess you can't go.

12 So the call is required, the call to the Coast Guard, but the
13 actually conducting of the safety compliance check is not. So we
14 have some, I wouldn't call those refusals, but we have some
15 instances where people are departing from ports where we don't
16 have a presence or a team. And in that case, we try
17 telephonically, the best we can, you can't check a raft
18 telephonically, and you can't check an EPIRB telephonically, but
19 we have that conversation. And we also ask them how many pots
20 they intend to take, and if that is in compliance with their
21 interpretation of their loaded condition and what their pot weight
22 is.

23 And we document that on our -- there's a crab list that I put
24 out with some frequency this time of year, and I'll denote on that
25 list, off on the right, if the safety compliance check was done

1 in-person or if it had to be done telephonically because people
2 were departing from a different port.

3 Q. So they basically, by Alaska statute, have to give the call
4 and have to include the number of pots or if they're in compliance
5 with their stability, what would be? In terms of pot load.

6 A. No, so my understanding is that they just have to make the
7 call and give the awareness to the Coast Guard that they're
8 departing. We added the capturing of the information. We figured
9 well, if we have them on the phone, we might as well capture this
10 data.

11 But I believe that the spirit of the mandatory phone call
12 dates back to when boats would depart, and we would not have an
13 opportunity or the visibility that they were leaving. So years
14 ago, representatives from the Alaska Bering Sea Crabbers, the
15 Alaska Department of Fish and Game, the Coast Guard, NIOSH, all
16 got together at a round table. This is going back a little before
17 my time, but it's my understanding of the history of the safety
18 compliance checks that we do, that have been going on for probably
19 15 or 20 years now.

20 When things were not going so well in the Bering Sea, these
21 groups got together and what came out of it was the Coast Guard
22 said if we could get the state to require these guys to give us a
23 call before they leave, to give us the visibility and the
24 opportunity to say oh, you're leaving tomorrow? Hey, we're going
25 to come down and go through the primary life saving.

1 And the second thing they wanted was it required that any
2 vessel, crab vessel, operating in the Bering Sea/Aleutian Island
3 crab fishery had a Coast Guard safety decal. And that's when it
4 was a voluntary program. So that has sort of taken care of itself
5 since all of the crab boats are mandatory exam candidates because
6 they obviously operate beyond three miles from the territorial sea
7 baseline.

8 So those were the two things from that meeting back in the
9 early, early 2000s, that got put into Alaska state statute. But
10 my understanding of the phone call is that it was just the
11 informative call. I can't speak for 20 years of history of if
12 people captured that kind of data during the call, but we capture
13 that kind of data and report it to the best we can.

14 CAPT CALLAGHAN: Mr. Fawcett, you have one more?

15 MR. FAWCETT: I'm done, Captain. Thank you.

16 CAPT CALLAGHAN: Thank you, Mr. Fawcett, and I apologize.
17 We're just running a little behind, and just wanted to afford our
18 parties in interest and the National Transportation Safety Board a
19 chance if they had any questions.

20 Mr. Barnum?

21 MR. BARNUM: Thank you, Captain, and thank you, Mr. Wilwert.
22 I appreciate it. I do have several questions here, I think I'll
23 table most of them until your colleague, Mr. Myers, Monday. He
24 should be able to answer them as well. So basically just a few
25 follow-ups what you were talking to Mr. Fawcett.

1 BY MR. BARNUM:

2 Q. Yeah, first off, thank you. My plug for Fish Safe West,
3 anyone out there, that's a -- like you said, a great source, so
4 thank you for contributing to that.

5 *Scandies Rose* fell under, you had mentioned earlier, a class
6 of vessels, an uninspected commercial fishing vessel. Yet then
7 you were describing dockside safety exams, which are in a sense,
8 an inspection. Could you describe the major differences between a
9 fully-inspected vessel and then these uninspected commercial
10 vessels and their dockside safety exams?

11 A. I'll give it my best try. So I am not a marine inspector by
12 trade. An uninspected fishing vessel, that's why we call those
13 examinations and we really shy away from the word inspection. It
14 seems to be synonymous, but they're really very different. To my
15 knowledge, the difference between a dockside safety examination
16 and what an inspected vessel may go through would be things like
17 having to be seen at a dry docking, things like looking at shaft
18 seals and rudder posts, structural fire protection, the integrity
19 of the hull, licensing of course. Some commercial fishing vessels
20 have licensed and credentialed personnel if they're over 200 gross
21 tons, but in the inspected world, they're all going to have that.

22 So those are just some of the -- I won't call them subtle
23 differences; they're pretty big differences, but that's kind of
24 some of the things that differ between the examined boat and the
25 inspected boat.

1 Q. Okay, thank you. And then you described dockside safety
2 exams, the two versus five year, that whole aspect, and I
3 understand it, thank you. And you said you punched the ticket, if
4 you will. Is there any tracking of those decals, externally, you
5 know, or internally in your office? Or does something flag, you
6 know, commercial fishing vessel *Aleutian Lady* is up for a decal,
7 it's been over five years. Or is it just walking a dock and
8 looking at the decals?

9 A. So within the MISLE system that we referred to, almost
10 everything in there is query-able. So if -- you could easily run
11 a report or I think what we call a cube, and have that data
12 instantly based on the date that decals were issued, because that
13 is captured in MISLE, the decal issuance date for a vessel and the
14 decal expiration date. So that is able to be queried and pulled.

15 They kind of make that easy for us in the way that the
16 vessel, the office of vessel compliance sends us every Monday, a
17 list that is very much like that, of who's fallen outside of the
18 two-year window, as well as the five. So we just have a really
19 good look every Monday morning at how the fleet -- how the fleet
20 looks with regard to their decal status.

21 Q. Okay, and could you briefly describe what a load line is for
22 a commercial fishing vessel, when someone refers to a vessel if
23 they have a load line?

24 A. So a load line is -- a load line is as much a series of
25 requirements, it's a condition, as much as it as a mark or a safe

1 loading spot on a vessel. Some -- they're -- if you are a load-
2 lined vessel, that implies that you are conforming with a lot of
3 other things that have to do with the envelope of the hull and of
4 that vessel. So it's not just the line, it's a process, really,
5 of compliance.

6 Q. Okay. The *Scandies Rose* was a non-load-lined vessel. Do you
7 know if tendering vessels are required to carry a load line?

8 A. So certain fish tender vessels that are less than 500 gross
9 tons, and there are a series of exemptions in the U.S. code that
10 would -- that starts at if you're 79 feet or greater, and if you
11 operate beyond the boundary line, and if you were built as a
12 tender prior to January 1st, 1980, or if you were -- if you were
13 converted for use as a tender prior to January of 1983, or if you
14 are what's called an existing vessel, which means you're on a
15 domestic voyage and you're less than 150 gross tons. Those are
16 all things that would exclude a vessel, a fish tender, from
17 needing a load line.

18 If you don't meet any of those statutory exemptions in the
19 code, in the U.S. code, then it does appear, it appears that load
20 line does apply to fish tenders. And I say appear because we're
21 currently working, as we speak, for last better than two years, on
22 fish tender compliance with load lining. And I believe, I'm
23 speculating a little bit here as to -- as to the fish tenders and
24 why they're currently not load lined.

25 And I think their status, as a term that was used in law

1 before as a part-time tender, I believe, I believe clouded the
2 regulation a lot. And I don't believe that the part-time tender
3 status or that description was meant to apply to load lining. It
4 did relieve them of other inspection requirements, but I don't
5 believe it relieved them of load lining.

6 And when we sort of discovered this, we started moving toward
7 -- we have a tender load line charter work group now, and we are
8 actually working on a process to see if we can bring these vessels
9 that it may apply to now that we've interpreted the regulations
10 and had a legal review of the regulations, we're working on a
11 program right now to see if we can bring those vessels either into
12 compliance, or into a compliance-like program for that.

13 Q. Okay, appreciate that.

14 MR. BARNUM: Those are some of my follow-up questions, but
15 I'll save those for Monday. So I know we're short for time, so
16 thank you very much. Appreciate it.

17 CAPT CALLAGHAN: Thank you, Bart.

18 And I'll turn to Mr. Stacey, representing the two survivors.
19 Any questions, sir?

20 MR. STACEY: Thank you for the testimony. No questions from
21 us.

22 CAPT CALLAGHAN: Thank you very much, Mr. Stacey.

23 And I'm over to Mr. Barcott representing the vessel owners.

24 MR. BARCOTT: No questions. Thank you, Captain.

25 Thank you, Mr. Wilwert.

1 CAPT CALLAGHAN: Thank you, Mr. Barcott.

2 Mr. Wilwert, I want to thank you for your time here today.
3 Thank you for coming out and sharing this vital information with
4 all of us as we look into this incident and ways to make things
5 safer for the fishermen out in the Alaskan waters. So thank you
6 for that.

7 At this time, you are now released as a witness from this
8 formal hearing. Thank you again for your testimony and
9 cooperation. If at a later date, I determine that this Board
10 needs additional information from you, we will contact you through
11 counsel. If you have any questions about the investigation, you
12 may contact the investigation recorder, Lieutenant Ian McPhillips.

13 Thank you again for being here.

14 THE WITNESS: Thank you, Captain. It was a pleasure.

15 (Witness excused.)

16 CAPT CALLAGHAN: At this time, I want to take the opportunity
17 to thank all the witnesses for their testimony today. All
18 exhibits shown today will be posted on the MBI media website.

19 At an earlier date and time, a separate formal interview was
20 conducted, including parties in interest that had been identified
21 at that time, with Mr. Dean Gribble. The complete recording of
22 that testimony will be posted to the livestream on Monday, March
23 1st. I have decided that the Marine Board will not require
24 Mr. Gribble to appear on Monday. An updated schedule will be
25 posted to reflect the changes.

1 It is 1726 on February 26th. The hearing will now adjourn
2 for today and resume at 0800, Monday, March 1st.

3 (Whereupon, at 5:26 p.m., the hearing was recessed.)
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: February 26, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Sarah Collins
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of:

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CAPSIZING AND SINKING OF THE

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F/V *SCANDIES ROSE* NEAR SUTWIK

*

Accident No.: DCA20FM009

ISLAND, ALASKA, DECEMBER 31, 2019

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Interview of: DEAN WILLIAM GRIBBLE, Deckhand
Scandies Rose

Via Zoom

Wednesday,
September 23, 2020

APPEARANCES:

CDR GREGORY CALLAGHAN
Chairman, Marine Board Investigations
United States Coast Guard

LCDR MICHAEL COMERFORD
United States Coast Guard

CDR KAREN DENNY
United States Coast Guard

BART BARNUM
National Transportation Safety Board

CARRIE BELL
National Transportation Safety Board

MICHAEL BARCOTT, Attorney
Holmes, Weddle & Barcott
(On behalf of the owners of the *Scandies Rose*)

JOE STACEY
(On behalf of Mr. Gribble)

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I N T E R V I E W

1
2 CDR CALLAGHAN: Okay. So today we'll hear testimony from
3 Mr. Dean Gribble. Lieutenant Mike Comerford will administer your
4 oath, Mr. Gribble, and go through some preliminary questions.

5 MR. GRIBBLE: Sure.

6 CDR CALLAGHAN: Mike, will you administer the oath?

7 LCDR COMERFORD: Yes, sir.

8 Mr. Gribble, please stand and perhaps step back and raise
9 your right hand.

10 I apologize. Mr. Gribble, you are on mute. Could you unmute
11 and just --

12 MR. GRIBBLE: Hold on. I wasn't -- I didn't touch it. You
13 got me now?

14 LCDR COMERFORD: Yeah, I got you loud and clear.

15 (Oath administered.)

INTERVIEW OF DEAN WILLIAM GRIBBLE

16
17 BY LCDR COMERFORD:

18 Q. For the record, please state your full name, and spell your
19 last.

20 A. My name is Dean William Gribble. Gribble is
21 G-r-i-b-b-l-e.

22 Q. Please identify your counsel, if present, to confirm
23 representation.

24 A. Got Mr. Joe Stacey sitting next to me.

25 Q. Where are you currently -- thank you. Where are you

1 currently employed, and what is your position?

2 A. I'm unemployed right now.

3 Q. What are your general responsibilities in that position?

4 Well, so please list your prior relevant work history.

5 A. It's just fishing mainly, crab fishing, trawling, salmon,
6 salmon tendering. I worked on -- just working on boats too. I
7 work -- it was some boats down south doing some research for the
8 Navy and different contracts like that.

9 Q. What is the highest level of education you have completed?

10 A. 12th grade.

11 Q. Do you have any professional licenses or certificates? And,
12 if so, please list them.

13 A. No.

14 LCDR COMERFORD: Thank you.

15 Commander Callaghan, that completes the preliminary
16 questions.

17 CDR CALLAGHAN: Thank you, Lieutenant Comerford.

18 BY CDR CALLAGHAN:

19 Q. Okay, Mr. Gribble, again, thanks for being with us today.

20 (Audio interference.)

21 Q. All right. Again, thank you, Mr. Gribble, for being here.

22 As we stated earlier, the whole purpose is to investigate the
23 incident, get to the -- as many facts as we can put together so we
24 can help try and determine what happened, and then also deliver
25 some potential recommendations on how to prevent these occurrences

1 from happening again. So certainly appreciate your presence here
2 today. Again, we'll reiterate at any time if you need, please let
3 us know, and we can take a break.

4 So, again, we're doing -- we're going to kind of break it up
5 into a couple of sections. So what we'd like to do is kind of
6 start prior to your employment with the *Scandies* Rose. So we'll
7 talk about some of those items. So can you talk about how long
8 you've been doing commercial fishing?

9 A. Yeah. I started -- worked with my dad in the summers when I
10 was 11 or 12 (indiscernible) just salmon tender in the Bristol Bay
11 for the summertime with my dad. And then did that through
12 schooling, and then the age of 18, April 2000, I did -- that was
13 my first groupie season, snow crab. And then I've been fishing
14 ever since. I crabbed up until 2006 when they made the IFQ
15 switch-over from the derby to the IFQ, and I started trawling for
16 a little bit, and bouncing back to crab (indiscernible).

17 Q. And so what geographically areas have --

18 A. All Alaska.

19 Q. All Alaska --

20 A. Yeah, mostly Alaska. I guess, I fished on the West Coast
21 over Washington, Oregon, too, a couple times.

22 Q. Okay. And predominantly what kind of fishery have you been
23 engaged in?

24 A. Crab probably for the most part. Crabbing and trawling for
25 cod.

1 Q. Okay. So at any point did you have any -- did you receive
2 any formal training, survival training, any other type of vessel
3 handling training?

4 A. I did like a safety class, I think like 10 years ago or just
5 how to get into the life raft, get in the suit in the water. But
6 that was about the only training. I mean, other than the boat --
7 just doing drills on different boats.

8 Q. Okay.

9 A. And I've had other incidences on other boats where they
10 consider it training.

11 Q. And do you know where you got that training about 10 years
12 ago?

13 A. I don't. It was somewhere down at Ballard.

14 Q. Okay. And you mentioned you don't currently hold any
15 professional --

16 A. Yeah.

17 Q. -- certificates, fishing or anything?

18 A. Yeah.

19 UNIDENTIFIED SPEAKER: So can you let him finish the
20 question?

21 MR. GRIBBLE: Oh, okay.

22 UNIDENTIFIED SPEAKER: And then go ahead and answer.

23 MR. GRIBBLE: Okay.

24 UNIDENTIFIED SPEAKER: Just let him finish first.

25 MR. GRIBBLE: Sure.

1 BY CDR CALLAGHAN:

2 Q. Can you -- do you recall the names of any of the vessels
3 you've worked on in the past?

4 A. Yeah. I worked on *Western Mariner* was one, *Aleutian Mariner*,
5 the (indiscernible), *Bering Star*, *American Viking*, *Beauty Bay*,
6 *Paragon*, *Unimak*, a lot of them. You want me to going through all
7 of them?

8 Q. No. You don't have to go through all of them. And so,
9 obviously, you've --

10 A. Different boats.

11 Q. -- sailed with quite a few boats. Working from most recent,
12 can you speak to -- so before your trip on the *Scandies*, what's
13 your previous boat to that, that you worked on, and who the
14 captain was?

15 A. Yeah. It was the *Western Mariner* for king crab, and -- or
16 actually black cod and king crag. And the captain is Bryce
17 Buholm. Shouldn't say black cod because I didn't make any money.

18 Q. And so as far as all the vessels that you've sailed on, any
19 of them similar in design or construction as the *Scandies Rose*?

20 A. Yeah. The *Patricia Lee*, the boat that my dad is on, relief's
21 on, it's the *Saint Paul*. It's the sister ship to the *Scandies*.

22 Q. Okay.

23 A. And I've sailed on that one too.

24 Q. Any -- do you remember any specific differences between those
25 two vessels?

1 A. I think the *Scandies* back in the '90s had a fire, so the
2 house was different, but I think that's the only difference.

3 Q. Do you know what any -- what some of those differences are?

4 A. Of the house?

5 Q. I mean, that you recall.

6 A. None off the -- none offhand, no. Just sort of the setup. I
7 guess the setup was a little different. The house was -- seemed a
8 little more room inside the area. I think there might be another
9 -- actually, no. That's what the difference is. There are so
10 many -- two stories to the *Patricia Lee*. It's a story and a half
11 story. Yeah. So the *Scandies* has three stories.

12 Q. Okay.

13 A. *Patti* only has two-and-a-half.

14 Q. And so with regards to prior boats that you sailed on, had
15 you ever worked with any of the other crewmembers that you were
16 with on the *Scandies Rose* prior to your trip on the *Scandies*?

17 A. Just John Lawler. We fished the king crab -- prior king crab
18 before on the *Western Mariner*. It's asking me to unmute myself.
19 Unmute myself, correct?

20 UNIDENTIFIED SPEAKER: You're okay.

21 CDR CALLAGHAN: Yeah. You're okay. Yeah. Everyone says
22 fine.

23 BY CDR CALLAGHAN:

24 Q. And so can you tell us how -- so leading up to employment
25 with Mattsen Management and your trip on the *Scandies*, can you

1 kind of walk us through kind of what you were doing, and then how
2 you got -- came upon employment with the Claimant?

3 A. I was, like I said before, me and John fished on the *Western*
4 *Mariner* before, and we didn't make any money. So I wanted a
5 different approach to go on, make some money. And John called me
6 on the 28th and said that the spot -- somebody quit on the
7 *Scandies* and that there was a spot available and to call them, and
8 told them I was available.

9 Q. Okay. And so at that point, did anyone from -- did you reach
10 out to them or did anyone reach out to you to formally move
11 forward with the employment?

12 A. I called Gary, the captain, Gary Cobban, and let him know
13 that I was ready for employment, and he had me call their fleet
14 manager, Julia. I'm not sure of her last name. And she kind of
15 coordinated my flight and everything about getting me up there.
16 They wanted me to leave the same -- they wanted me to leave on the
17 28th, and they called me on -- this was like -- when I'm talking
18 to them, like, can you leave at like four or five? And I'm like I
19 can't -- today. But, yeah. Yeah, that's the only two people I
20 talked -- contacted or contacted me, and them calling me and
21 following up back and forth.

22 Q. Sure. Do you happen to know how that position came --
23 through conversation with John or anybody, did you happen to hear
24 how that position may have become vacant?

25 A. All I was told was somebody quit. Not sure who or --

1 Q. Okay. And then so was it -- do you know if it was Ms. Julia
2 Cooper?

3 A. That's it, Cooper.

4 Q. Okay. So once you -- once the company called, contacted you,
5 and you worked out arrangements, was there any paperwork that you
6 had to fill out for the --

7 (Audio interference.)

8 CDR CALLAGHAN:

9 Q. So we'll go back just to ensure that we capture the right
10 questions, and because we don't know when it cut off. I'm just
11 going to go back. So pre-employment, was there any pre-employment
12 drug and alcohol testing conducted?

13 A. Yes.

14 Q. Okay.

15 A. Well, up in Dutch I took a test.

16 Q. Up in?

17 A. Or I mean up in Kodiak. Sorry.

18 Q. Okay. And that was when you arrived for employment on the
19 *Scandies Rose*?

20 A. Yes.

21 Q. Okay. And do you know what the results of those were?

22 A. I passed.

23 Q. Okay. And according to your contract, you were employed as a
24 deckhand. Can you kind of describe the roles and responsibilities
25 of a deckhand?

1 A. Just anything that has to do with the boat basically. Tying
2 the boat up. Making sure everything is up to -- tight. Make sure
3 everything is tied up, and hauling gear, and setting gear, and
4 anything to do that would be on the boat.

5 Q. Okay.

6 A. (Indiscernible).

7 Q. All right. So now that you're -- let's have -- can you --
8 have you talk us through your arrival into Kodiak and up from your
9 arrival to Kodiak to day of departure?

10 A. From the day of departure. I landed in Kodiak on the 29th
11 roughly 1600. And Gary picked me up. And there was a lot of snow
12 on the ground. It was a little cloudy. And took me into the
13 boat. They were loading the last couple pots and finishing the
14 rigging a couple pots and loaded and set those -- some of the
15 groceries. So I just put my bags down and started helping them on
16 the -- we did that work since, oh, about 2, 3 in the morning.
17 Late night. I was -- after long day, I was beat.

18 And then we got going again probably about 9, 10 o'clock in
19 the morning, and we just started kind of continuing with put the
20 groceries away, and make any last-minute fixes or anything that we
21 needed to do. We put a -- all the pots had -- all the rows with
22 the pots had chains on them, but we -- then we put a belly chain.
23 I was there for that. We put a belly chain around the bottom
24 stack of the pots and deposit them on the forward section just so
25 we can make that shift. And then just kind of making everything

1 tight because we knew the weather was going to be bad. I mean,
2 we -- everybody has a Windy app. We knew it was going to like
3 purple, so yeah, we knew it was going to be shitty. So we just
4 made sure everything was tight.

5 And then about -- we moved over to the fuel dock at about 4,
6 I think, 3, 4 o'clock, made it to the fuel dock, and took like
7 3 -- no, maybe it was 6 -- it was going to take 3,000 and ended up
8 taking 6,000 gallons of fuel, I think. I wasn't in charge of
9 that. And then we departed about 2030 from the fueling unit.

10 At that time, I -- we still had some groceries and stuff to
11 kind of still put away. So we finished up doing that, and
12 probably about 10 o'clock I laid down and watched a movie, went to
13 bed. And then I was woke up at probably 8:30, I think it was,
14 roughly, for my first wheel watch, and then I watched it for a
15 couple hours and --

16 Q. Can I have you just stop there real quick? So we can go over
17 few things --

18 A. Yeah, sure.

19 Q. -- up to that point? Just so we cut it into kind of some
20 smaller sections.

21 A. Sure.

22 Q. So you said that you guys had loaded. Were you -- did you
23 help load any of the bait or anything?

24 A. Oh, yeah, yeah. We loaded the bait at that -- all the bait
25 was on the dock when I -- when I first rolled up, the bait was on

1 the dock. The guy that -- John and Brock were rigging one pot,
2 and the forklift was bringing up our bait, and then that was the
3 first thing we did was swung the bait on.

4 Q. And where was -- where did you guys store the bait onboard?

5 A. The bait was stored in the bow in the forepeak.

6 Q. Okay. And do you remember how much bait was brought on?

7 A. It was like 6 or 7 pallets. It was a good amount of it.

8 Q. Okay. Normal for that type of trip?

9 A. Yeah.

10 Q. In your --

11 A. Yeah.

12 Q. Okay. And then you mentioned wrapping a belly chain around.
13 Was that just the forward pots?

14 A. Yeah. That's really the only way that you can do it. I
15 mean, I guess, yeah, that's really the only way we did it. Just
16 around the first -- just so it can't go forward.

17 Q. Sure. Okay. And then as far as lashing all the pots, to
18 what extent were they all tied together and secured?

19 A. Far as?

20 Q. Were they all tied to each other? Are they tied in groups?

21 A. Yeah. How we tie them, we usually tie like two, two ties on
22 the bottom or maybe even one tie sometimes on the bottom and two
23 on top. Usually there's about three ties on each pot.

24 Q. Okay.

25 A. Making it so it can't go up, can't go forward, and can't go

1 sideways. Secure as that.

2 Q. Sure. If possible, if we gave you a piece of paper, would
3 you be able to kind of sketch out --

4 A. Sure.

5 Q. -- how the -- what the typical pots height stack would look
6 like, and where they might be secured? So like --

7 A. Draw the boat?

8 Q. So if you could just give us like what a stack would look
9 like, how they would be stacked, what the first tier would look
10 like, and then the tiers above it, and how they would be secured.

11 A. Okay.

12 UNIDENTIFIED SPEAKER: So can I ask a point of clarification?

13 CDR CALLAGHAN: Sure.

14 UNIDENTIFIED SPEAKER: Are you asking for what he saw and he
15 remembers on *Scandies Rose*, or are you just talking about in
16 general on any crab boat?

17 CDR CALLAGHAN: What he remembers from the *Scandies*.

18 UNIDENTIFIED SPEAKER: *Scandies Rose*. Okay.

19 CDR CALLAGHAN: Yeah.

20 UNIDENTIFIED SPEAKER: What you recall. And I'm sorry, one
21 stack, is that what you wanted, or the whole deck load?

22 CDR CALLAGHAN: I think if he could do one stack, and then
23 kind of --

24 UNIDENTIFIED SPEAKER: Okay.

25 CDR CALLAGHAN: -- what the deck load looked like.

1 (Pause.)

2 MR. GRIBBLE: You want me to put where the ties are at,
3 right?

4 CDR CALLAGHAN: Yes, please, if you could.

5 (Pause.)

6 CDR CALLAGHAN: Can you hold it up for the camera real quick?
7 I appreciate that. And we will enter that -- just if you can just
8 sign on the bottom, we'll enter that into -- as an exhibit. Thank
9 you.

10 BY CDR CALLAGHAN:

11 Q. Were all the pots -- by what you can recall from the
12 *Scandies*, were all the pots the same?

13 A. Yeah. Yeah. Or all the pots that I saw, and it was a -- it
14 was really tight. Some boats will have not so tight. Yeah. They
15 were (indiscernible).

16 Q. And for the -- once they were stacked onboard, was there any
17 path left from the forward part of the vessel to the
18 superstructure?

19 A. No. No.

20 Q. So how would you get from the bow back to the house or
21 vice-versa?

22 A. Climb over the stack.

23 Q. Okay. Thank you. Do you know if any of the pots were
24 weighed during the loading process?

25 A. No. That's not -- we don't normally do that.

1 Q. Okay. And so now that you're onboard, can you tell us so
2 which stateroom you were assigned to, and where that's located
3 onboard?

4 A. I got on the boat, and everybody was kind of working, so I
5 didn't really know where to put my stuff, and all the bottom
6 stairs kind of looked like they had stuff all over them. So I was
7 like, I don't know where to go. So I went -- there's an observer
8 stateroom second deck that nobody was in, so I took that one. And
9 John said, well, that's the observer's bunk. And I was like,
10 well, you don't have an observer, so I'll take it. And he moved
11 up there too.

12 Q. Okay. And so that -- which -- what level was that on?

13 A. Two.

14 Q. Level two. And which side of the vessel was it on?

15 A. Starboard side.

16 Q. Starboard. Okay. So before you guys -- once you got
17 onboard, before you guys departed, was there any other task that
18 you were assigned aside from securing the pots and storing the
19 bait?

20 A. No. Just making sure everything was tight. You know, like I
21 said, we were going to be up, and weather was just going to be
22 bad. So we just wanted to make sure everything was tied down,
23 nothing was going to be rolling around or banging for 3-, 4-day
24 run.

25 Q. Were you aware of any work that was done to the vessel before

1 your arrival?

2 A. I guess they were doing some work on the shit chute or the --
3 kind of where they disperse the crap that they don't want. It's
4 kind of like a chute on the bottom of the deck. There was some
5 steel left over from that, that we ended up throwing over.

6 Q. And how did you guys discard that?

7 A. We just threw it over.

8 Q. At the pier or while you were on your way?

9 A. Underway.

10 Q. Okay.

11 A. And I think some got thrown over at the pier.

12 Q. Okay.

13 A. I didn't do that. John would know more about that.

14 Q. And any knowledge of any other equipment maintenance or any
15 other issues that may have occurred before that trip?

16 A. Did I know beforehand? No.

17 Q. Okay. And then had anyone mentioned anything -- on your
18 arrival, had anyone talked about -- previous crew talked about
19 previous trips onboard?

20 A. No.

21 Q. Okay. So before you got underway, were any drills conducted,
22 any safety orientation?

23 A. Yeah. We did -- safety drill probably was probably around
24 like 7:30 or 1930 on the 29th, right before we left. They just
25 kind of brought everybody in the wheelhouse, showed everybody, you

1 know, just kind of ran through like where everything is at in case
2 of a fire or in case we started flooding or boat sinking. And
3 yeah, and we just did those. And they were, I mean, they were --
4 I thought they were some (indiscernible) because it was taking
5 awhile. Took -- probably for like an hour just (indiscernible) a
6 lot of people do it.

7 Q. Okay.

8 A. During that, when Gary was showing us the EPIRB, when he went
9 to put it away, he thought he might have activated it because he
10 flipped it over and I think saw lights or some -- for some reason
11 he said he thought he activated it, and then he was playing with
12 it trying to -- I don't know. Maybe that's why it didn't fire off
13 if he accidentally turned it off because they're kind of confusing
14 sometimes but --

15 Q. Any -- so during that training, did anyone put on any
16 survival suits?

17 A. Yeah, I did.

18 Q. Were you the only one who did?

19 A. Yeah, because I was the new guy.

20 Q. Based on your experience on all the other vessels, is that
21 typical for the survival meeting where -- or would the whole crew
22 normally put on survival suits?

23 A. Just depends on the boat and the experience of people. I
24 like to put them on just to be quick, you know, be quick if
25 something happens, but yeah, I mean, it's typical I guess. Some

1 people do, some people don't.

2 Q. Okay. Had you brought any personal survival gear with you?

3 A. No -- actually, I did. I brought my life vest. That's just
4 for wearing on deck.

5 Q. Okay. All right. So that was all prior to getting underway.
6 Any -- once you got underway, you said you guys got underway, and
7 then was there a watch schedule pre-established before you got
8 underway or was that established once you were underway?

9 A. I think it got established once we were underway. Gary took
10 it for the first couple hours. Shawn got me up. I'm not really
11 sure who has the watch. When we're running you don't really see.
12 You're either watching it or you're sleeping. So I saw John and
13 Gary, but I don't know if John was, you know.

14 Q. Do you know what the watch rotation may have been before John
15 and after Gary?

16 A. I think Brock had it after Gary, and then David and Art
17 maybe. That's kind of speculation.

18 Q. Sure. Okay. And what would you -- can you kind of describe
19 what your responsibilities are once you're on -- once you had that
20 watch?

21 A. Once you're driving the boat? Just not crashing into
22 anything. Just kind of maintaining the course. Just driving the
23 boat, maintaining the course, and making sure you don't hit
24 anything.

25 Q. Were there any standing orders or anything from the captain

1 for those watches?

2 A. Yeah. I can't remember what they were. Just probably don't
3 go downstairs, you know, just the basic -- kept the radios -- I
4 can't, I can't -- just basic watch rules, kind of common sense
5 things.

6 Q. Okay. Was there anyone else with you during any of the watch
7 periods?

8 A. No.

9 Q. During the watch period, was there any responsibility to make
10 rounds of the boat, the engine room?

11 A. He didn't have engine room check down, but I -- after my
12 third watch, I went down and checked it, and -- but Art was coming
13 out both times. So I didn't actually go down there. Art was
14 already down there, check -- he was already down there. So I
15 figured it was okay.

16 A. Okay. Once you were on your first watch, did you notice any
17 -- were there any alarms up on the bridge or anything?

18 A. No. I don't think there were any alarms.

19 Q. And do you know if any were tested prior to getting underway?

20 A. They tested the bilge alarm in the (indiscernible) room. I
21 don't know if they tested the tank alarms. So I wasn't there for
22 that, but the bilge alarm I was there for. It tested up, fired.

23 Q. Okay. And I apologize for going backwards, but during your
24 safety training, did -- was the general alarm ever sounded?

25 A. During the safety training? Yeah, it was.

1 Q. And do you know, did -- was it pointed out or did you -- was
2 everyone made aware of the location of the general alarm?

3 A. Yes.

4 Q. And could you explain where that general alarm would be
5 activated from?

6 A. I think it was -- I know, I can't really remember. I think
7 it was right by the like chart table on the starboard side.

8 Q. Okay.

9 A. Probably about -- around the wall there right -- the chart
10 table is here and the wall, I think that's where -- that's kind of
11 where most of those are.

12 Q. Okay. And then so you said you got underway, and you started
13 to watch a movie. Can you kind of take us from that point on?

14 A. From watching -- after my first watch?

15 Q. Yes.

16 A. Okay. So I watched the movie and just, you know, just kind
17 of rested. And then I got back up for my second watch. I think
18 John got me around -- it was like 1730. And then I started
19 watching it. And during my watch, the weather started coming up a
20 little bit more, but it was already kind of crappy, but it started
21 coming up a lot more. The wind started coming a lot more.

22 And the waves started kind of coming quarterly. At first
23 they were right off the bow, then they kind of started coming
24 quarterly. So we were -- when we were taking spray, and we're
25 taking good -- pretty good spray, and it was just spraying the

1 starboard side really because that's where the waves were coming.
2 And they got about halfway back for -- the pots were starting to
3 ice over.

4 Q. Okay. And so speaking of weather, any discussion on weather
5 prior to departure?

6 A. Oh, yeah. We knew it was going to be bad.

7 Q. Anyone express any concerns about --

8 A. We all did. We all did. It was like, you know, it's kind of
9 dumb to go out. This is a hurricane. But they -- the cod season
10 started. It starts on January 1st, and we had like 3- or 4-day
11 run. So we were already going to be late, and this might be the
12 last derby year of the cod fisheries, so -- and they go off catch
13 history so they get more quota. So it was really crucial to get
14 there and get as much pounds as we could.

15 Q. Okay. Amongst the crew, who would you say was the most
16 concerned about departing in that weather?

17 A. I know me and John talked about it a few times. And Gary was
18 too. I mean, we -- look, we knew we were going out in shitty
19 weather. Was kind of dumb. We should have waited 12 hours,
20 whatever. Not enough concern.

21 Q. And so you mentioned the derby. Can you describe that a
22 little more for us, derby fisheries?

23 A. Yeah. The cod fishery now, it still is -- it's still
24 considered a derby. So there's a set quota that all the boats
25 fish off of opposed to individual fish quota where the quota is

1 divvied out to each boat, and each boat has its own individual
2 catch they're allowed. So it's still derby.

3 But then how they did for the crab, they went off the
4 previous history catch. So if you had bad years the last couple
5 of years when they were doing the -- had bad quotas, so they
6 wanted to make sure -- was my understanding it was big concern.
7 Gary was talking about a lot of concern that we -- coming from
8 down south that we get out -- I mean, like I said, they wanted me
9 to fly up the 28th. They wanted me to leave like soon as
10 possible.

11 Q. Okay. All right. And -- all right. So let's take it from
12 you taking the watch to from the time you turned it over to --
13 turned over your night watch.

14 A. I was -- I got Gary up at, like, 1915. And at that time, let
15 him know I felt we -- I kind of felt a list. We're starting to
16 list a little to the starboard side. It was kind of hard to tell
17 if it's the waves. It was rolling around. It's kind of hard to
18 tell. But it felt like we were a little heavier on the starboard
19 side.

20 So I let him know that and asked him if we wanted to slow
21 down, because we were bumping into it, making a lot of spray,
22 making a lot of ice, and he didn't seem concerned with that or
23 changed course. I asked him if he wanted to change course just so
24 we had a better ride, because it was kind of a crappy ride to go
25 to sleeping in.

1 Q. Sure.

2 A. That was my concern.

3 Q. And so was there any -- what was -- were there any major
4 differences between your morning shift to your evening shift then?

5 A. No. Just the water.

6 Q. And how much -- can you tell what the weather -- what that
7 change in weather was?

8 A. The morning was crappy, I guess. And then the evening was
9 shitty.

10 Q. So it progressively got worse --

11 A. Yes, progressively got worse all day.

12 Q. Okay.

13 A. And then it really came up during my watch.

14 Q. And when you turned it over to Gary, and you woke Gary up in
15 the evening, do you know how far you had traveled at that point
16 and what your current location was?

17 A. Okay. I think we traveled about, well, 200 miles a day. I
18 think we were about 190 miles -- about that point, 180 miles.

19 Q. Okay. From Kodiak?

20 A. Yeah. So had a little run to False Pass.

21 Q. Okay. Do you have any pre-watch routine? So anything that
22 you do ahead of your time up there on the bridge?

23 A. I have -- like get a cup of coffee. No. I mean, like just
24 what do you mean? Just what I do on watch?

25 Q. Just how do you prepare for watch?

1 A. Just go up there and watch it.

2 Q. And so when you took over that watch, was anything passed to
3 you as you took over?

4 A. No. Just the watch list, and just keep on. It was the same
5 from before. So just keep on, you know, that was -- we just keep
6 doing that until we get there.

7 Q. You mentioned you had a conversation with Gary once you woke
8 him up and kind of expressed some changes that you noticed. Had
9 any of those conversations -- similar conversations happened
10 between you and the previous watch?

11 A. No. There was no reason. I was kind of tired, so I just
12 wanted to go back to bed.

13 Q. Okay.

14 A. We worked a lot before we left Kodiak, so I was really tired.

15 Q. Sure.

16 A. Climbing over those stacks of pots, knees were burning.

17 Q. So do you recall -- and so any mechanical -- so at your time
18 at the helm, was there any mechanical issues that you experienced
19 during that time?

20 A. No.

21 Q. Okay. So you talked about the freezing spray. Had you
22 noticed any water building up on deck through that point?
23 Anything by the windows of the pilothouse?

24 A. The windows were all iced, except for the first two that have
25 the heat film, but everything else was iced over. The pots had a

1 good -- I mean, it doesn't look like much, but ice is really
2 heavy. It was probably couple inches when it started.

3 Q. And is that --

4 A. -- glazed -- more of them glazed probably back on the pots
5 within the bow head. It had a good little ice build-up. I talked
6 to Gary. I asked him if he wanted to get the guys up and go beat
7 the ice off, just because I thought maybe that was causing the
8 list. And he goes, no, it's just, it's crappy. We'll just do it
9 when we get to protected waters, you know, False Pass, and we'll
10 beat it all off. At that time, I thought (indiscernible).

11 Q. At that point, do you know -- the point you turned it over
12 and had that conversation, do you know how far you were away from
13 False Pass at that point?

14 A. No. It was still I think 100 miles maybe; maybe more.

15 Q. Okay. And so, on a normal day, besides just your watch
16 periods, what else would you be doing onboard during a transit?

17 A. Just mainly -- I don't know. If there's any work to be done,
18 we'd be doing that, but mainly just sleeping. Usually if the
19 weather is crappy, it's kind of hard to move around. So just
20 sleep and watch movies and taking watches.

21 Q. Okay. All right. So that -- the next course I'm going to,
22 if you could take us through the time you turned over to Gary, all
23 the way up to the time that you and John end up in the water. If
24 you can kind of walk through that, what you observed, what you
25 heard.

1 A. Okay. So I gave it over to Gary, and we talked for a little
2 bit because I had just got there, and I was just kind of shooting
3 the shit with him a little bit. So I wasn't there to load the
4 pots. I just asked him how many pots we had onboard and just kind
5 of shooting the shit with him. And then I went downstairs to make
6 a sandwich.

7 At that time, I saw Art coming out of the engine room again,
8 and so I figured he was down there transferring fuel to fix the
9 list. And then I ate my sandwich. I went back to bed, and
10 started watching a movie.

11 About a hour and a half maybe, about 9:30 or so, felt the
12 boat go hard to starboard. My first instinct was we were going to
13 turn around and start running with it to go break off bad sea,
14 give us a little safer ride to go beat the ice off. That was my
15 first instinct. Now, I was on the top bunk, so I told John to go
16 see what's going on and -- because it's easier for him to get up.
17 And he ran upstairs and yells down, Dean, the boat is sinking.
18 What? I jump up, and I try and get my pants on, and I -- try and
19 get my socks on. I feel the boat rolling a little more. I'm
20 like, oh, no.

21 So I run upstairs, and Gary's kind of leaning on the chart
22 table because the boat is leaning over hard. And John is grabbing
23 a survival suit. And I go, what's going on Gary? He goes, I
24 don't know. I go, well, fucking call the Coast Guard. He goes,
25 what am I going to say? I go, tell them we're sinking. We were

1 already -- as soon as I got upstairs, and I saw the window that we
2 were like this, there's no way we're getting it back with all
3 those pots onboard. So I was, I was -- just screamed, just call
4 the Coast Guard.

5 I ran back downstairs to get the other guys. Ran to the
6 mid-deck. At that point, David came running past me. I just
7 screamed down, the boat's sinking. At that time, everybody else
8 starts coming up. I get back up to the wheelhouse. John's
9 outside. I start passing out the suits. I take the last one, and
10 it's kind of a lot of people up in the wheelhouse, and Sid asked
11 me, he goes, what do I do? And I go, just get your suit on and go
12 outside. And everybody had a suit at the time, and everybody was
13 trying to get it on.

14 Brock was on the port side, the far port side. David was --
15 there's like a -- there's a bench, and David was on the outside of
16 the bench or on the inside of the bench or -- I mean, outside of
17 the bench on the outside. So he just -- so he couldn't slide
18 down. So he was on the port side right by the door. And then
19 Brock was trying to sit down and get his suit on, and I'm looking
20 for a spot to put mine down, and I put it down, and I see that the
21 boat's just too much at a angle, and I'm going to slide. So I
22 jump up into the bench, and I used the armrest as a foothold and
23 stable to get -- and as soon as I did that, Brock comes sliding by
24 me.

25 And as soon as I did that, I get it on about halfway, my --

1 the armrest breaks, so I kind of slide down. I'm like, oh, shit.
2 So I just started climbing up. I grabbed the middle armrest, and
3 that breaks, and just -- I'm grabbing whatever. I don't even know
4 what I was grabbing. I was just grabbing whatever to get out.
5 And luckily I was able to make it out after a couple of times of
6 kind of slipping back down a little bit. And --

7 UNIDENTIFIED SPEAKER: Do you want to take a little break?

8 MR. GRIBBLE: I'm fine. I was able to -- sorry. I was able
9 to get outside, and then I only had my suit on halfway at the
10 time. I got outside, and I got the rest of it on, zipped up, and
11 the hood on. John's outside, and he goes, I can't get my zipper
12 up. And at this time, right when I got outside, right as I get my
13 arms in and my hood on, right as I'm almost like zipping it, the
14 lights go out. And John comes, he's like, I can't get my zipper
15 up. I go, you better get it up. You're going to die. Like,
16 we've got to get this up.

17 So I'm feeling around. I mean, it's pitch black. Can't see
18 anything. I can't see my hand in front of me it's so dark. I'm
19 feeling around, and his zipper on the thing, usually you want to
20 have them up like a inch or two so they're kind of already
21 started. His was all the way down, and the thing was flipped
22 inside. So I'm feeling around for it. Luckily, I was able to
23 find it, because the boat's -- it's like free falling, that's what
24 it felt like. And I'm -- I finally was able to thankfully get him
25 up and get it on.

1 And I got out and stood up, and I was like, grab -- because
2 he was like closer to the life ring. I go, grab the life ring and
3 get the line off of the -- line off of it, and we'll tie it to
4 each other so when we're in the water we'll stay together. I
5 mean, I'm trying to find anything I can to bring with us, because
6 I know we're going in. The boat is just like free falling. And
7 I'm looking for buoys or anything. I'm looking for a line or
8 something I can throw back into those guys, but they -- I don't --
9 they were kind of -- even if that would have helped.

10 CDR CALLAGHAN: Want to take a quick break?

11 MR. GRIBBLE: I'm --

12 CDR CALLAGHAN: Why don't we take a 10-minute break.

13 UNIDENTIFIED SPEAKER: Sure.

14 CDR CALLAGHAN: That okay with you, Dean?

15 MR. GRIBBLE: Yeah, it's okay.

16 CDR CALLAGHAN: Okay. We're going to take a 10-minute break,
17 folks.

18 (Off the record.)

19 (On the record.)

20 BY CDR CALLAGHAN:

21 Q. So can you tell us who you saw up there as you got to the
22 wheelhouse?

23 A. What? The second time?

24 Q. Yeah. So any time --

25 A. After I ran down to the second deck to scream at the other

1 guys the boat's sinking, David was already coming out, and they
2 were kind of already starting to get assembled. And I screamed
3 down just, you know, just get up. And I started running back up.
4 They were kind of following me. I get up there right at the top
5 of the stairs, to the left on the ground, there's like a spot
6 where all the survival suits are. So I just got on my knees and
7 started pitching them out to everybody. Everyone's grabbing one,
8 and I took the last one.

9 And then I'm looking for a spot because I'm -- you know, I
10 was kind of rolling. Gary and Art are over by the chart table, I
11 believe, and Seth asked -- he goes, what do I do? And I go, get
12 your suit on, go outside, get your -- it's going to be okay, you
13 know. And then, like I said, I was going put my suit on the floor
14 to slide down. I think I'm down there. I'm starting to slide. I
15 go, this isn't going to work. Jumped up into the bench. Used the
16 armrest. Climbed outside. And then I was able to zip myself up
17 and zip John up, because I had -- lights were already out at this
18 time.

19 And then I told John to -- because he was by the life ring, I
20 just told him to grab life ring, the line, and we'd tie it to each
21 other, stay together in the water. And I was just looking for
22 anything, buoys or anything that I could bring with just to make
23 us appear bigger in the water, because I knew we were going. And
24 the other guys were screaming, help. I'm trying -- I was trying
25 to find anything I could to -- them in, to help them.

1 And I was screaming at David to come with us, and I was
2 trying to get him to -- there's like a little cabinet right where
3 he was sitting. I was trying to get him to pass out the -- we had
4 like an extra bag of flares, and just (indiscernible) or whatever
5 is in there. But I was trying to get him to figure that out, but
6 he was just sitting there, and he had his suit fully on, and he
7 had -- right by the door, and he was just in shock, and like he
8 wasn't responding.

9 And me and John are -- like I told, you know, as soon as --
10 as I was zipping up John, I'm counting on you. We're not fucking
11 dying here. Stand back -- because I could see that John was kind
12 of starting freaking out a little bit, too, and I was trying to
13 calm us down a little bit. And I'm like everybody (indiscernible)
14 what do you think everybody else is doing New Year's right now?
15 Just because the horror of what we were going through. And then
16 me and John just decided to -- we're just like, well, what do we
17 do?

18 And then the boat is just continuously just free falling. I
19 mean, it almost felt like that carnival ride the Graviton when it
20 spins around, you put your arms out, and it felt like there was
21 like force under. That is the only way I can explain it.

22 Oh, also, the first time -- I don't know if I said that.
23 When I first went up there and was talking to Gary and was like,
24 what was going on, call the Coast Guard, he was like okay, and
25 then he took it out of gear. That's what made the boat start

1 going more -- I think maybe the transitional force maybe. I don't
2 know, but as soon as he took it out of gear, everything kind of
3 sped up a little bit more. That's when I was running downstairs.
4 That's (indiscernible) more and more. I was really worried that
5 it was going to turtle on me, and it did.

6 So then me and John kind of screaming at David. We were just
7 standing around right outside the port door on the right down --
8 down the stairs along the wall is like where they standing, and
9 we're like, what do we do? We can't get to the fucking survival
10 raft because it's up on the roof, and it's, you know, at a super
11 steep angle. The EPIRB is on the other side. You can't get to
12 that. Because I'm thinking -- I'm trying to get to these things.
13 I'm like I'm trying to get John. Like, what are we doing to do?
14 We got to get to this raft.

15 Or it was just impossible, like there's nothing we could do
16 in the ice. I was trying to get lines and buoys to -- because we
17 had a bunch of buoys tied up along the stern rail there. I was
18 just trying to get anything we could just to float with us or -- I
19 knew were going to be really hard to see in the water, because
20 I've searched for guys in the water and found some and, you know,
21 you can just see their head. That was daytime I was working for
22 these guys. And they were hard to find, you know, and they were
23 dead.

24 So I had all this going through my mind, like we got to, you
25 know, we got to -- this isn't good. We've got to make a bigger

1 thing, and it just, it was not happening. The lines were all just
2 too iced up. I didn't have a hammer to beat the thing. There was
3 some trailer line. That's what I was hoping I could throw back
4 into the guys, but it -- they were all kind of just in shock.

5 Q. So did -- was the entire crew in there, in the bridge -- up
6 on the bridge at that point?

7 A. Yeah. Except for John. Me and John were outside.

8 Q. Okay. And you said every -- at that point, everyone had a
9 survival suit?

10 A. Yeah. I know everyone had them, because I passed them out.
11 I gave -- I physically gave everybody a survival suit.

12 Q. Okay.

13 A. As they were coming up the stairs.

14 Q. And do you know based on handing out all the survival suits,
15 are they all the same size? Are they all --

16 A. I think there was a jumbo. I think John took the jumbo just
17 because he was just worried about making sure he could get into
18 one, but I guess get into that, but I think all the other ones
19 were just regular large ones.

20 Q. Okay. And then you mentioned the EPIRB was on the other
21 side. Can you tell us to port or starboard where they -- where
22 your recollection of the EPIRB being located?

23 A. It's on the starboard side right outside the wheelhouse door,
24 right on the -- there's like a -- bars and stuff there just had it
25 up on the -- so right on the -- right as you walk out the door on

1 the service side, the captain's door.

2 Q. Okay. All right. So at that point, had Gary made a May Day
3 call or anything that you witnessed or heard?

4 A. Yeah. As -- when I was talking to him, as I was running down
5 and I was coming back up, he was trying to make the call. He was
6 having trouble getting through because -- and I remember just
7 faintly hearing the person on the other end kind of faintly coming
8 in and breaking out. And as soon as I got outside, I kept
9 screaming into Gary, just keep calling, keep calling, keep
10 calling. And then the lights went out.

11 Q. And had --

12 A. I'm glad he got the call out, because if the PIER had not
13 gone off, we would have been fucked.

14 Q. At the point where you and John exited the pilothouse, had
15 you heard any alarms leading up to that point?

16 A. Actually, I didn't hear any alarm. And as I was running down
17 to wake up Gary, as I was kind of thinking like this is not going
18 to roll over on me, I should have just hit the general alarm. But
19 I just wasn't thinking that at the time.

20 Q. Okay. And so can you talk us through then, so once you and
21 John are outside, from that point to the point where the Coast
22 Guard arrived?

23 A. Yeah. So me and John are just trying to make a plan of what
24 we should do. So I told him to grab the line off the ring, and
25 we're going to tie it to each other so we'd stay together in the

1 water. So we did that, and I just told him, make sure that line
2 stays clear so it doesn't catch on anything and get tangled up so
3 it gets stuck on the boat or something.

4 So then we started walking on the side of the house at this
5 point. And at this point, I was trying -- because the boat, once
6 the boat -- or once the water probably start -- was just about to
7 come over the back of the house and up towards us, that's when we
8 jumped onto the house. We were just trying to stay high.

9 And I was screaming at Ed, because he was just sitting at the
10 door. Screaming at him, screaming at him, just come on, come on,
11 let's go, out of here. Let's just -- he just looked at -- he just
12 looked over at me. I was like, we got to go, you know. Like, the
13 water is right there. Like, whether you like it or not, the
14 boat's sinking.

15 And then me and John just tried to stay on the house as high
16 as we could. And at that time, the waves were in the trough, and
17 then the waves started -- a little bit of them started coming over
18 the house, and little bit more, little bit more. And I told John,
19 I go, okay, make sure that line is clear, and we're good. We're
20 going in here a second. Hold your breath. Hold your breath. And
21 then a wave came in, took us off, and then I kept getting pulled
22 underwater, and I thought maybe the line got hooked up or
23 something -- I don't know what we did wrong to her. Maybe we were
24 too close to each other -- had it too close to each other maybe to
25 where he kept pulling -- I kept pulling him, and he kept pulling

1 me under.

2 So, anyway, I let it go, and then now I'm alone. And I pop
3 up, and I'm just trying to get my bearings, and I don't have my
4 light on at this point, and I'm -- it was tucked into the bladder.
5 I'm trying to get it, but the (indiscernible) stupid. And I
6 finally get it out, get it on, and I'm getting tumbled and tossed
7 under water. And I finally get at my bladder and blow it up, and
8 then I was just trying to get my bearings to where the boat was.
9 I was trying to look for John.

10 I was screaming for John and just watching the boat, and I --
11 you know, I'm 300 yards away maybe from the boat, and he's like
12 100 yards from the boat, and I see him. And the boat, because
13 it's -- as it went down, it was on its side. It went -- first
14 went -- and then it goes bow straight up in the air, and it was
15 just like a toy in a tub, just getting like tossed around pretty
16 good.

17 I was just happy I wasn't in there. I didn't think there was
18 any chance that I was going to live. I just wanted to get out of
19 the wheelhouse, and I'll die in the water, that's fine. I just
20 didn't want to go down with that fucking boat. I wanted my family
21 to get my body back.

22 And then I watched the boat bounce around like a toy in a tub
23 for a couple of minutes, and it finally just must have been
24 equalized in the water, and it just equalized and just went down.
25 And then it got -- things got really -- because now what, the

1 whole time I'm fighting to get off the boat, and I'm worried about
2 this and worried about that. Like, I wasn't even thinking about
3 the -- you know, now what do I do? Am I just going to wait to
4 die? Like I don't have a life raft. Nothing -- nobody is going
5 to see me.

6 Like but -- and I know we're close to Kodiak, so that kind of
7 gave me a little bit of hope. But we weren't in the raft. And
8 I've searched for bodies in boats that have sunk, and doesn't turn
9 out too good. I've found guys in survival rafts or suits.

10 They've had their -- they had their suits on. They were dead.

11 That was in the daytime in like flat, calm seas. We were in
12 30-foot seas, icy conditions. So about 20 minutes of just trying
13 to come to terms with God.

14 I was very fortunate to see the glowing of the survival raft
15 couple hundred yards off, and it kept -- I kept seeing it, and it
16 kept going under. Waves were so big. I always thought that -- I
17 know the hydrostatic releases the raft or whatever, but I've
18 always thought like, if you're in the water before that, the
19 tide's -- you're gone before -- you know, I'm not even going to
20 have a chance. I'm going to be (indiscernible) that thing comes
21 up. And maybe it was blowing faster on the -- maybe it blows
22 faster. I don't know. Thank God it came over to where -- and
23 close enough.

24 And I was like, well, I'm going to die here regardless
25 probably. So I'm going to die trying to get to that fucking raft,

1 and I took a few minutes. Luckily, I made it over to it, because
2 the tide kind of brought it. It started to pass me, and then I
3 kind of surfed a wave over to it. And then I was kind of tired at
4 first when I got to it. I just sit there and hold it for a
5 second. And then I climbed in, and it was full of water, about
6 3, 4 feet of water in it, because it probably inflated under
7 water, hydrostatic.

8 And then I start screaming for John. And after a couple of
9 minutes I hear John scream back, and I just keep screaming for
10 him. And then, finally, like I feel him like grab onto the back
11 of the raft, and then he works his way around, and I help him get
12 in.

13 And at that time, we were just kind of like -- yeah, just
14 really happy that we were in the raft, because it was looking real
15 bleak there for a second or for 20 minutes of just, you know,
16 floating in the dark in 30-foot seas and all that. Still can't
17 believe that happened.

18 So then, once we got into the raft, we're bouncing -- the
19 raft keeps wanting to flip, and I think the water in the raft gave
20 us a little of a ballast, made it more heavy so it didn't want to
21 flip. It was just -- and then we'd jump onto the side that was
22 lifting up to push it back down. And thank God it didn't flip,
23 but it came close a few different times.

24 And then we were bouncing around so much, the light on the
25 top -- because we had light at first, for the first couple

1 minutes, but we're bouncing around in the thing, and the light
2 ended up going out just the first couple of minutes. So then
3 we're in the dark. Then we found the survival bag, which is
4 stupid because they have it tight tied -- it's tied down super
5 tight to the bottom. So it was completely underwater. And it's
6 right by the door. And we're in 30-foot seas. I don't want to --
7 anywhere near that door before I get, you know, I get bounced out
8 of it or something.

9 So I think that's a (indiscernible) spot for it, and they
10 should also have like a quick release like cord, you can like pull
11 it and bring it with you wherever you want. And then, like it
12 didn't have enough -- it had like four flares in it, and they
13 sink. I dropped one of them, and all the debris from the water
14 and all the other crap was -- in some of the bag was just --
15 littered the whole raft. So it's dark, and I just reached down
16 trying to find that other flare and, I mean, where's the -- why
17 don't these fucking float? And so that kept -- time just being
18 mad at that, and mad that we didn't have a radio or anything like
19 that.

20 And then, after a few minutes, me and John just shot a flare
21 out, because we figured maybe the C-130 might have been flying
22 around kind of was my thought. Because it had already been maybe
23 an hour at that point, so I thought maybe you guys were flying
24 around, and if you saw a flare or something you could know at
25 least we're out there.

1 And then we just kept trying to make the raft not flip over.
2 It kept getting icy or -- I'm sure you guys are familiar with how
3 the rafts are. It's like this high of rubber or whatever. So I
4 was kind of like sitting up on the ledge. I kind of wedged myself
5 in between the stanchions and that to stay out of the water. So I
6 just kind of -- I'd be fully out of the water and not get all icy
7 after a few minutes, and then I'd get back into the water, get the
8 ice off of me, warm up a little bit, and then -- and that would
9 get cold, and then I'd get back. I kept doing that. Getting
10 cold. But yeah, did that a lot.

11 And I was getting real cold there for awhile, and me and John
12 are just trying to stay positive. I was just happy at the fact
13 like, okay, if I'm going to die -- because I found -- we found
14 guys in rafts that were dead. And if I'm going to die, like at
15 least they're going to get my body back for my family. And so I
16 was happy about that. Because I knew we were kind of getting
17 hypothermia, because that point it was pretty cold, minus 10 or --
18 the wind was really cold.

19 Then, after about 6 hours or so, John spotted a light by the
20 second survival raft, and we thought it was a mast light at first,
21 so we're trying to -- desperately trying to find another fucking
22 flare at this point. We have just have the flashlight, that
23 stupid cheap flashlight waving around. And thank God they saw it.
24 And then they came over. John was -- his wife was pregnant at the
25 time, so I let him go first, and then just in awe of just -- now I

1 can see everything, the light, the helo. We got lucky. And then
2 I --

3 Q. Thank you, Dean. At the point where you guys got to the life
4 raft, at any point were you able to tell if the life raft was
5 still attached to the vessel at all?

6 A. No. There's no way it could have been. Because I -- when I
7 was -- we were floating, the tide was taking us pretty good. So I
8 mean, I was already 100 yards away when I saw the boat bouncing
9 around. It was 20 minutes until I saw the boat, the raft.

10 Q. And had you seen the -- you say you saw the second raft at
11 some point?

12 A. Yeah. We could see it off in the distance every once in
13 awhile. We were kind of jealous because it had (indiscernible).
14 We were thinking about switching.

15 Q. At any point did you see anyone -- I know you talked about
16 David being in the doorway. At any point you see or hear anybody
17 else outside the vessel?

18 A. No. No, Gary, they didn't make it out. David, David could
19 have. He had a chance, and I was hoping maybe he got scared and
20 jumped out or maybe the water pushed him out, because the water
21 was coming up probably -- maybe it washed him in, and it was -- I
22 don't know. He was in shock. Yeah. I don't think he wanted to
23 leave his dad. And I fish with my dad, so I don't know what I'd
24 do in that situation, but I wish I had physically taken
25 (indiscernible). As far as -- I should have just grabbed him and

1 just took him with me. I was trying so hard to find something
2 throw into his dad (indiscernible).

3 Because I've always thought about that, like what happens --
4 like what am I going to do in that situation? And I've heard
5 other stories of other people that happening, and you hear like
6 what good they did. So I'm trying to -- like one of my other
7 buddies whose boat sunk, and it was amazing, they threw a line
8 back in; that was the only way he got out. So I was like, I'm
9 just trying to find a line. The one that me and John grabbed, it
10 was just too skinny to climb up on it.

11 I don't even think they would have climbed up on it, because
12 the boat, it was so steep at the time, there's nothing to climb up
13 on. The front, the console, it's all like Formica, so it's really
14 slippery. And they were just in shock. There was just no time to
15 be questioning anything or maybe just hesitate a long time. They
16 (indiscernible).

17 And, again, it was -- just look at the weather we had to go
18 out into. It was horrifying. Just think of like we're going to
19 go swimming in this shit? Everybody was freaking out pretty good.
20 And I mean, the only problem was is that they -- when I passed the
21 suit out, they just made the mistake of going the wrong way. They
22 should have went out the door.

23 It should be a new thing these -- like when you're taught put
24 your suit on, lay it out on the ground and get into it. Well,
25 that's great if the boat's like this, but what do you do when it's

1 like this? Get the thing to go outside. That's what should be
2 taught. Get your suit on, go outside. And everybody was -- and
3 Seth was kind of -- and Brock, and they were over kind of by Gary
4 trying to help Gary, or like went to Gary for like what to do, and
5 just wasn't happening.

6 I just knew we had to get out of the boat. I mean, I've seen
7 boats that they'd go on their side like the *Raven*, I think, back
8 in 2006 or whatever, went on its side, and it just stayed there
9 for hours. Sometimes they'll do that. But we just kept -- was
10 like we're free falling, like I don't know where or what the water
11 was getting in.

12 And then, once I was into the raft, me and John are kind of
13 like, what the fuck just happened? And John's like, oh, I wonder
14 if it had something to do with the welding job that they had.
15 They were taking in water on the starboard side during king crab,
16 and they were supposed to have this like hole or whatever patched.
17 Good time to find out about it now that we're in the life raft.
18 Should have known about it like before we left. Because then,
19 when I knew that we had a little bit of starboard list, it would
20 have been a little bit more important to go find out why.

21 I just was more trusting of the guys, because they had been
22 on the boat for a long time, and I just got there. I was just --
23 I wanted to be a good worker and -- you know, because I -- when I
24 first got there, I don't know what it was, I even called my --
25 Mary and my dad. I was like, I don't know if I made the right

1 call here. I just had a funny feeling or something.

2 I was just like -- but then I was like, well, I can't do that
3 to these guys. I can't just quit. Because they flew me up here,
4 and now I get up here, and now I'm going to -- I can't just quit
5 on them. That's going to burn them out of a couple more days of
6 this crab fishery. So I was like, okay, I'll just go with you the
7 first trip, and if I don't like it or whatever, not feeling it,
8 I'll get off in Dutch. And that was kind of my plan.

9 And then, during my watches, I couldn't figure out the sat
10 phone. So I couldn't call her. And so I didn't talk to anybody.
11 I was just so worried about my family, how sad they were going to
12 be.

13 Q. Was there any other communication methods besides the sat
14 phone once you were underway?

15 A. No. They didn't have satellite or -- they didn't have
16 Internet on that boat, or I wasn't made aware of it, which in this
17 day and age, you know, it's nice to get Facebook on your phone.
18 No, yeah, had no other communications.

19 Q. Okay. And once you were in the Coast Guard helo, where were
20 you taken from there?

21 A. We were taken back to Kodiak.

22 Q. And once you were back on land at Kodiak, can you tell us
23 what happened immediately following?

24 A. Yeah. They had an ambulance waiting for us at the landing
25 pad or whatever. And ambulance took us to the Kodiak hospital. I

1 don't know the official name of it, but Providence Kodiak, and
2 went there for our hypothermia. They treated us there for 8 hours
3 maybe.

4 Q. At that point, had you had contact with anybody from the
5 hospital?

6 A. From the --

7 Q. Family or any --

8 A. Yeah. I called -- well, because at the time I figured the
9 EPIRB popped, so I figured that you guys were -- would have called
10 my family by then, and so I was worried about them the whole time
11 -- they're probably so worried and this and that. So I was
12 like -- that was like my number one thing I wanted to do right
13 after I got out of the ambulance. I wanted to call my family, let
14 them know that I was okay. And so that's what I did. I did once
15 I got out of the hospital. Yeah.

16 Q. Had you had any contact with the Coast Guard after you got to
17 the hospital?

18 A. Yeah, later on at -- they came and took a statement from us
19 couple hours later.

20 Q. And where were you when that statement was taken?

21 A. We were at the captain's sister's house, Geri (ph.). Cobban
22 is probably like her maiden name, but --

23 Q. Okay.

24 A. -- I'm not sure what it was.

25 Q. And at any point were you asked to do drug and alcohol

1 testing once you arrived in Kodiak?

2 A. Yeah. We did a test at Geri's house.

3 Q. At Geri's house?

4 A. Yeah.

5 Q. Okay. All right, thank you. I've got a couple of items for
6 clarification quick before I turn it over to NTSB. So I'm going
7 to put through here real quick.

8 CDR CALLAGHAN: Mike, if you can turn to Exhibit 4, page 9.
9 Perfect.

10 BY CDR CALLAGHAN:

11 Q. So in that second row there, that middle picture, does that
12 picture look familiar to you, the one that's -- was highlighted
13 there?

14 A. No.

15 UNIDENTIFIED SPEAKER: He's highlighting it again.

16 MR. GRIBBLE: Yeah. No. I mean, no. It doesn't look
17 familiar. Did they have -- was the EPIRB on the port side? I was
18 never -- never made --

19 BY CDR CALLAGHAN:

20 Q. Aware of that?

21 A. Aware of that.

22 Q. Okay.

23 A. And why didn't that one fire? That would have been good to
24 know.

25 Q. And so right under that picture, does that cabinet look

1 familiar?

2 A. Yeah. That's the one I grabbed all of the suits and stuff
3 out of.

4 Q. Okay. Excellent. Thank you.

5 A. Actually, I think there's one -- maybe it's that one. I
6 thought there was another one maybe over past the deck, another
7 cabinet with the --

8 Q. With some more in it?

9 A. With some more suits. This was a cabinet that David was kind
10 of sitting by. He was on the other side, you know, the side of
11 the cabinet. I was trying to get him to get into the cabinet and
12 get that stuff, that box of flares and stuff, and take that with
13 us. I was just looking for anything to take with us.

14 Usually I make like a backpack or something, and I keep
15 flashlight, you know, just anything that, when the boat sinks,
16 I'll just grab that. But I just got to the boat, so I didn't have
17 time to do all that. All my bags, I didn't even unpack any of my
18 bags and stuff. We were just working constantly the whole time we
19 were there until we got going.

20 Q. All right. Thank you. With that picture of that, that
21 second picture there, the one in the middle, so just to clarify,
22 that is not a piece of equipment that was covered during the
23 safety review?

24 A. No. If it was, I would have brought it, but -- why didn't
25 that one fire? Did they -- that wasn't the one that Gary was

1 showing for the demonstration. It was the one on the starboard
2 side.

3 Q. Okay.

4 A. If I knew that, I would have brought that with me.

5 Q. I'm trying to --

6 A. Everything was all iced up, and just I didn't -- maybe that's
7 why I didn't see it. And we had lines and buoys and everything
8 tied up all along there.

9 Q. I don't have a clear shot of --

10 A. I mean, yeah, I didn't -- there was lines and stuff. I mean,
11 did we see that in the video --

12 Q. So --

13 A. -- the ROV?

14 Q. Yeah.

15 CDR CALLAGHAN: So, Mike, if you'd turn to Exhibit 8, Mike,
16 page 11. Or actually, I'm sorry, Mike, Exhibit 14, page 16 and
17 17. Yeah, that's perfect, Mike, stop.

18 BY CDR CALLAGHAN:

19 Q. So that is port side.

20 A. Well, you can see there's a buoy tied up right there. Maybe
21 that buoy -- because the buoys weren't on the outside. They were
22 on the inside of the rail. You know what I mean?

23 Q. Right.

24 A. So maybe the buoy was covering it up, and I couldn't see it.
25 Because I was up. I was trying to get these buoys free, and there

1 was some line that we had just thrown up here that I wanted to --
2 I was looking for anything to just throw in the water, bring just
3 debris, see what will float. So I knew we were going in, and I'm
4 kind of pissed now that I see this -- and why the fuck didn't that
5 not fire either?

6 Q. And that is -- we have not located that. Just for
7 clarification, that beacon, whatever was in that, we have not --
8 was not located. So --

9 A. Did they -- was it registered?

10 Q. It was a registered EPIRB to the vessel.

11 A. So there's two, two registered? Oh, so maybe this was a old
12 one or --

13 Q. And we -- and that's why I'm just trying to get clarification
14 with you from what you saw and what you knew from your time there
15 on the boat --

16 A. Yeah.

17 Q. -- as to what we've seen so far.

18 A. Yeah, okay. Maybe that's why there's -- buoy is there and it
19 was covered up. Because that would never fly if that was a live
20 EPIRB. You know what I mean?

21 Q. Okay.

22 CDR CALLAGHAN: And then, Mike, on page -- of Exhibit 14,
23 page 11.

24 BY CDR CALLAGHAN:

25 Q. Does that stateroom look familiar?

1 A. Yeah. That's my stateroom.

2 Q. That's the stateroom?

3 A. Yeah. I can tell because the bunk's little higher and
4 stupider than normal bunk. Like a coffin.

5 Q. Okay.

6 CDR CALLAGHAN: And then, Mike, if you could turn to page 18
7 of the Exhibit 14.

8 BY CDR CALLAGHAN:

9 Q. So, as part of the exhibits, we have a couple photos that
10 were provided by you.

11 A. Yeah.

12 Q. And so that -- there's three photos in a series here that
13 we've kind of -- well, I'm just kind of -- see if you can tell us
14 where that photo is located.

15 A. This is going up to the bow. So he's dropping down to be
16 able to go into the forepeak area, because we had the pots on the
17 bow too.

18 Q. Okay. Is there --

19 A. There's a little hole in between the pots on the bow and the
20 stack, slide down to get to the -- to where all the bait and the
21 forepeak is.

22 Q. Okay. Is that pretty standard configuration from your
23 experience?

24 A. Yeah, yeah. I mean, depending on the boat, I mean, yeah.

25 Q. And can you identify who is in --

1 A. That's John.

2 Q. Okay. And so same with the next picture?

3 A. Yeah. I was just taking some pictures just before we left.
4 I think I posted them right as we left Kodiak. You might -- if
5 you zoom up on the pots, too, you can see all the ties and
6 everything. I mean, I walked around and checked everything.
7 Everything looked tight.

8 And Brock and those guys, they're good deckhands. So
9 everything was tight. And they had the chain on every row, which
10 I thought it was kind of a lot, but when the boat was on its side,
11 the pots, they were still in a stack. They didn't move when we
12 were on our side. I think they started flying off when the boat
13 started bouncing around.

14 Q. So from this second picture on page 19, can you -- looking at
15 that picture, can you basically give us a description of where you
16 saw the ice building up while you were up on watch?

17 A. We can't really see it, but just the mast and starboard of
18 the mast, and probably back to about the pot that John's front
19 foot is on. The ice was probably starting to go back to that.

20 Q. Okay. In tarping arrangement -- or, I'm sorry, in the
21 stacking arrangement, did you guys use a tarp at all --

22 A. No.

23 Q. -- for any of these?

24 A. No.

25 Q. No? Okay.

1 A. It turns into a big sail when you're trying to get it off. I
2 think it's dangerous.

3 Q. I know. I just wanted to clarify whether or not one was used
4 or not.

5 CDR CALLAGHAN: Excellent. So I really appreciate that
6 clarification, Dean. It certainly helps us. We're going to --
7 what we will do is we'll try and find a photo of the starboard
8 side so we could see if you can identify to us where you thought
9 the starboard side --

10 MR. GRIBBLE: Okay.

11 CDR CALLAGHAN: Based on the safety meeting.

12 MR. GRIBBLE: Yeah.

13 CDR CALLAGHAN: So I would propose -- I have completed my
14 initial round of questioning.

15 MR. GRIBBLE: Okay.

16 CDR CALLAGHAN: And so what I would propose that we take --
17 five minutes good for you?

18 MR. GRIBBLE: Sure.

19 CDR CALLAGHAN: And then we'll turn it over to the NTSB for
20 their first round of questioning.

21 MR. GRIBBLE: Sure.

22 CDR CALLAGHAN: Okay. So we're going to -- it is now 11:01.
23 We'll take five minutes and reconvene at 11:06.

24 (Off the record at 11:01 a.m.)

25 (On the record at 11:11 a.m.)

1 CDR CALLAGHAN: Back. It is now 11:11. We will reconvene.
2 And at this point, I -- as I said earlier, I've completed my first
3 round of questioning and at this point would like to turn it over
4 to the National Transportation Safety Board, Mr. Bart Barnum, who
5 is the lead investigator for the NTSB.

6 Bart?

7 MR. BARNUM: Thank you very much, Commander Callaghan.
8 Appreciate you inviting us to this hearing. Most importantly,
9 thank you, Mr. Gribble, for allowing us this interview, and really
10 giving us some great information. Secondly, please accept my
11 condolences for the tragic circumstances surrounding the sinking
12 of the *Scandies Rose* and the loss of your fellow fishermen.

13 MR. GRIBBLE: Thank you.

14 MR. BARNUM: My name is Bart Barnum. I am with the National
15 Transportation Safety Board. My colleague, Ms. Carrie Bell, is
16 also on the line today, and we're conducting an independent safety
17 investigation into the sinking of the *Scandies Rose*. I do have
18 some prepared questions, many of which Commander Callaghan has
19 already touched on, so please forgive me if -- I'll try not to
20 repeat them, but please forgive me if some of them sound similar
21 to what he asked. I just -- trying to get some clarification on
22 them.

23 MR. GRIBBLE: Yeah. It's okay.

24 MR. BARNUM: And then I do have a couple follow-ups on some
25 questions that he had asked you.

1 MR. GRIBBLE: Okay.

2 MR. BARNUM: And I do take notes during interviews, and I do
3 consult other notes, so please forgive me if I'm not looking
4 directly at you. It's not that I'm not paying attention.

5 MR. GRIBBLE: That's fine.

6 BY MR. BARNUM:

7 Q. All right. You mentioned the *Patricia Lee* was, in the hull
8 design, a similar sister vessel to the *Scandies Rose*. What
9 fisheries was the *Patricia* -- or is the *Patricia Lee* active in?

10 A. It's a crab boat, crab fishing boat. It fishes brown crab
11 out west, Alaska, and then it fishes opilio in Alaska.

12 Q. Okay. Does it also fish pot cod?

13 A. Not anymore, no.

14 Q. Your time on the vessel, what was -- what position did you
15 occupy?

16 A. On what vessel?

17 Q. The *Patricia Lee*.

18 A. Oh, deckhand.

19 Q. Deckhand. And what were you fishing for while onboard?

20 A. Opilio snow crab.

21 Q. How recent was that?

22 A. I don't know. That was kind of -- 2014, I think it was.

23 Q. You stated previous that the -- one of the major differences
24 between the two vessels, the *Patricia Lee* and the *Scandies Rose*,
25 was the accommodation spaces on the two vessels. I believe one

1 had three decks. *Scandies* had three, and the *Patricia* had two and
2 a half.

3 A. Yeah.

4 Q. Was there any other differences between the two vessels that
5 you can remember?

6 A. No, I mean, that was really the -- that was really it. Just
7 the house was the only thing that was different. I mean,
8 everything else -- I mean, we had pots onboard, so you couldn't
9 see a whole lot of boat, but yeah, for the most part, everything
10 was somewhat the same.

11 Q. Could you describe to me the tank arrangement on the *Scandies*
12 *Rose*?

13 A. I can't. That would be speculation. I wasn't there when
14 they loaded the pots.

15 Q. Okay.

16 A. I don't -- is that the tank arrangement?

17 UNIDENTIFIED SPEAKER: Yeah.

18 BY MR. BARNUM:

19 Q. Were you familiar -- are you familiar with the physical
20 layout of the tanks, where they're situated on the vessel? Not
21 just -- I understand that you may not know the status of --

22 A. Usually --

23 Q. -- tanks.

24 A. I think there's just -- there was three tanks, and they were
25 one in front of the other.

1 Q. Okay. All right. How about the fuel tanks? Do you know
2 where they were arranged?

3 A. On the sides of the boat, and the -- I don't know. All the
4 different field tanks around the boat, they're all kind of all
5 over the place, I think, in the stern, in the side of the boat. I
6 mean, and, again, I'm speculating. I don't know exactly.

7 Q. How about the *Patricia Lee*? Are you familiar with the tank
8 layouts on that vessel?

9 A. It's been a long time, a lot of boats. Not -- you know, all
10 boats are kind of the same. There's couple of fuel tanks on the
11 side, and a couple fuel tanks in the back, and a couple fuel tanks
12 up forward. It just depends on the -- how they want the ride of
13 the boat to be or the trim.

14 Q. Could you describe to me how it is determined the volume of
15 water in a crab tank, fish tank?

16 A. Math?

17 Q. No. I'm sorry. Let me rephrase that question. How do you
18 -- how do they -- how do you know if the vessel -- the tank is
19 full or pressed or if it's slack or if it's empty?

20 A. Well, usually you keep -- when you have a full tank, you
21 usually keep it pressed so you keep water flowing out of it. And
22 then once you have it empty, you usually keep suction on it so
23 you're always sucking on it, keeping it dry.

24 Q. Okay. And what pump is used to take suction?

25 A. When it gets slack, you feel it. It kind of gets -- you

1 know, the boat rolls, and it gets extra kick. It doesn't feel
2 normal.

3 Q. Okay. Is there any other way to tell if you have a slack
4 tank other than feel?

5 A. No. There's tank alarms, but that's only if the water starts
6 coming up in the dry tanks that are supposed to be dry. If
7 it's -- like, say if it's one of the tanks that was full, and it
8 started losing water, you wouldn't know.

9 Q. Okay.

10 A. Until it got down to the tank alarm, which is on the bottom.

11 Q. Okay. So --

12 A. Because mainly those alarms are just for when it's filling.
13 There's nothing to tell when it's losing water.

14 Q. Okay. These tank alarms, you said they're at the bottom of
15 the tank?

16 A. Yeah. Usually they're at the bottom. Sometimes they have a
17 cage around them. It's just like a -- it's like a ball that just
18 goes up, you know, when the water fills, and it's like a ballast
19 ball floats, and then that triggers the alarm.

20 Q. Okay. In your experience, do you ever test these alarms?

21 A. Yeah, all the time.

22 Q. Okay. Did you test the ones on the *Scandies Rose*?

23 A. No. Well, I didn't because I wasn't there when the pots were
24 loaded. So the tanks were unaccessible to me when I got on the
25 boat because the pots were there. We did test the bilge alarm in

1 the engine room, and that fired.

2 Q. Right. Yeah. You had mentioned that the bilge alarm and the
3 bilge float in the engine room. Was that the only one in the
4 engine -- was there just the one in the engine room?

5 A. Far as I know, they were working on one, and that's the one
6 that we tested.

7 Q. Okay. Were you -- did anybody tell you there was more that
8 just might not have been tested?

9 A. In the engine room?

10 Q. Yes, sir.

11 A. No. Usually you only have one, I think, on the boats that
12 I've been on.

13 Q. And where was that one located in the engine room?

14 A. I wasn't -- that wasn't my department.

15 Q. Okay.

16 A. I wasn't down there firing it. It was Art was down there
17 triggering it. He was the engineer.

18 Q. Were you aware of the -- of any voids on the skin of the
19 vessel?

20 A. Yeah. On the *Patricia Lee*, they have voids, two on each
21 side. There's like a lock -- but yeah, sort of same.

22 Q. Okay. Did you go on these voids? Were they checked before
23 departure? Did you see them?

24 A. No. Not on the *Scandies*. I never went downstairs to check
25 any of that. But usually there's doors you like, you know, you

1 shut and watertight doors you shut to the void. So if the water
2 does come in, you can't get all the way back. I don't know if
3 those were shut or open.

4 Q. Okay. That answered my next question. Thank you. You had
5 mentioned you arrived. The boat was busy getting ready to set
6 sail.

7 A. Yeah.

8 Q. Did they do anything differently than you were accustomed to
9 on other vessels?

10 A. Well, we left into a hurricane. No. I mean, everything was
11 pretty much standard. They were just loading pots, loading food,
12 making sure the boat's tight. And yeah, we just shouldn't have
13 left in the storm. That was just a bad call.

14 Q. Okay. That leads me into the next question I had for you is
15 you had mentioned before to Commander Callaghan that you had --
16 and the crew had voiced concerns about the coming weather. Did
17 you have a conversation with Gary in particular about the weather
18 or was it a different member of the crew?

19 A. We were all kind of just talking about it. Like, oh, great,
20 it's going to be -- this is going to be fun, you know, and just
21 like, you know, everybody was kind of apprehensive to go into it.
22 I mean, but -- and then again, that boat should have been a tank
23 and should have been able to withstand that weather. I've been in
24 worse weather, and I mean, it was pretty bad, but it should have
25 been able to make it.

1 Q. You had mentioned earlier that you wish you would have
2 waited. Was there -- did anybody suggest waiting or was that even
3 -- was that -- did anybody suggest that?

4 A. I think I might have even said, like because I had the Windy
5 app, and like I think I was just like, they can't wait like 12
6 hours or a little bit? But that wasn't really my call, because I
7 just got to the boat. I was just kind of expressing my concern
8 and like hoping maybe they'd jump on that maybe. Because the cod
9 fishery started January 1st, and that's what we were going to
10 fish. And this year was supposed to be the last IFQ -- or, I'm
11 sorry, excuse me, the last derby season.

12 And so it was really important for us to get there. And we
13 were already going to be a day or two late, so it was really
14 important for us to get to the grounds. I mean, that's -- Gary
15 expressed that concern a lot and said that that was coming from
16 down south, that they wanted us to get out of town. I mean,
17 that's why they wanted me to fly up the 28th when they first
18 called me.

19 Q. Okay. You said it was coming from down south. What do you
20 mean by that?

21 A. The office down south, the owners.

22 Q. Owners of the *Scandies Rose*?

23 A. Yes.

24 Q. Okay. Let me see. You said that you all have the Windy app
25 on your phone. I understand that's a weather application.

1 A. Yes.

2 Q. Does Gary also have access to that app?

3 A. Yeah, because we were all talking about it. I don't know if
4 you're familiar with it, but the darker that it shows it's the
5 worse that it's going to be, and it was like maroon or dark
6 purple.

7 Q. Okay. Is that -- I am somewhat familiar with it. I don't
8 use it too much, but since this accident, I've looked into it
9 some. My understanding is there is -- you can access different
10 layers on it. You can set the app up to your personal use, how
11 you like it. Would you do that or just use the standard model?
12 How would you have yours set up?

13 A. Standard model.

14 Q. Okay. Would your app give you weather alerts?

15 A. I didn't have it set up like that. I just had it so I can
16 look at it.

17 Q. Did Captain Cobban, Gary, did he mention if there was any
18 other weather sources that he referenced other than the Windy?

19 A. No. He didn't reference anything else. Just, I don't know
20 if he got the NOAA report or anything like that. He just
21 referenced the Windy app. Because we all talked -- we were all
22 kind of joking about how shitty it was going to be.

23 Q. Did he ever -- did Gary ever talk about any layers that he
24 had set up differently than yours on his Windy app?

25 A. No. We didn't really go into any of that.

1 Q. And how would he reference the weather on the Windy app?
2 Was it on a cell phone or did he have it set up on the bridge?

3 A. I don't know. I didn't physically see him check it out. I'm
4 sure it was probably on his cell phone or could have been on the
5 computer at the boat. Probably on the cell phone I imagine.
6 Again, that's speculating.

7 Q. Okay. How about underway? How are you referencing weather
8 when you're away from the dock? I remember you said that you
9 didn't have Internet access.

10 A. I didn't have Internet access. I'm not sure if the boat had
11 it, and I just didn't have the password to it just because I was
12 -- I was just kind of fresh, new to the boat. So I didn't have
13 all the -- some boats have satellite communications. And when I
14 got on watch, I couldn't figure out the cell phone. And it didn't
15 show -- on my cell phone, it didn't show that I had a signal, you
16 know, like the boat was giving a signal. So I don't think that
17 they have Internet maybe. I really don't know. I don't know.
18 But I know I wasn't able to use it.

19 Q. Okay. Understood. Thank you.

20 MR. BARNUM: While we're on the topic, Lieutenant Commander
21 Comerford, I don't know if you could bring up the Exhibit 26.

22 BY MR. BARNUM:

23 Q. Mr. Gribble, this is just a snapshot that we have of the
24 Windy app, Windy.com. Is this what you were referencing?

25 A. Yeah.

1 Q. Same thing? Okay.

2 A. Yeah. The weather looks actually pretty good there.

3 Q. Okay. So when you look at this screen, what exactly are you
4 looking at? You said colors?

5 A. Yeah, the different variations of the color. The darker the
6 color, the higher the pressure is -- or I mean the lower the
7 pressure is, so the worse the weather is going to be.

8 Q. Okay. Thank you. Is there anything else in particular that
9 you're referencing here or you're --

10 A. The wind and just the -- what way the wind is traveling, and
11 so, you know, what way the wind is going, and you can kind of see
12 what your ride is going to be like. You going to be in the trough
13 or what.

14 Q. Okay.

15 MR. BARNUM: Could you please bring up Exhibit 27?

16 BY MR. BARNUM:

17 Q. This was just the -- a different screen shot that we have
18 from the National Weather Service.

19 A. Okay.

20 Q. Are you familiar with this forecast or this screen? Have you
21 looked at this before?

22 A. No. I haven't seen this one.

23 Q. Okay.

24 MR. BARNUM: All set with those things. Thanks, Commander
25 Comerford.

1 All right, sorry. I was just going through these questions
2 here.

3 BY MR. BARNUM:

4 Q. All right. So I believe you mentioned while you were
5 underway navigating you didn't have access to your phone, Internet
6 for the Windy app. While you were on your wheel watch, was there
7 -- were you receiving any forecasts or how were you gauging the
8 weather just outside?

9 A. It was from eyesight, and we have a barometer. It was low,
10 and it was going to get shittier.

11 Q. All right. When you would be relieved by Captain Cobban,
12 would he be -- did you see him referencing any type of weather,
13 weather report?

14 A. Talk -- me and Gary talked. I told him the weather had come
15 up quite a bit during my watch, and it kind of was changing
16 direction. At first it was kind of like square right on our bow,
17 and during my watch, it kind of changed to like a quarterly. So
18 mainly the spray that we were getting was going onto the starboard
19 side, and we were bucking into it pretty good.

20 I even asked Gary if we should slow down to -- so we wouldn't
21 be bucking into it so hard to not make as much ice, and he didn't
22 seem to think that -- he said we have to -- we're already late.
23 We need to go. So and then I also asked him if we wanted to
24 change course, because the course was kind of -- it wasn't a good
25 sleeping course, and it was shitty. And I just -- I didn't want

1 him to make ice because I'm the one that has to go beat it off.
2 And yeah, he didn't really seem too concerned about it and, you
3 know.

4 Q. Okay. But to clarify, you would -- you didn't see him
5 looking at any weather reports or faxes or --

6 A. No, not after we departed.

7 Q. Okay. All right. Thank you. Are you familiar with these
8 vessels' stability booklets?

9 A. Somewhat.

10 Q. What can you tell me about those?

11 A. What do you mean? Just --

12 Q. The stability booklet for these vessels, do you know what's
13 contained in them?

14 A. Yeah, just like how many pots you can have onboard during
15 different conditions, like icing conditions versus non-icing
16 conditions. That and just how to load the boat, and what tanks
17 you can have down if you have X amount of fuel or X amount of
18 tanks down -- crab onboard, that the stability kind of changes
19 with what you're doing and how much stuff you got onboard, whether
20 it be fuel, water, bait or whatever it is to get you the
21 stability.

22 Q. Okay. Have you received any formal training on stability or
23 the stability booklet?

24 A. (No audible response.)

25 Q. No? You sound somewhat familiar with it. Did you happen to

1 see the *Scandies Rose*, their stability booklet?

2 A. I did not, no, I didn't. I didn't really have time. Like I
3 said, it was kind of a -- it was a real whirlwind when I got
4 there. I mean, I got there on a day's notice, and we worked the
5 entire time I was in town. Barely any sleep once we got out. I
6 was just beat. I just wanted to go to bed. It wasn't
7 (indiscernible).

8 Q. Okay. Did the topic ever come up?

9 A. It did. When Gary relieved me, me and him were just kind of
10 shooting the shit. I told him that I thought we had a list
11 starting, and I just asked him if he could feel it as well, as it
12 wasn't much at the time, maybe a couple degree or two, couple
13 degrees. And I just asked him if he could feel it, and he said,
14 yeah, he can. And then he called down to Art, probably to tell
15 him that, to transfer fuel.

16 And I was on the other side of the console, and just talking
17 to him about how long he's been fishing. And then I asked him how
18 many pots we had onboard just because I wasn't there to load them.
19 And he said 198. So I was like okay. And then I just, you know,
20 I shot the shit for a minute and just talked about -- I asked him
21 if he wanted me to get the guys up to go break the ice off on the
22 bow that had started -- kind of started building up.

23 And I just mainly -- I don't know. I was just trying to be
24 the go-getter and go get everybody up and -- but he was just,
25 like, no, let's just let them sleep. We'll get it off when we get

1 to False Pass and in safer waters. So when I felt the boat go on
2 its side, that was my first instinct was that he was going to turn
3 around and run with the sea to make it easier and safer for us to
4 go out and beat the ice.

5 Q. Okay. But did he ever reference his stability booklet? Did
6 he say to you --

7 A. No.

8 Q. -- we have one?

9 A. Well, actually -- well, he -- because when I asked him how
10 many pots, he said, we have 198. And then I asked him, how many
11 can we have? And he said we can have 210. So I was like -- so at
12 that time, I was like, okay, well, we're under weight.

13 Q. Okay. One last question on the stability booklet. Have you
14 reviewed other vessels' stability booklets, possibly the *Patricia*
15 *Lee*?

16 A. Yeah.

17 Q. Yeah. Okay.

18 A. I mean, and I would have if -- you know, having more time, I
19 would have had time to do that. I just didn't have time.

20 Q. All right. We were speaking of the EPIRB earlier quite a
21 bit. Obviously, interested in that. You had mentioned that you
22 had tested -- or Gary had tested it prior to the safety briefing.

23 A. He didn't mean to test it, I don't think. He pulled the
24 EPIRB out of the starboard -- the EPIRB that we had on the
25 starboard side because he was going through the drills showing

1 everybody where are the EPIRBs at. And then he grabbed it, and he
2 was just -- he was showing Seth, because he was kind of new, the
3 EPIRB. And when he was done, he thought he flipped it upright, so
4 he thought he triggered it. And then he started kind of like
5 hitting buttons or like, I don't know if he accidentally maybe
6 turned it off, and he just didn't know because they're kind of
7 confusing a little bit, some of them.

8 Q. Are you aware, is there a particular test procedure to test
9 these? Are you aware of any?

10 A. Yeah. I think there's a test button on the EPIRB itself.
11 You can hit it, and I think the Coast Guard calls back, I think.
12 I don't know. I'm pretty sure there is.

13 Q. Had you been onboard for a Coast Guard inspection for another
14 vessel where they had tested their EPIRB?

15 A. Yeah, I'm sure I have. Yeah, I'm sure I have at some point
16 in my 20 years of fishing.

17 Q. All right. I just, I'm going to ask you a couple of
18 questions on one of the pictures from Exhibit 14, please, page 10.
19 All right, Mr. Gribble, this was a picture taken in 2019, I
20 believe, in the summer. Can you identify this particular area of
21 the vessel?

22 A. Yeah. That's right behind the wheelhouse, and I do see they
23 do have a track phone system. So it looks like they do have a
24 satellite. Maybe I wasn't given the code or whatever.

25 Q. Okay.

1 A. That makes me mad too.

2 Q. Okay. This particular side in this picture, could you show
3 me where the EPIRB would have been mounted or was mounted?

4 A. I think it was right, right on the other side of that buoy
5 that says number -- the number one buoy. It's upside down. Or
6 maybe it's I. It looked like one the outside of the rail there.

7 Q. Okay. And when Captain Cobban tested -- or showed it to Seth
8 and the group of you before the voyage, did you see him take it
9 out of the container or out of the shell that it was housed in?

10 A. We were just in the wheelhouse talk -- doing our talking and
11 that because it was, you know, it was cold outside. So he took it
12 out of the cradle and just brought it inside to show everybody,
13 and to show Seth, and then he accidentally thought he triggered
14 it.

15 Q. Okay. So you said the safety meeting was inside. He brought
16 it inside. He took it out of the cradle. Was there also a shroud
17 over it or a protective cover on it, did you notice?

18 A. Yeah. Yeah, there was.

19 Q. I don't know if you remember earlier the picture that was
20 shown. Commander Callaghan can probably bring it back up. But
21 did it look similar to that? I think it was --

22 MR. BARNUM: Thank you, Mike.

23 BY MR. BARNUM:

24 Q. Did it look similar to this bracket here?

25 A. Yeah. It looks like that bracket, but with the cover.

1 Q. Sure. Okay. Was there any talk from the captain or crew
2 about what would be done if there was an emergency with the EPIRB?

3 A. If there was an emergency, what we would do in case? Yeah,
4 we'd grab the EPIRB. That's my -- always my first thing. If
5 there's something happening with the boat, I'm going to go grab
6 that EPIRB soon as I can. I just -- and I was talking to John,
7 trying to figure out how we could get down to that side, and then
8 now I see that there's one on the port side. That really pisses
9 me off.

10 And then the fact that they didn't fire. I mean, I get it.
11 I'm not mad at Gary. Things happen, and he made a -- maybe he
12 made a mistake, and it happens. But I wish I would have known
13 there was one on the port side, and there -- and that -- there
14 should be one on each side just in case of that scenario, you can
15 get either one.

16 Q. Okay. Was there any talk from Gary about grabbing the EPIRB
17 and taking it with him?

18 A. Yeah. He said follow him because he's going to have the
19 EPIRB.

20 Q. Okay. To clarify, did you see him with the EPIRB the night
21 the vessel sank?

22 A. No. No. He didn't -- the -- I never heard the starboard
23 door open or close. Because they could have -- if they would have
24 just got their suits on right away, and they could have went out
25 the -- I mean, I've thought about this millions of times. I go

1 over in my head probably every day, a few times a day, like how,
2 what, and what I could have did differently or what they could
3 have did differently. And it's just, you know, they just
4 didn't -- I don't think that they wanted to go out into the
5 weather, and that's understandable, because it was pretty scary.
6 It's dark, nighttime, 30-foot seas, and it's icing. It's not fun.

7 Q. I want to ask you briefly on the survival suits. I think
8 Commander Callaghan covered most of this, but you had mentioned
9 that Mr. Lawler was able to get a survival suit, and you were
10 pulling them out for your crew mates, and that everyone had one,
11 correct?

12 A. Yes.

13 Q. Does that include --

14 A. I took the last one that was in the cabinet that I was
15 grabbing them from. I passed one to everybody, and I took the
16 last one.

17 Q. Okay. So presumably there were seven. All seven crewmembers
18 were on the bridge?

19 A. Well, John was already outside getting his suit on at this
20 time, which thank God he was. And then, yeah, and then the other
21 guys were. So six of us up there. So yeah, it was kind of tight
22 space, so everybody's kind of looking to where they can get their
23 suit on. Last time I saw those guys, they were down by the chart
24 table standing up putting their suits on, standing position.

25 Q. I'll request to bring up another exhibit here, and you just

1 show me exactly where everyone was.

2 MR. BARNUM: Commander Comerford, can you bring up the
3 Exhibit 14 again, page -- yes, 9? 14. That's fine, page 14.

4 MR. GRIBBLE: David was on the port side right over there by
5 the door, behind that chair, so that was preventing him from
6 sliding down to the starboard side. And then after I jumped into
7 the bench, Brock slid down to this chair. So all those guys were
8 down by the chart table trying to get their suits on and their --
9 trying to -- I don't know, get to -- help Gary and see what Gary
10 wanted them to do, and they were kind of looking to him for
11 guidance and --

12 BY MR. BARNUM:

13 Q. Okay. So you enter the bridge through this open door over on
14 the left of the photo here, correct?

15 A. What's that?

16 Q. You enter the bridge on this open door here to the left of
17 the photo?

18 A. Yes.

19 Q. Is that correct?

20 A. Yeah.

21 Q. Okay. And then where were the survival suits located on the
22 bridge?

23 A. I believe right to the left of that door, right on the floor
24 there, there's a little cabinet.

25 Q. Okay. And you mentioned while you were putting your suit on,

1 you had to lean up against a chair or you were breaking the chair
2 handrail. What did you say?

3 A. I jumped into the bench on the port side, and I used the
4 armrest as a foothold.

5 Q. Okay. Understood. Thank you.

6 MR. BARNUM: Can we go to page 13 of the same exhibit?

7 BY MR. BARNUM:

8 Q. All right, Dean, could you describe where is this photo
9 taken? This was on the *Scandies*. Where?

10 A. This the captain's chair.

11 Q. Okay. Captain's chair. So this is where presumably you
12 would stand your wheel watch?

13 A. Yeah, around there, um-hum.

14 Q. Okay. Could you describe some of the equipment that I'm
15 looking at here? What are you -- VHF radio, the track, the tag
16 phone. Could you show me?

17 A. Tag phone, your VHS, your --

18 Q. Unfortunately, you don't have a pointer, so I don't know
19 which one you're referring to. But which one is the tag phone?

20 A. The tag phone is -- you can't see the tag phone. It's out of
21 -- it's right to the -- I believe it was right to the left of the
22 chair, like lower. So probably right under that gray thing right
23 on the far left.

24 Q. Okay.

25 A. I think it was right -- it was placed right there, I think, I

1 believe.

2 Q. And did you use that tag phone while you were on --

3 A. No. I wanted to. I didn't have the code for it.

4 Q. Okay. All right. What else is in this photo? Where is the
5 VHF radio?

6 A. That's right up at about 11 o'clock.

7 Q. Okay.

8 A. And the -- about 1 o'clock, maybe 2, yeah.

9 Q. There's no pots onboard in this photo. Let's try to imagine
10 that there was the same number of pots that were onboard New
11 Year's Eve. What could you see out this -- these two forward
12 windows here in this photo?

13 A. The pots were right up to the bottom of the windows.

14 Q. Okay.

15 A. So you could see a lot of pots.

16 Q. All right.

17 A. And in -- up to the bow. Once all the windows started icing
18 over, we only had the -- those two windows right there are the
19 only ones that have the heat film on them, so those were the only
20 two windows you could really see out of.

21 Q. Where would your observation of the icing be from? Just your
22 seat here or was there somewhere else where you could observe the
23 accumulation of ice on the vessel?

24 A. No, just right here. Because it was mainly on the starboard
25 side, because we were -- the way the waves were hitting us, it was

1 just the spray, all the spray was just coming to the starboard
2 side and not really anything else.

3 Q. Okay. Were you aware of anybody going out on deck to check
4 the accumulation of ice?

5 A. No.

6 Q. Was there talk with anybody, the captain or anybody, about
7 doing that?

8 A. No. Well, like I said, when Gary relieved me, and I talked
9 to him, I asked him if he wanted us to -- wanted me to get the
10 guys up and go smack the ice that had built up off. I mean, it
11 didn't look like a lot at the time, but I mean, it was enough to
12 say if he wanted me to go smack it off. So I mean, there was a
13 little bit. And then it just, it -- the ice began to grow a lot
14 more on my watch. My first watch, there wasn't really any ice.
15 And then, by my second watch, there was a little bit. And then,
16 by the end it just kept going, you know, couple inches.

17 Q. A couple more questions on this photo here before we switch
18 it up. Can you see the general alarm bell on this photo?

19 A. No.

20 Q. And then you had mentioned that Gary had pulled the vessel
21 into neutral or when -- right before you abandoned. Where would
22 he have done that from? Where? Which lever here?

23 A. Right there almost in the middle. You see -- yeah, right
24 there.

25 MR. BARNUM: Could we see exhibit -- same exhibit, page 16,

1 please.

2 UNIDENTIFIED SPEAKER: I didn't mean to cut you off, but as
3 an administrative matter, Mr. Comerford is highlighting on the
4 exhibit that you're looking at, can you just acknowledge him when
5 he highlights something that you've described as here, say, yes,
6 that's exactly --

7 MR. GRIBBLE: Sure.

8 UNIDENTIFIED SPEAKER: Cool. Thank you.

9 BY MR. BARNUM:

10 Q. All right, Mr. Gribble, this is a photo of one of the ROV
11 surveys of the vessel. Could you describe to me when you left the
12 wheelhouse where you and Mr. Lawler went after you exited? Just
13 showing me on this photo.

14 A. We were just kind -- I was kind of standing on the wall there
15 by the door kind of.

16 Q. Did you go down the ladder well?

17 A. No. John -- no. I was up top at first because the door was
18 open, and I was just, I was kind of leaned up against the wall or
19 standing on the wall kind of, and David was there sitting there.
20 And John came up, I zipped him up, and then he went back down the
21 stairs because the door -- towards the bottom of the picture,
22 that's where the life ring would have been. But we were just
23 mainly standing there until the water started coming up around the
24 back of the house, and then we got onto the side of the house,
25 walked on the side of the house.

1 MR. BARNUM: Could you please go to page 9? That might be a
2 little clearer. Sorry. That's this page.

3 BY MR. BARNUM:

4 Q. Okay. So the life ring was down the ladder well? It wasn't
5 this life ring over on the right of the photo, correct?

6 A. No, no, no. It was on -- it was -- we couldn't -- there was
7 no way we could get -- I mean, I wanted so bad to try to get to
8 that side, because that's where I thought I knew the EPIRB was.
9 So I'm talking to John. John's talking to -- don't do it because
10 it would -- you would have fell 20 feet or 15 feet or whatever it
11 was. And we just -- there was no line to suspend. There was just
12 -- and it was just a -- everything went wrong that could have went
13 wrong. The ice was -- there wasn't -- there should have been a
14 hammer back there to break the ice off or --

15 Q. Mr. Gribble, do you see this open hatch on this stack here
16 in --

17 A. Yeah.

18 Q. -- the middle of this photo?

19 A. Yeah.

20 Q. Can you explain to me or do you know where that space leads
21 or --

22 A. I don't know for sure. Probably down to the engine room
23 eventually.

24 Q. Okay. I notice that the hatch is off in this photo, and it's
25 also off on the ROV photo. Do you know why that hatch is removed?

1 A. Actually, I think they stored lines in there. That's where
2 the stack comes up. There is a space on the aft of it where
3 there's a spot that they put their line. That's right.

4 Q. Okay. All right.

5 MR. BARNUM: I'm all set with those exhibits for now. Thank
6 you.

7 BY MR. BARNUM:

8 Q. So a couple of questions on the voyage route, Dean.

9 A. Yeah.

10 Q. You departed Kodiak, and you mentioned False Pass, trying to
11 get to False Pass. Were you going to transit through False Pass
12 or was he just particularly going -- were you going there to seek
13 shelter?

14 A. No. We were going to transit through False Pass on the
15 Bering Sea to get to the cod grounds.

16 Q. Okay. Thank you for that clarification. I know I'm jumping
17 around here a little bit, but I'm trying to work through here kind
18 of watch rotations. You had mentioned that there obviously was a
19 standard watch. Was that written down anywhere for guidance or
20 was it just verbally?

21 A. Yeah.

22 Q. It was?

23 A. It was written down.

24 Q. So is there accompanying some standing orders or direction of
25 what Gary expected?

1 A. Yeah. I think they did have a thing taped down of standing
2 orders. Just like don't fall asleep, and don't hit other boats.
3 Just standard kind of -- and then the list of the names.

4 Q. Were you given any direction on when to call the captain?

5 A. Yeah, because there was the times written down.

6 Q. Okay. Other than to wake him up for watch, was there any --

7 A. At 7, and I just took it a little longer and got him up at
8 7:15.

9 Q. Was there any other direction from him or when to call him
10 not just to wake him up, but if there was an emergency or --

11 A. Oh, yeah, yeah. If there is anything out of the ordinary to
12 get him up. That's usually the standard on any boat. So there's
13 any questions, just wake somebody else up. Just --

14 Q. Okay.

15 A. Better safe than sorry.

16 Q. Was that just known or was that actually written down for
17 your reference?

18 A. I'm sure it was written down.

19 Q. Okay.

20 A. I think he even said that too. I mean, most captains do.

21 Q. All right. So whenever Gary was relieving you or when maybe
22 you were on the bridge, did you ever hear him talking on the tag
23 phone?

24 A. Yeah, a little bit, but not -- I wasn't like eavesdropping on
25 him, so I didn't really know -- talking to. I assume, actually,

1 he was talking to Dan one of the times. But yeah, I don't know.
2 He was talking to his girlfriend, I think, maybe. I don't know.
3 I wasn't eavesdropping on him.

4 Q. Assume you're referring to Dan Mattsen?

5 A. Yeah. Actually, and I think he was talking to the *Puget*
6 *Souder*, Oystein, Oystein on the *Puget Souder*, I think he was
7 talking to too.

8 Q. When did you hear him talking to Oystein?

9 A. I didn't hear him talking.

10 Q. Oh.

11 A. I just, I found that out after the fact, because I think the
12 *Puget Souder* helped the Coast Guard call a May Day or helped us
13 call a May Day.

14 Q. Okay. All right. So you mentioned that you had seen a lot
15 worse weather than the weather that night on the *Scandies Rose*.
16 Could you describe that weather?

17 A. It was horrible.

18 Q. What was the worst weather you've seen? Do you recall the --

19 A. Not much worse than that. I mean, doesn't really get much
20 worse. It's icing conditions. It's gusting up to 50, 60 miles an
21 hour, and we're in 30-foot seas, and we're bucking into it. It
22 was pretty bad. I mean, I'm used to it, I guess, from being
23 fishing for as long as I have, but yeah, it was shitty. Wasn't
24 fun. I don't know if you would be fishing in that weather. We
25 probably would have shut down like if we were fishing at the time.

1 Q. So was there -- you discussed about seeking shelter to chop
2 ice. Was there ever talk of soaking the pots?

3 A. What do you mean?

4 Q. Instead of going somewhere to chop the ice, was there talk of
5 seeking shelter and setting your pots, soaking the pots, get the
6 ice off?

7 A. No, no. They weren't like complete ice cubes at this point.
8 It was just the web probably had a inch of -- it was just starting
9 to get encased, but not like thick. I don't know if that makes
10 sense.

11 Q. Okay. Have you seen worse icing -- iced pots on other
12 vessels?

13 A. I have, yeah.

14 Q. Okay. And what were the weather conditions then? Would you
15 consider them worse or --

16 A. Probably the same. The direction of the wind or waves
17 probably was different.

18 Q. Okay.

19 A. I mean --

20 Q. What vessel was that on?

21 A. *Patricia Lee* that we iced up pretty bad one year, and god, I
22 don't know, every other boat I've been on.

23 Q. All right. Just a couple follow-ups left. I know we've been
24 going here for a little while. You said you believe they took on
25 6,000 gallons of fuel before you departed Kodiak?

1 A. Yeah. I thought that's what it was. We had -- we slid over
2 to the fuel dock to take some water because we were low on water.
3 And then Gary said we're going to take a little bit of fuel too.
4 I think at first we were going to take 3,000, and then Art wanted
5 to take another 3,000. So we took -- I thought it was around
6 6,000.

7 Q. Okay. That reminded me. You said that you saw Art on the
8 night of the accident after you had been relieved from watch when
9 you went down?

10 A. Yeah. When I went downstairs, he was coming out of the
11 engine room, and we talked for a minute.

12 Q. Okay. What did you talk about?

13 A. Just how shitty the ride was, what movies we were watching,
14 just kind of shooting shit.

15 Q. He didn't tell you what he was doing down there?

16 A. No. I assumed he was just transferring fuel like -- because
17 Gary called down and talked to him. So I'm sure that he was down
18 there doing that because it was only 10 minutes after that, that I
19 walked down there, and he was coming out.

20 Q. You didn't talk about the list at all?

21 A. To Art?

22 Q. Yes.

23 A. I might have mentioned like, oh, you feel -- because me and
24 Gary already -- at that point, me and Gary already concluded that
25 we had a list. So I didn't really mention it to him, no.

1 Q. All right. Six, seven pallets of bait you said you loaded in
2 Kodiak.

3 A. Probably right around there.

4 Q. Do you know how much a pallet weights? I'm curious.

5 A. I think they're 2,000 pounds a pallet, I think, maybe.

6 Q. Okay. Thank you. You had also mentioned that the vessel was
7 waiting for you to arrive before they left; is that accurate?

8 A. Yeah. Somebody had quit, and that's how I got the job. They
9 called me or I -- John called me the 28th to let me know somebody
10 had quit and that I should call Gary to get on it because he
11 wanted -- John wanted me to go with them. So I called Gary, and
12 Gary said, yeah, that would be great. And then he had Julia call
13 me or I called Julia, and she started making the arrangements for
14 me to get up there.

15 But yeah, they wanted me to fly that day, and I was like, I
16 just -- I can't fly today. I'll fly tomorrow. I was like, I was
17 trying to do the best I could for them to help them out, because I
18 knew that they were under a lot of pressure to get out of town.
19 So I -- it's hard to leave on a day's notice, but I did. My girl
20 wasn't too happy about it. You know what I'm saying?

21 MR. BARNUM: I can imagine. All right. Thank you,
22 Mr. Gribble. That's all the questions I have for right now this
23 round. I'm going to pass it off to Ms. Carrie Bell from NTSB. I
24 believe she has a few questions for you as well. Thank you.

25 BY MS. BELL:

1 Q. Can you hear me?

2 A. Yeah.

3 Q. Okay. Thank you. Again, I'd like to echo Mr. Barnum's
4 appreciation for you participating today, so thank you for doing
5 that. It helps us understand more about what happened, and how we
6 might be able to prevent it again in the future. So thank you for
7 that.

8 A. That's what I'm here for.

9 Q. And I know we've been going for awhile, so I'll try to keep
10 it fairly short. So I was not involved in your previous
11 interview, but there are a couple of things I just wanted to
12 clarify from the initial interview that you had given to the Coast
13 Guard. I recall that there was a mention of delaying the cod
14 fishing season due to weather. Actually, that might have been
15 from another interview, but I wondered if you had recalled hearing
16 anything about that or any discussions you might have had
17 regarding any delay such as that?

18 A. No. The only delay that I knew of is the delay of us getting
19 there on time. We had a 3-, 4-day travel from Kodiak, and we left
20 the 30th, on my birthday, and we weren't supposed to get there
21 till like the 3rd, I thought, 2nd or 3rd.

22 Q. Okay. And do you know why there was already a delay to start
23 with? You mentioned that earlier in your interview.

24 A. Somebody had quit.

25 Q. And that was what the delay was, for them to get you up

1 there?

2 A. Exactly, yeah.

3 Q. Understood.

4 A. Had some little leftover things to get done.

5 Q. Okay. And I want to ask you a little bit about your work
6 rest. You had put together a form with the work rest history, and
7 I just had a few questions about that.

8 MS. BELL: So, Commander Comerford, would you mind bringing
9 up Exhibit 020 for me?

10 BY MS. BELL:

11 Q. I just want -- if you would be able to explain a little bit
12 more about the last 2 days, if you could walk us through that. I
13 know that you put in here L for landed and P for when you were
14 traveling, I'm assuming. So if you don't mind just kind of
15 walking us through like the 2 days prior up until the accident.

16 A. Okay. I landed. Okay. Then we worked, so -- yeah, till --
17 yeah, we worked till 2 in the morning, 3 in the morning, and then
18 we rested for a little bit. And then I slept till about 8, 9
19 o'clock. And then we started doing work till -- what's the one?

20 Q. I'm just trying to --

21 A. I'm sorry. I was -- I'm just trying to see what the one I
22 put. Oh, left town, yeah. All right. Yeah, we left town there
23 at about, yeah, about 8:30. Then I went to sleep.

24 You mind if I use the restroom real quick? Sorry to --

25 MS. BELL: No, that's fine. We've been going for awhile.

1 MR. GRIBBLE: I'll be back.

2 (Pause.)

3 UNIDENTIFIED SPEAKER: Ms. Bell from NTSB.

4 MS. BELL: Thank you.

5 BY MS. BELL:

6 Q. So just back to this exhibit for a minute. I just wanted to
7 ask, I don't know if you can recall what the number one is about
8 2000 on the day prior to the accident. If you can't, that's okay.
9 I was just curious because it was a little confusing for me.

10 A. Yeah, no, the number one it says at the bottom left town.
11 You just can't tell my chicken scratch.

12 Q. Oh, okay. So you left town --

13 A. 8:30 on the 30th.

14 Q. And you -- so you were in Anchorage, and then you left town
15 and went to Kodiak?

16 A. Yeah. I landed in Kodiak at like 3 o'clock, I guess it was.
17 Thought it was closer to 4, but --

18 Q. Three o'clock?

19 A. Yeah.

20 Q. On which day?

21 A. On the 29th.

22 Q. Okay. So --

23 A. Kind of --

24 Q. So just so I understand, you flew from Washington on 2 days
25 prior, which was the 29th, 28th?

1 A. 29th. They called me on the 28th. I flew on the 29th.

2 Q. Okay. And then the next day, at 2000, you flew to Kodiak?

3 A. Yes.

4 Q. Okay. And then you guys departed on -- at what time?

5 A. At 2030 on the 30th.

6 Q. Okay. So is that right past the -- are we talking about

7 at --

8 A. The one.

9 Q. The one.

10 A. I put on the additional comments, I put one. That means I

11 left town, because there wasn't a letter for it.

12 Q. Okay. All right. And just real quick. I see on the day of

13 the incident, you slept an hour, then you were awake, then you

14 slept. I mean, is that a typical schedule for you?

15 A. Yeah, when we're just running and not working, not hauling

16 gear, or if we're just traveling -- just everybody just takes a

17 watch and then usually goes to -- goes back to watch a movie or

18 sleep and wait for your next watch.

19 Q. Okay. So given all the discussion, I know we've talked a

20 little bit about fatigue earlier, and you've mentioned it in your

21 previous interview. Do you feel that the end of the derby-style

22 fishing is going to address some of these fatigue issues or plays

23 a part in any way?

24 A. Say that again.

25 Q. So the derby-style fishing, would you say that, that plays a

1 part in the fatigue issues, and that once they -- if they stop
2 doing that, that that's not going to play into fatigue as much?

3 A. No, because once they made the -- or once they got rid of the
4 derby-style, and that was the thing was to make it safer, right?
5 Well, they didn't make any rules to make it safer. We still fish
6 the same amount of hours. We still fish 20 hours a day, still go
7 out in storms. And we left in a hurricane.

8 So when they made that switch, they really ruined the
9 industry, and in the guise of making it safer, which isn't really
10 safer. There's less boats out there now looking for people. Back
11 in the day, you had 250 boats. So if a boat sank, you had a lot
12 more boats around to look for you. Now there's only 50 boats. So
13 you're far and few.

14 Q. And this is because of the changes to the fishing industry?

15 A. Yeah. Direct. Yeah, directly.

16 Q. So that was another question I had for you. Because I read
17 that in your interview you went -- you talked about the
18 rationalization --

19 A. Um-hum.

20 Q. -- and I wanted you to expand on that a little bit just so we
21 could understand a little bit more about what that is and how that
22 affects you.

23 A. It's the irrationalization. They made it so to make it safer
24 so the smaller boats during storms wouldn't have to keep fishing
25 when the bigger boats kept fishing, because back in the day, it

1 was derby. So there was 20 million pounds of crab to catch. So
2 during a storm, the smaller boats would still keep fishing,
3 because they knew the bigger boats, they were going to keep
4 fishing. So that's why they said, oh, we'll do this to make it
5 safer, and we'll just eliminate three-quarters of the industry and
6 put it into the hands of a few. And they didn't make any rules
7 with it.

8 They just -- it just really ruined the industry, really
9 ruined the pay, and just like -- so what happened with that, when
10 they changed it, they -- that made the crab like a stock, right,
11 so each boat had their own crab stock. So you don't even need the
12 boat anymore. The crab's worth money. So a lot of boats, what
13 they did was just tie their boat up or sell it. You don't even
14 need the boat at the time. And then they put that stock or crab
15 onto another boat. So now, like one boat would be fishing like
16 five boats worth of quota. So it went from 250 boats when I
17 started to now there's like 50 or so.

18 Q. Okay. Thank you for that. That explains some of the
19 questions I had regarding that. You mentioned earlier that you
20 had a bad feeling about this. I don't know if it was this job,
21 this trip, but you said you felt like you should go since they
22 brought you up there. Why were you having a bad feeling about it?
23 Was it something specific?

24 A. Yeah. I didn't like my bunk. I don't know, I just had --
25 that -- from -- I just had a weird feeling, and I didn't like my

1 bunk, and that's kind of a weird thing to say, but that just gave
2 me a really weird feeling. I told my dad that I -- because I just
3 flew up on a day's notice. I just, you know, John really wanted
4 me to come, and I didn't really put too much thought into it. I
5 was just like, yeah, let's just go. The *Scandies* is a good boat,
6 and I know Gary. He's a good guy. And I'll just, I'll go.

7 And then I got there, and I'm like, oh, maybe I made the
8 wrong call. Because we worked all night. It was just cold in
9 Kodiak, and you have to keep -- they didn't have the alleyway to
10 the back of the house, so you've got to keep climbing over the
11 stack and climbing up the, you know, 20 feet or 30 feet every time
12 you have to go back to the house. And yeah, my legs were kind of
13 burning by the end of the day.

14 Q. Okay. So nothing regarding the weather or the crew or the
15 boat specifically, aside from your bunk, made you feel like you --

16 A. Well, the weather, the weather, yeah. I mean, me and my
17 fiancé talked about it, just that -- and my dad talked about it.
18 He was like, why are you guys leaving today? Like, there's a huge
19 storm. Why can't you just wait 12 hours or wait? It's dumb to
20 leave now. And why is Gary doing that?

21 I just, I don't know. I'm just along for the ride. It's
22 not -- that wasn't my call to make. Nobody -- none of us wanted
23 to go out into it. We all wanted to wait 12 hours. But at the
24 same time, we're getting a lot of pressure from down south to get
25 out of town, got to go, got to go make money.

1 Q. When you say pressure from down south, what do you mean by
2 that?

3 A. What's that?

4 Q. What do you mean by pressure from down south?

5 A. The boat's office was pressuring Gary to get out of town
6 to -- because we were already going to be late to the cod grounds,
7 and like I said before, this might be the last derby season for
8 the cod. And how they divvy the quota up is they go off your
9 previous catch history. So those days were really crucial to the
10 catch history of the boat.

11 Q. Okay. And so you knew Gary before this trip?

12 A. Sure. Yeah.

13 Q. Okay. And how would you characterize your relationship with
14 him in terms of being able to express your concerns and things
15 like that?

16 A. I mean, I didn't know Gary too well. I just, you know, we
17 just talked in town, and he's -- he knows my dad. So I mean, I'm
18 pretty vocal about anything I need to say anyway. But yeah, I'm
19 not too shy on that usually.

20 Q. So would you -- how would you think that he would have
21 reacted if you or anyone had suggested delaying the departure?

22 A. I think I might even have said something. He's just like,
23 no, we got to go. We got to get out of town. Like, we're already
24 late. We got to go. We got to get there. Or we're already going
25 to be late for a couple days.

1 Q. And aside from just the delay because you were running late
2 that way, was there anything else that he ever discussed in terms
3 of pressures that could have led him to want to get out now aside
4 from just getting there because the season had started?

5 A. No. It was just Dan telling him to get out of town.

6 Q. And the company it sounds like?

7 A. Yeah. And then also Gary, yeah, I guess he just bought into
8 the boat or he started -- he just became partners with the boat.
9 So he was really happy and really excited to get going. Like now
10 it's going to be his boat. It's real sad actually.

11 Q. So did he talk about that at all?

12 A. Talk about?

13 Q. About that he had just bought into the boat --

14 A. Yeah.

15 Q. -- aside from what you just said?

16 A. Yeah. He was really excited about it. He's like, now I'll
17 be able to do the -- make the changes that I want to make, and
18 because I guess Dan's kind of -- they don't spend a lot of money
19 on the boat, and there was some stuff that Gary wanted to do that
20 Dan didn't want to do or have done. Just, I don't know, just kind
21 of cheap on the boat, I guess.

22 Q. And Dan, was that his partner in the boat?

23 A. I guess.

24 Q. I'm sorry. I didn't hear you.

25 A. Oh, yes.

1 Q. Oh, okay, okay. Let me see here. So in terms of the watch
2 handovers with Gary, I know that's been discussed already, but was
3 there any kind of a checklist that you guys went through or was it
4 just you guys just talked, and that was it? Was there a checklist
5 that you went through?

6 A. When I passed it over to him? No. We just kind of -- you
7 just kind of tell the next guy what's been going on or if, you
8 know, you talked to a boat that's going to be passing. Just kind
9 of fill him in on what's going on, just --

10 Q. Okay.

11 A. -- anything that would be needed to know to drive the boat
12 safely.

13 Q. Okay. You mentioned that you -- in a previous interview, you
14 did say something about possibly changing course, and you
15 mentioned that to him.

16 A. Yeah.

17 Q. How did he respond to that?

18 A. No, because we got to get there or we'll be late; we've got
19 to go. Because I wanted him to slow down, because we were making
20 a lot of spray, and that's what makes the ice. I'm the one that
21 has to go beat the ice off, so I didn't want him to make any ice.

22 Q. Yeah. And speaking of the ice, I don't know if you were able
23 to keep your phone. I don't know how that went. But I was
24 curious if you had any photos from your vantage point on the -- in
25 the wheelhouse on the bridge as the ice was accumulating?

1 A. No.

2 Q. Any pictures?

3 A. Sorry. If we -- and that's, again, if we would have had
4 Internet, that would have been something I would have been sending
5 to my fiancé or Facebook, you know, just to have documentation of
6 it.

7 Q. Okay. Sorry. I'm just checking my notes. I know some of
8 these have already been asked, so I don't want to repeat anything
9 that you've already gone over here. In terms of the handover, the
10 watch turnovers on this boat, were they similar to other vessels
11 you've been on or were they different in any way?

12 A. No. It was the same. Just the guy that's watching it wakes
13 up the next guy and so on and so on. Just --

14 Q. Was there anything unique about this crew or this boat that
15 was different from what you were used to?

16 A. No, not at all.

17 Q. Okay. So I know we've gone into weather. I just have a
18 couple of last questions for you. Is there anything from a
19 weather forecast or weather product that you would like to see
20 that could help you do your job better, to better understand what
21 weather is coming, anything like that, that would have helped you
22 out during this accident?

23 A. Well, having the -- and I guess, I mean, maybe I just didn't
24 have access to the Internet, because it looks like they had a
25 Internet dome on the top of the wheelhouse. Maybe I just didn't

1 have the password to it. But yeah, usually the Windy app is
2 really a good one or the NOAA. The NOAA website is one we use a
3 lot.

4 Q. What about any training, weather training? Have you had any
5 or would you care to have any kind of training on weather
6 during --

7 A. No. Just experience in the worst weather probably in the
8 world for the last 20 years.

9 Q. And would you say this was the worst you had been in?

10 A. No, but it was pretty bad. I mean, it had all of the scary
11 things. The wind was blowing, gusting up to 60, the seas were
12 30-foot seas, and we had a full stack on, and we're making ice.
13 That's like the worst possible conditions you can even be in.

14 MS. BELL: Well, I don't have any more questions for you. I
15 appreciate your time. Thank you.

16 CDR CALLAGHAN: Okay. Thank you very much, Carrie.

17 At this point, I'd like to turn it over to our other PII,
18 Mr. Mark -- Mike Barcott representing Mattsen Management Company.

19 MR. BARCOTT: Thank you, Commander.

20 Can you hear me all right?

21 BY MR. BARCOTT:

22 Q. Mr. Gribble, thank you for being here. Mike Barcott. I
23 represent Mattsen Management, and I also represent *Scandies Rose*.

24 A. I think we talked in Kodiak.

25 Q. We did. We talked in Kodiak, I think, on January 1st, and

1 appreciate you coming back.

2 A. Sure.

3 Q. I'm coming in after a number of other people have asked
4 questions, and I'm going to be going from topic to topic. But if
5 any point it's not clear to you exactly what I'm asking, please
6 just let me know that it's not clear to you. I know we're
7 tracking as far as time. I'll try not to repeat questions others
8 had asked. It's important, I think, that we have a really clear
9 record on some of the facts.

10 A. Sure.

11 Q. Let's start with -- and I think it may have been inadvertent,
12 the fishing contract you signed actually was not with Mattsen
13 Management, was it? It was actually with *Scandies Rose*; is that
14 right?

15 A. Yeah. I'm sure -- I'm probably sure it was. Most of the
16 boats they do -- every boat has their own LLC.

17 Q. Right.

18 MR. BARCOTT: Could you -- could I ask that Exhibit 17,
19 page 1 be brought up, please? Thank you.

20 BY MR. BARCOTT:

21 Q. Mr. Gribble, can you see that exhibit on your screen?

22 A. Yeah.

23 Q. And do you see at the very top that's a fishing agreement
24 between you and *Scandies Rose Fishing Company, LLC*?

25 A. Yep.

1 Q. Right. Okay. Good. Thank you. Let me talk about --

2 MR. BARCOTT: And that's all I need for that exhibit. Thank
3 you.

4 BY MR. BARCOTT:

5 Q. Let me talk again about the *Patricia Lee*. And I just, again,
6 want to make sure the record is clear. Did you ever actually go
7 down into the void spaces on the *Scandies Rose* to see what those
8 spaces were like?

9 A. No. I -- no, not at all.

10 Q. Do you have an assumption as to how many crab tanks there
11 were, but you actually don't even know that firsthand, right?

12 A. No.

13 Q. Okay. Take you to Kodiak on the 29th. That's the day you
14 arrived in Kodiak. On that day, did you have any conversations
15 with Gary about the weather that was expected during this trip?

16 A. Not on the 29th, the day we were leaving --

17 Q. Okay.

18 A. -- talking about.

19 Q. Tell me as precisely as you can what happened, what Gary
20 said, and what you said -- well, let me stop. One conversation or
21 more than one conversation?

22 A. There's a lot of conversation. We kept talking about it.
23 We're like, it's going to be really bad out there, so make sure
24 everything is tied down, make sure everything is tight, like make
25 sure nothing is going to be rolling around. We knew it was going

1 to be really crappy. So that's why we put that bottom chain on,
2 you know, the breast chain just to make sure the pots couldn't
3 move forward. And this -- the pots were -- when the boat was on
4 its side, the pots were in a perfect stack still. They didn't
5 start falling off probably until it started bouncing around.

6 Q. In the winter crab fishery in Alaska, crappy weather is not
7 an unusual thing, is it?

8 A. No.

9 Q. Did Gary say anything in those conversations that would have
10 led you to believe he was concerned about the vessel sinking or
11 safety?

12 A. No, not -- no. He said it was the tank.

13 Q. Going to be crappy weather, batten down the hatches, boys.

14 A. Yep, basically, yeah, that's exactly it. He was really happy
15 that he just bought the boat or bought into the boat. He was
16 really -- that really meant a lot to him.

17 Q. Yeah, he was. And it was not only you, his crew, that was
18 aboard, he was onboard, and his son was onboard, right?

19 A. Yeah.

20 Q. Did he seem to get along all right with his son?

21 A. Yeah.

22 Q. So you said -- you were asked a question, I think by
23 Commander Callaghan, about tarps, and I think you said there was
24 no tarp; that's a really dumb idea. Why are tarps over the crab
25 pots a dumb idea?

1 A. I believe they're a dumb idea because they just become more
2 of a hindrance than they do good, I guess. I mean, if you're in
3 those type of icing conditions, why even go out? Or why put that
4 many pots onboard to where you're going to even need a tarp?
5 Because when taking the thing off, it's like a -- it turns into a
6 sail. It's blowing 50, and you're going to hold onto a 50-foot
7 tarp? I don't think so. It's going to take you away.

8 I mean, and there's a -- you see that one episode of the
9 Deadliest Catch where Keith on the *Wizard* has the guys taking off
10 the tarp? And that turned into a nightmare too. So I've only
11 done that on one boat, and I refuse to do that on any other.

12 Q. How many crab boats have you sailed on during the wintertime?

13 A. During the wintertime? Crab boats and trawling, I don't
14 know, probably 20 different ones maybe.

15 Q. And of the crab boats you've sailed on in the wintertime, how
16 many have tarped their pots when there might be icing conditions?

17 A. Gosh, I think I only did that on one boat a long time ago.

18 Q. Okay. How about your dad's boat? Does he tarp his pots?

19 A. Yeah, no.

20 Q. Have you ever spoken with Dan Mattsen either on the phone or
21 in person?

22 A. Oh, gosh, mainly 20 years ago, long time ago when he was
23 (indiscernible).

24 Q. So coming back to the conversations on the day you were
25 leaving and the conversations with Gary and conversations with the

1 crew, was all of that on a -- it's going to be a really crappy
2 ride, boys, let's make sure everything is tied down?

3 A. Exactly. Batten down the hatches. Just we went and double
4 checked everything, double checked all the doors were all dogged
5 down, the forepeak and everything was dogged down.

6 Q. Did Gary ever say anything about the ability of the boat, the
7 *Scandies Rose*, to handle the weather conditions he expected?

8 A. Yes. He said she's a great boat. She's a tank. Go through
9 the weather.

10 Q. I think in your first interview -- I want to see if you still
11 feel the same way -- you said it was a, quote, "great freaking
12 boat." That's what you said when you arrived. Is that --

13 A. I've always looked up to the *Scandies*, and it's the sister
14 ship to the *Patti*, and the *Patti* is a great boat. It's a money
15 making boat. The *Scandies* has always been known to be a good
16 boat, and I think just a lot of bad things happened to make that
17 happen. I don't think it was just one thing.

18 Q. And the crew, everybody seemed competent at their job?

19 A. Yeah. Actually, I really liked the crew. Everybody seemed
20 knowledgeable, and everybody had fished for years, which was nice
21 because greenhorns are kind of a pain in the ass.

22 Q. Did you ever overhear a conversation while the boat was still
23 in Kodiak between Gary and any of the Mattsen Management about
24 getting out cod fishing?

25 A. Yeah. He -- I don't know exactly who he was talking to, but

1 a couple different times he was in the wheelhouse, and I was just
2 -- I think I was filling out my contract, one, and he kept
3 mentioning that he's under a lot of pressure to get out of town.
4 Like, we got to get out of town. Dan wants us out of town, is
5 what he said specifically.

6 Q. Well, I'm talking right now about a conversation. Did you
7 overhear a conversation with someone about getting out of town?
8 And who was this other person?

9 A. I don't -- I just overheard him say, like saying like, yeah,
10 and we're leaving and, you know, just that kind of conversation.
11 Again, I don't know if that was Julia or Dan. I was under the
12 assumption that it was Dan.

13 Q. I'd like to talk about derby-style fishing for just a minute
14 and make sure everyone understands completely that concept. Let
15 me explain how I understand it, and you tell me if I've got it
16 right, okay?

17 A. Sure.

18 Q. So as I understand derby-style fishing, before the season,
19 someone sets a quantity, 80 million pounds, and boats go out, and
20 they fish as hard as they can, and when that 80 million pounds is
21 caught, the fishery is done.

22 A. Yeah.

23 Q. Is that it?

24 A. Yep.

25 Q. And the theory, in the past, was that forced boats to go out

1 in bad weather, because if they didn't catch their fish, somebody
2 else would, right?

3 A. Yeah.

4 Q. Now, I'm sure everyone realizes this, but let me be clear:
5 the opilio crab season is no longer in derby-style, is it?

6 A. No, it's not. It's irrational.

7 Q. Yeah. And you described that every boat gets its stock.
8 Every boat's got its quota. It fishes until that quota is kept --
9 caught, and then it stops, right?

10 A. Yeah. It gave ownership of the ocean to a few people.

11 Q. It's a good political discussion we can have sometime when
12 we're not occupying other people's time. But the cod fishery is a
13 derby-style fishery?

14 A. Yes, it's still derby.

15 Q. And so the theory is there's so many pounds of cod that could
16 be caught, and everybody would want to go early (indiscernible) so
17 they got their fair share of that before it was all caught, right?

18 A. Correct.

19 Q. But the *Scandies Rose* wasn't going to fish until that cod
20 fishery quota was caught, was it? It was going to make one cod
21 delivery, that's it. Do you know?

22 A. I don't know why we would have rigged over 200 pots to make
23 one cod delivery.

24 Q. Right. I -- and the reason, Mr. Gribble, is so that there
25 could be a delivery in 2020. Do you know how many trips for cod

1 the *Scandies Rose* intended to make?

2 A. We intended to fish until the season was over was my
3 understanding.

4 Q. Who told you?

5 A. Usually the cod season only lasts a couple weeks.

6 Q. Who told you they intended to fish until the season was over?

7 A. That's what Gary said, and that's what the talk of -- with
8 the crew. I'm sure everybody would have been pretty pissed to
9 have to rig over 200 pots just to fish for one trip. That would
10 have been dumb. We would have only did 100 pots.

11 Q. So your whole notion that the derby-style fishery for the cod
12 somehow made it so that Gary had to get out?

13 A. Well, the derby-style didn't make it that he had to get out.
14 The talk of them making it rationalized or irrationalized, if you
15 will, to that -- to they go off the previous catch history. So
16 they were going to be going off of it -- that year's catch
17 history, and if we were -- missed a couple of days, we would have
18 had less pounds. So it would have been less.

19 Q. I just want to be sure I understand, because I'm having a
20 hard time kind of following this. If the plan was to make one cod
21 delivery --

22 A. That was never -- I was never told that, and I -- the other
23 guys never mentioned that or anything. And I'm sure they would
24 have been real pissed to rig over 200 pots to cod pots from crab
25 pots. It's not that easy to rig them over. It's a pain in the

1 ass. So to rig over 200 pots to just fish for one trip, it would
2 have been dumb. Nobody would do that.

3 Q. Well, can you go along with me just for a minute, and make
4 that assumption they were going to make one cod delivery in
5 (indiscernible)?

6 A. I'll make that assumption just because pot fishing for cod is
7 stupid anyway.

8 Q. Okay. If you'll make that assumption with me, then it
9 wouldn't really have made any difference if they started fishing
10 on the 2nd of January or the 6th of January or the 10th of
11 January, would it, if they were only going to make one delivery?

12 A. If they were only going to make one delivery?

13 Q. Right.

14 A. I mean, I -- that boat packs a lot of fish, so yeah. I mean,
15 every day counts in a derby. You want to be out there the first
16 day. So if you're not out there making -- you're not out there
17 and the block's turning, you're not putting any fish on the boat.
18 If you're just trying to make one delivery, why would you do 200
19 pots over to -- I mean, it's a lot of work.

20 Q. So you can't even imagine that scenario?

21 A. I mean, I can't even fathom that, no.

22 Q. We'll move on. You said pressure was coming from down south
23 to get out to make money.

24 A. Yeah.

25 Q. Did you hear any conversations between Gary and anyone from,

1 quote, "down south"?

2 A. Yeah. Just the one, the one or two times I heard him talking
3 on the phone just reassuring whoever he was talking to that we're
4 getting done. We're almost out of town. We're almost getting
5 ready to leave. We'll be out of town real soon is what he kept
6 saying, and just he keep iterating we got to get out of town, we
7 got to go. They want us to leave. They want us to leave now.
8 We're already late.

9 Q. I guess I'm just curious. How did you know whoever he was
10 talking to was, quote, "management down south"?

11 A. Well, I don't know. Because it had to do with the boat.
12 He's not going to just talk to any random person. Why would a
13 random person want him to leave?

14 Q. What about --

15 A. People that would want him to leave were the people that were
16 going to make the money from it, wouldn't it?

17 Q. Would Westward Seafood, if he was going to deliver to
18 Westward, want to know when he was going to leave?

19 A. No. I don't think that would be relative until he got out.
20 They'd only want to know when he was going to deliver it.

21 Q. As I understand it, you didn't really know Gary very well
22 before you joined the *Scandies Rose*; is that right?

23 A. I mean, I've known Gary in town and stuff for years. I mean,
24 not -- I mean, I wasn't best friends with him. I mean, I've known
25 him in passing --

- 1 Q. Reputations --
- 2 A. -- with my dad.
- 3 Q. -- are a lot in the fishing industry, correct?
- 4 A. What's that?
- 5 Q. What was Gary's reputation as far as being a good fisherman?
- 6 A. I thought Gary had a good reputation of being a good
- 7 fisherman. I mean, I went with him.
- 8 Q. Right. I was going to get to that. What was his reputation
- 9 as far as being a safe operator?
- 10 A. I was -- I thought it was going to be fun, and my dad even
- 11 though it was going to be fun.
- 12 Q. We received some photographs that you took, and one or two of
- 13 them have been looked at here. You've got a photo of John
- 14 climbing on the stack you --
- 15 A. Um-hum.
- 16 Q. You took those photos, right?
- 17 A. Yeah.
- 18 Q. And you took those on your phone?
- 19 A. Yeah.
- 20 Q. But your phone got lost in the sinking as I understand.
- 21 A. Yeah.
- 22 Q. Did you store those photos somewhere? Did you upload those
- 23 somewhere?
- 24 A. The Facebook.
- 25 Q. Oh, okay. Among the photos we've got is a fairly thorough

1 set of photos of the boat. Have photos of the engine room, photos
2 of the deck, photos of the galley. Do you remember the photos I'm
3 talking about?

4 A. Yeah. In the discovery I saw those.

5 Q. Why were you taking those photos?

6 A. Those photos aren't mine.

7 Q. They're not yours?

8 A. No. I only had the two photos of John climbing around.

9 Those other ones must have come from the boat.

10 Q. Okay. Maybe I misunderstood.

11 A. That would have been weird if I had taken those pictures.

12 Q. Pardon?

13 A. I said, that would have been weird if I was taking those
14 pictures.

15 Q. Well, we'll get to that in another place in another time, I'm
16 sure. So you talked about Gary being happy he had just bought in
17 to the boat.

18 A. Yeah. He was really excited.

19 Q. Yeah, he was, absolutely. Talked to a lot of people about
20 that. You said that not a lot of money had been spent on the
21 boat, and I think you either implied or said that Dan Mattsen
22 didn't --

23 A. I'm just going off of what Gary said, and he was just like,
24 oh, now I have control of the boat, and now we can get the stuff
25 done, and Dan can't tell us not to get -- do stuff I want to get

1 done to the boat. And just like he was really happy about that.

2 Q. What was the general condition of the boat when you arrived?

3 A. I mean, it's a crab boat. I thought it was in fine
4 condition. I mean, it wasn't completely rusty piece. No. I
5 thought it was a good boat. That's why I went on it. In my
6 career, I've only really fished on like pretty decent boats; proud
7 of that. I thought -- I was proud to be going onto the *Scandies*.

8 Q. Let's talk about time period departure from Kodiak until
9 7 p.m., on the 31st of December, okay? During that time period,
10 have you told us about every conversation you had with Gary about
11 the weather?

12 A. Yeah. Yeah.

13 Q. More discussions, this is really crappy, can't wait to get to
14 the other side of it, things like that?

15 A. Yeah. We were just, yeah, just batten down the hatches and
16 make sure the -- all the watertight doors are tight.

17 Q. Up until 7 o'clock or 7:15 on the 31st when you turned over
18 the watch to the captain, did he ever express to you that he
19 thought the boat was in any danger?

20 A. No, not at all. Because and I even asked him. I was like,
21 hey, do you want me to change course? You want to slow down so
22 we're not bucking into it so much? And because the way that we
23 were traveling quarterly, so all the spray was going onto the
24 starboard side. If we would have slowed down, we wouldn't be
25 getting so much spray. And if he would have changed course, maybe

1 it wouldn't be all going onto the starboard side.

2 Hey, can I use the restroom real quick? I'm sorry.

3 MR. BARCOTT: Of course. I'm sure --

4 (Off the record.)

5 (On the record.)

6 UNIDENTIFIED SPEAKER: All right. If everyone's back, it is
7 now 12:58, and we will resume with Mr. Barcott.

8 MR. BARCOTT: Thank you, Commander. And for everyone's --
9 I've probably got 15 more minutes.

10 BY MR. BARCOTT:

11 Q. Mr. Gribble, could you describe for me how you changed the
12 pots that were on the *Scandies Rose* from cod pots to crab pots?
13 You said it would be really stupid to do that for one trip. How
14 do you make that change for the pots that were on the *Scandies*
15 *Rose*?

16 A. I think they have -- you know, I wasn't the one that did it,
17 so I really don't know. Some of the -- sometimes you have to
18 reconfigure the whole tunnel and do that. It's not like just
19 cutting out a Tanner Board to make it for king crab. You have to
20 switch the whole configuration of the tunnel so it's from this to
21 that. So it's -- the fish can swim in. Some of them have quicker
22 releases or whatever that makes it a little bit easier to do it,
23 but it's still a hassle.

24 Q. I guess I was asking about the *Scandies Rose*. Do you know
25 specifically the kind of pots that were on here and what --

1 A. No. I wasn't the one converting them, no.

2 Q. Okay. While you were on watch on the 31st, did you make any
3 calls to anyone?

4 A. No. I wanted to call my girlfriend, but I wasn't given the
5 password for the phone, and I didn't -- we didn't -- me and John
6 didn't think we had Internet on the boat. So I was -- I wanted to
7 call my girlfriend, but no, I didn't make any calls.

8 Q. When you got off watch between then and when the boat -- over
9 during that time period, did you make any calls to anyone?

10 A. No. No, I didn't have the phone.

11 Q. Do you know Jerry O'Neal (ph.) on the *Provider*?

12 A. No, I don't.

13 Q. Now, going back to the start of your watch on the 31st, which
14 would have been at about 5 p.m., as I understand -- or, excuse me,
15 6 p.m., and you would have taken it over from John at that point?

16 A. Yeah. John woke me up.

17 Q. So at that point when you --

18 A. Maybe the *Provider* might have called me. I might have got a
19 radio call from the *Provider* just asking how things were going, I
20 think.

21 Q. And do you remember telling the *Provider* during that time
22 period that everything was good?

23 A. Yeah. Everything was fine and good except for the weather.
24 At that point, everything was good.

25 Q. Okay. So when you took over from John Lawler on the 31st,

1 can you tell us how much icing there was?

2 A. When I took over from John, the ice was -- it was just the
3 first couple layers, like a inch or two maybe thick, and going
4 about halfway back on the stack. On the starboard side.

5 Q. Right. And --

6 A. Everything else was in a glaze but not thick.

7 Q. And how far over the top of the stack? I'm trying to get a
8 mental image of what portion of the stack had ice glazed on it
9 when you took over from John.

10 A. Just the bars on the pots on the starboard side, and a little
11 -- and the web -- you could see through the web just a little bit.
12 Like, you know what I mean?

13 Q. I do. Thank you. And so the pots that were in the middle of
14 the stack and the pots that were on the port side were not iced at
15 the time you took over from John?

16 A. They weren't. They had a glaze on them, but not -- it wasn't
17 thick because they weren't hitting the spray that the starboard
18 side was.

19 Q. Okay. And the back half of the stack was just glazed at
20 worst when you took over from John?

21 A. Yeah.

22 Q. And then, when you turned the watch over to Gary at
23 approximately 7:15 p.m., I think you said maybe there was an inch
24 or two of ice on the pots at that time; is that right?

25 A. Yeah. I mean, it -- I didn't think it was a whole lot of

1 ice. I mean, some captains would have had you go beat it off just
2 to -- some of them are, you know, any ice gets on the boat, they
3 want it off. Other captains will let it roll. And I mean, I
4 wasn't super concerned about it at the time. I mean, I asked Gary
5 if he wanted me to get the guys up and to go beat it off. I mean,
6 just because -- mainly just because I was new to the boat, and I
7 was just trying to, you know, impress Gary, be good, you know, be
8 the attaboy.

9 Q. What's this captain want you to do, right?

10 A. Um-hum. Really good. I like Gary. He was a good guy.

11 Q. So as I am envisioning this, tell me if I'm wrong, there's
12 about a fifth or a sixth of the stack that had ice on it when you
13 took over?

14 A. Yeah. Yeah, roughly.

15 Q. And when you turned the -- turned it over to Gary, same fifth
16 or sixth but a little thicker?

17 A. Little thicker, yeah. Yeah, same but a little thicker.

18 Q. Okay.

19 A. Maybe a little bit farther back. Because the weather -- it
20 was right on the bow, and then it kind of came quarterly during my
21 watch.

22 Q. So would you say maybe a quarter of the pots had about a inch
23 or two of ice?

24 A. I'd say like halfway back maybe.

25 Q. Halfway back, but not the middle, and not the port side?

1 A. No. Just the first row.

2 Q. On the starboard side?

3 A. Yes. Yeah.

4 Q. Okay. Now, when you asked Gary, you want to show him -- you
5 know, want me to go out and beat the pots, did he say anything
6 like, it's just not very safe out there, let's wait until we get
7 into some shelter?

8 A. Yeah. Yeah. That's kind of what he said. I mean, he's just
9 like, no, we'll just -- it's not that much ice right now. We'll
10 just wait until we get into False Pass so it's a little safer for
11 you guys to go out there and beat it off. I mean, some captains
12 would have just had you go out there and beat it off, and I wasn't
13 -- I would have did it. I would have went out there either way,
14 but it was his call. And it was cold, so --

15 Q. To go out and beat it out -- off, you would have had to climb
16 up on the stack of icy pots in --

17 A. Yeah.

18 Q. -- that sea and that wind, right?

19 A. Well, and that's why, when we first went on -- when we first
20 rolled onto our starboard side, my first initial thought was that
21 he was turning around to run with the weather to make it safer to
22 go beat the ice.

23 Q. Gary ran down below -- sorry. Switching time. So coming to
24 the time of the sinking. You've kind of (indiscernible) the
25 wheelhouse. You're concerned. Gary went down into the engine

1 room, went down below during part of that evolution, didn't he?

2 And then came up, and somebody asked him what's going on?

3 A. No.

4 Q. Do you remember him coming up saying, I think we're sinking?

5 A. Gary?

6 Q. Yeah.

7 A. No. We went on our side. I was in the top bunk, and John
8 was on the bottom. I told John to go see what was going on,
9 because I thought we were going to go break ice is what I was --
10 like I said, John goes up, yells down, Dean, we're sinking. So I
11 jumped out of my bunk, put my pants on. I'm going to put my socks
12 on. I feel the boat go a little more. I'm like, fuck.

13 So I run upstairs, and I'm like, Gary, what's going on? And
14 he's kind of like leaning over the chart table trying to like hold
15 on because we're, you know, we're kind of at an angle. And I go
16 what's going on? He goes, I don't know. And I go, call the Coast
17 Guard. He says -- he goes, what do I say? I go, tell them we're
18 fucking sinking. And then I ran back downstairs.

19 And as I -- right after I was -- as I was saying that, he
20 pulled it out of gear. I ran back downstairs to scream at the
21 other guys to get up. They were kind of already coming up. I
22 still screamed down. And David passed me, and I run back up, and
23 they're following me. I get down, I start passing out the suits.
24 Everybody got a suit. I took the last one.

25 Q. And those suits were color-coded by size, aren't they?

1 A. Yes.

2 Q. Did you hear Gary make the May Day call?

3 A. The first one, and then once I got outside, I kept screaming
4 in to keep calling, keep making the call.

5 Q. Did you hear Gary, within minutes of the boat finally turning
6 on its side, did you hear him talk to Oystein Lone on *Pacific*
7 *Sounder*? You mentioned it as the *Puget Sounder*. But did you hear
8 that call between he and Oystein just before the boat went down?

9 A. No. No, I didn't. I found that out after.

10 Q. From the time you came up into the wheelhouse and began
11 putting your suits on until the boat went down, how much time are
12 we talking about?

13 A. Not even 10 minutes.

14 Q. Other than you and John, did anybody else make it out of the
15 wheelhouse, as far as you know?

16 A. No. David had -- David was the only one that had a chance to
17 get out, because he was sitting right by the door. I think maybe
18 when the water came around maybe it pushed him in or maybe he ran
19 from it and went back inside. I don't know. And the way the boat
20 was rolling around -- because everybody who was in the --
21 everybody was in the house, and I just don't know where everybody
22 ended up. Because when the boat was rocking around and
23 equalizing, maybe they got washed down below, maybe.

24 Q. And at the point -- you've waved your hands a couple of
25 times. That's the point at which the boat turns stern down/bow

1 up, right?

2 A. Yeah. Yeah. Me and John -- the boat sunk on its side
3 completely. Me and John stayed on it until the boat was
4 completely underwater basically. Just a little bit of the house.
5 And the wave came over the house, took me and John into the water,
6 and then I kept getting pulled under because I -- me and John tied
7 a line to each other because we're trying to stay together in the
8 water, and it kept pulling me under.

9 So I let it go, and then I was getting tumbled for the first
10 couple minutes, and I was trying to get my light going and to blow
11 up my bladder because I was kind of -- I was going -- I kept going
12 underwater a lot and getting tumbled. Once I got the bladder
13 going, I was kind of riding them a little bit better. I'd get
14 tossed every once in awhile, but then I saw -- that's when I,
15 after I got my bladder up, and I -- then I'm trying to figure out
16 where I'm at and where the boat's at. I just saw the silhouette
17 of the boat.

18 Q. When you saw the boat stern down/bow up, and that's the point
19 at which some pots started breaking loose?

20 A. I imagine.

21 Q. Well, how dark was it?

22 A. It's nighttime.

23 Q. Any moonlight?

24 A. Faintly. It would come. The clouds would block it out, and
25 then some -- then it would move. Like, it would come and go. I

1 could just see the silhouette of the boat. I was probably couple
2 hundred yards away from it.

3 Q. So what was the light source for you to see that silhouette?
4 Do you know?

5 A. Probably the moon.

6 Q. Okay. Mr. Gribble, I've been told by at least one person
7 that they saw a video of this boat sinking, just what you've
8 described here. Do you know anything about that video?

9 A. No.

10 Q. Did you send that video to any of your friends? Have you
11 heard of this video?

12 A. Of the boat sinking?

13 Q. Yes.

14 A. No. I'd like to see that video.

15 Q. Okay. Let's go to the trash chute issue. As I understand
16 it, you first learned that there had been some problems with the
17 trash chute in the king crab season when you left as I understand
18 it, right?

19 A. Before we left? No. I just knew that they had done some
20 work to the shit chute. I didn't know the reason behind of why
21 they were doing the work, that they were getting water into the
22 starboard void during king crab season. I wish I would have known
23 that before I was in the life raft. That's when John told me. He
24 goes, well, maybe it had something to do with that hole in the
25 boat. I go, what hole in the boat?

1 Q. Did you know that, that was repaired in Kodiak after the king
2 crab season?

3 A. That's what I was -- I found out after.

4 Q. Did anybody on that boat express any concern about those
5 repairs during your trip before the sinking?

6 A. No. Nobody mentioned anything. I didn't find out that until
7 I was in the raft. I mean, because at that point, if I had knew
8 we had a starboard list, and they had that problem happening
9 during king crab, it would have been a little bit more important
10 to go find out what's going on and figure it out. Full stack on
11 it, it's icy in those conditions. You don't fuck around.

12 Q. Let me just -- a couple more questions. You said that you
13 had been involved in the search for bodies, and you found some
14 dead people. What sinkings were those concerning?

15 A. The *Big Valley*.

16 Q. Any others?

17 A. It was, I think the -- what was the name of the boat? Was
18 the big stupid boat, big stupid house. It looked like it could
19 roll over at the dock. I can't think of the name right now. Just
20 another boat. It was a cod fishing boat.

21 Q. And what boat were you on when you were involved with the
22 search and found the bodies?

23 A. I was on the *Sea Rover*. And you can see that. That's on the
24 first season of *Deadliest Catch*, and they're trying to videotape
25 us pulling the body onboard and transferring it to the *Stimson*.

1 MR. BARCOTT: Mr. Gribble, thank you. That's all I've got
2 during this round.

3 Thank you, Commander.

4 CDR CALLAGHAN: Thank you, Mr. Barcott.

5 At this point, I'd like to turn it over to Mr. Stacey, who
6 represents Mr. Gribble himself.

7 BY MR. STACEY:

8 Q. Okay, Mr. Gribble, just a very few questions. But just want
9 to make sure I heard you correctly. Did I understand that
10 Mr. Gary Cobban himself said to you that Dan told you to get out
11 of town?

12 A. Yes. He said it a few times. Dan wants us to leave.

13 Q. And how soon -- how much time before you actually left did
14 you hear Mr. Gary Cobban say that to you?

15 A. It was a few different times because we were kind of running
16 late. That's what -- they wanted to leave as soon as I got there,
17 but there was still some stuff that they had to do. So they
18 thought they were going to be leaving right when I got there, but
19 they were behind schedule. So Dan was biting their ass to get out
20 of town.

21 Q. And when you heard the name Dan, who did you understand that
22 to be?

23 A. Dan Mattsen, the owner.

24 Q. Okay. I want to now turn to the discussion that you heard
25 while you were, I think you said, completing your contract. You

1 remember that discussion you had earlier?

2 A. Yeah.

3 Q. Okay. Now, the person that was on the other end of the
4 phone, did that person sound like they had an interest in the
5 fishing operation?

6 A. Yeah, yeah. They wanted us to leave town to -- you know,
7 because the rationalization of the cod fishery was a big concern.
8 They wouldn't have done just one trip, because they go off catch
9 history, not just fishing one season. So if they would have just
10 fished one trip, that wouldn't have been enough. They would want
11 more cod. So that's wrong.

12 Q. Did that conversation that you overheard you specifically
13 recall that there was a discussion about cod fishing?

14 A. Yeah, yeah. Because that's what we were going to fish.

15 Q. In that conversation that you overheard, was there a
16 discussion about specifically being late?

17 A. Yeah, yeah. We were -- had to get out of town. We were
18 already going to be a couple days late, and we had to go. I mean,
19 that was the -- from even when I was in Seattle, I mean, they
20 wanted me to leave that day, and they wanted me to leave on 4-hour
21 notice for a couple months. I was like, no, I need at least to --
22 I'll leave tomorrow. I'll leave, you know. I was trying to help
23 them out as best I could. I mean, to leave on a day's notice is
24 still pretty -- you know, she didn't like it.

25 Q. Mr. Gribble, as I -- if I recall correctly, you had a

1 conversation with the captain, Gary Cobban, with regard to, in
2 fact, suggesting that you slow down.

3 A. Yes.

4 Q. Did I hear that correctly?

5 A. Yeah.

6 Q. And why did you make that suggestion that maybe we should
7 slow down?

8 A. Well, because the weather came up and, like I said, it was
9 kind of hitting us -- we were bucking into it, and it was
10 quarterly to the bow. So we were making a lot of spray, and the
11 spray was making ice, and I got to beat the ice. I don't want to
12 have to go beat a bunch of ice off.

13 Q. Did Mr. Gary Cobban honor your suggestion or did he slow the
14 vessel down?

15 A. No. He said we were -- we needed to get there.

16 Q. You talked about --

17 A. I even asked to change course, too, because the course was a
18 really crappy ride.

19 MR. STACEY: Okay. All right. Nothing further from me.
20 Thank you.

21 CDR CALLAGHAN: Thank you, Mr. Stacey.

22 Okay. At this time, the Coast Guard will do -- conduct a
23 couple follow-on questions. Before I do that, I do want to make
24 just to clarify a few things with regards to the exhibits just to
25 be clear. As of right now most of the exhibits -- the photos are

1 labeled to the best they could be with the source and who provided
2 them. So please note that some of the exhibits do include
3 multiple photos from multiple sources, and they are not all from
4 the same source.

5 Okay. So, at this time, I'm going to turn it over to
6 Commander Denny to conduct a couple of the Coast Guard's follow-on
7 questions.

8 CDR DENNY: Little bit of technology over here. Can you guys
9 hear me? Okay, cool. Thanks. So good morning. And, again, I
10 know this is going on, so I'll keep it as brief as possible.

11 BY CDR DENNY:

12 Q. I just want to verify that, when you mentioned way back in
13 the beginning in the morning, when we talked about any formal
14 rescue or survival system training that you got, you said
15 incidents on other boats. I want to make sure that the question
16 that was just asked by Mr. Barcott when he asked you which
17 vessels, were there any other incidents that you were referring to
18 a couple of hours ago that would have given you that real life
19 experience with having to deal with survival systems?

20 A. I mean, just the -- we've had stack fires and fires on the
21 boat, and we've lost power in storms that it gets pretty hairy at
22 that point. You're at the mercy of the sea, and -- but yeah,
23 that's -- that was about it. The boat, I think it was on the
24 *Storm Petrel* and we looked for the (indiscernible), that was the
25 name of the boat. Was a big stupid looking boat with a big house

1 that looks like it would roll over at the dock. But we were there
2 for that one, too, but we didn't find any -- we didn't find any.
3 Was just the *Big Valley* that we saw -- we found the bodies.

4 Q. Okay. Thank you. I just wanted to make sure that I fully
5 understood that.

6 A. Sure.

7 Q. Another question that I have is, when you got to Kodiak, and
8 on the 96-hour work-rest period, it said that you were doing other
9 vessel work. And earlier you also mentioned that you did
10 pre-employment drug testing when you got to Kodiak.

11 A. Um-hum.

12 Q. Do you recall where you went? Did you go right from the
13 airport to that facility? How did that go?

14 A. Did it at the boat.

15 Q. Okay. Could you elaborate on that for me?

16 A. I got -- it was the day we were leaving, or I think it was
17 -- before we did our contracts or after. It was like, oh, yeah,
18 you have to do this. So that was that.

19 Q. Okay. Got it. So there was no going to a facility in
20 Kodiak, it --

21 A. No.

22 Q. -- just onboard the vessel?

23 A. Yeah. It was onboard the vessel. I mean, because they
24 wanted to leave. There was no time. And I forget what day it
25 was. Was it a weekend? I can't really remember.

1 Q. And was there somebody who witnessed you submit to this test?

2 Was it a urine test?

3 A. Yes, urine test.

4 Q. So was there like a witness that witnessed you doing what you
5 needed to do?

6 A. Yeah, Gary.

7 Q. It was Gary. Okay. Doing your pre-employment either during
8 the contract or talking about the indoctrination for when you
9 become an employee of this vessel, did you guys talk about
10 policies, like any specific policies on what could or couldn't be
11 on the boat?

12 A. It's always kind of a standard policy, like we didn't talk
13 about it. It's just in the contract, like, you know, can't have
14 drugs or alcohol on the boat. It's kind of --

15 Q. Firearms, anything like that?

16 A. Yeah, yeah, exactly, essentially. I don't know exactly the
17 specifics of it, but it's -- yeah, standard stuff.

18 Q. Okay. As they were loading stores -- I know that you weren't
19 fully directly involved in all the stores that were loaded -- did
20 you observe any alcohol being loaded onto the vessel?

21 A. No.

22 Q. And at no time did you observe anyone consuming alcohol?

23 A. No.

24 Q. Going to jump to another topic. When you were chaining the
25 pots before you guys got underway, you -- do you recall how many

1 chains per pot?

2 A. Per row you mean?

3 Q. So maybe I'm misunderstanding. So I have your drawing --

4 A. There would be a row of chain on every row. So yeah, so
5 every row of pots would have a chain.

6 Q. The chain.

7 A. Yeah. And then we put a belly chain around the bottom just
8 to keep them from going forward.

9 Q. Okay. So you're saying a row going like this?

10 A. Yes.

11 Q. And then a belly chain to keep them from going forward?

12 A. Yeah. Well, the top one is the -- I'm sorry, the top drawing
13 that I have, it's the lines up here. The chains would be going
14 like this, and then on the bottom one, the chains (indiscernible).

15 Q. Okay. And how much do you think those chains weigh from your
16 experience having chained other pots?

17 A. Heavy.

18 Q. Couple hundred pounds?

19 A. Yeah, probably. Just depends how long they are. I mean,
20 every boat is different, because every boat has different size
21 chain, you know, every -- or how high they can go. But yeah,
22 they're a couple hundred pounds heavy.

23 Q. Per chain?

24 A. Yeah.

25 Q. So based on your experience having loaded pots before, and

1 based on what you saw on the *Scandies Rose* --

2 A. Yeah.

3 Q. -- would you say there were a couple thousand pounds of --
4 like there were -- there was enough chain that it would have been
5 a couple of thousand pounds? Is that a fair question to ask based
6 on your observations and experience?

7 A. Couple thousand pounds? Yeah, maybe, or a thousand pounds
8 maybe. There's -- forget how many rows we had. You can see it
9 probably on one of those pictures. But we had a -- one on every
10 single row, and it was, you know, it wasn't like skinny chain. It
11 was thick, heavy-duty chain. Yeah.

12 I kind of thought it was kind of overkill at first, because
13 usually you'll put one, then you'll skip one, put another one,
14 skip one, kind of like that. But we had one on every row. So I
15 wasn't there to put those on. I was just there for the belly
16 chains. So I like, oh, kind of put a lot of chains on here, which
17 I mean, that's good. I mean, when the boat was on its side, the
18 stack was -- the stack didn't start falling apart until the boat
19 started dancing.

20 Q. How do you know it started falling apart? Was it -- did you
21 hear stuff?

22 A. It was loud. You could hear (indiscernible). It was loud.

23 Q. When you were observing the bait being loaded --

24 A. I didn't observe it. I did it.

25 Q. Okay. Well, so you mentioned that they craned over six to

1 seven pallets.

2 A. Yes.

3 Q. And you mentioned that each pallet was about 2,000 pounds?

4 A. Yeah, roughly.

5 Q. Give or take.

6 A. Yeah.

7 Q. And all of that went into the forepeak?

8 A. Yeah.

9 Q. To your best recollection, were the pots that were already
10 configured for cod, did they already have bait in them? They were
11 already completely configured --

12 A. No.

13 Q. -- and ready to throw? Negative? Okay. Can you explain
14 that to me a little bit?

15 A. Well, the pots just had the line in them and the buoys. But
16 we don't bait them up until we set them over. I mean, we had a
17 3- or 4-day run, so the bait would have been -- get washed out.
18 It would have been -- so we bait them when (indiscernible).

19 Q. Got you. About how much does all of the -- for a pot that is
20 configured for cod, how much would you say -- the gear that's in
21 there already without the bait, how much would you say -- how much
22 weight would that be?

23 A. I don't know, couple hundred pounds maybe of line. Just
24 depends how many shots, how many different -- how deep you're
25 fishing. Sometimes it will be fishing a little deeper and have

1 more line. I think these only had two shots on them. Maybe 100
2 pounds and the buoy. Yeah, 100 pounds maybe, 50 pounds, yeah.
3 Maybe they just feel heavier.

4 Q. And you weren't there to configure those pots for that. So
5 that was already --

6 A. No. It was already --

7 Q. I was asking like, based on your experience, what --

8 A. Yeah.

9 Q. -- what you've seen in --

10 A. Yeah.

11 Q. Okay. This was already asked, but I want to double, triple
12 check.

13 A. Okay.

14 Q. You personally heard Gary Cobban make the May Day call?

15 A. I told him to make the May Day call.

16 Q. And then you hear him --

17 A. Yeah, and then I heard him talking to the Coast Guard -- I'm
18 sorry -- he was trying to make contact, and then faintly hear
19 (indiscernible) Kodiak, all of that. So he wasn't sure if he was
20 getting through. And once I got outside, I kept screaming, keep
21 calling, keep calling. And then after a couple hours we're out, I
22 figured the EPIRB didn't go off. I figured we were close enough
23 to Kodiak, if the EPIRB would have fired, you guys would have been
24 out there (indiscernible).

25 Q. I have one last question at this point. When you guys were

1 preparing to go underway, did you go off the vessel at any point?

2 Did you talk to any crewmembers of other fishing vessels?

3 A. No. That was just mainly -- only time I think I went off the
4 vessel was to bring up some like garbage and stuff to get rid of.
5 But no, I didn't go off (indiscernible).

6 Q. And so you didn't like shoot the breeze with anybody --

7 A. No. That's --

8 Q. -- about --

9 (Simultaneous speaking.)

10 A. -- really a (indiscernible) at the time.

11 Q. Okay. So when you guys did get underway, did you observe
12 other vessels in port or at anchor or --

13 A. Yeah. They weren't leaving.

14 Q. Okay. But you didn't talk to anyone else to determine why
15 they weren't leaving, but you --

16 A. No. I didn't really have time for that. I mean, we're --

17 Q. Busy?

18 A. Yeah. I'm trying to -- new job (indiscernible). It just
19 wasn't any time for that. I wasn't concerned with talking to
20 other people. I just wanted to get done with everything so I
21 could go to bed.

22 CDR DENNY: Those were (indiscernible.)

23 CDR CALLAGHAN: All right. I have just a couple as well, and
24 then we'll move on, keep things rolling for you.

25 MR. GRIBBLE: Sure.

1 CDR CALLAGHAN: So, Lieutenant Commander Comerford, if you
2 could turn to Exhibit 14, page 21, please.

3 BY CDR CALLAGHAN:

4 Q. I know this is not taken on the *Scandies Rose* per se. But
5 just wanted to use this and get a sense from your experience and
6 what you observed on the day -- on the voyage day before the
7 incident. In comparison to this, how would you compare the icing
8 that was taking place onboard?

9 A. That's a pretty good comparison. That's almost dead on. And
10 that's kind of how the pots looked like. The web was kind of
11 covered, but it wasn't all the way fully (indiscernible) yet.

12 Q. Would you say that was at the -- your end of your first watch
13 or at what point of the day would you say this is probably the
14 best match?

15 A. At the beginning, middle of my watch.

16 Q. Middle of the first or the second one?

17 A. Second one.

18 Q. Second one. Okay. So when you turned it over to Gary later,
19 worse than that or --

20 A. Just a little worse, little worse. I mean, right around
21 that. I mean, it's maybe a little more on the bars, but that's a
22 pretty good picture of what it looked like, yeah.

23 Q. Okay. Thank you.

24 CDR CALLAGHAN: And then, Mr. Comerford, if you could turn to
25 Exhibit 4, page 2, please. So at this time, what I -- I'm going

1 to ask if you can -- provided a paper copy to Mr. Gribble as well.

2 BY CDR CALLAGHAN:

3 Q. But ask right now if you could maybe circle where onboard you
4 had observed the EPIRB being located.

5 UNIDENTIFIED SPEAKER: Slightly above and forward of the life
6 ring.

7 MR. GRIBBLE: Kind of like right where the other one was,
8 just on the opposite side.

9 CDR CALLAGHAN: Okay. And can you just turn it to the camera
10 real quick just so we can --

11 MR. GRIBBLE: That a good picture?

12 CDR CALLAGHAN: Yeah. And what we will do, we'll take that,
13 and we'll enter it into on the record as another exhibit as well.
14 Thank you.

15 MR. GRIBBLE: Yeah.

16 BY CDR CALLAGHAN:

17 Q. And so just wanted to ask another follow-up question on --
18 with regards to visibility from your stance at the -- in the
19 pilothouse while you were on watch. What you experienced on the
20 *Scandies* similar in your experience to other vessels as far as pot
21 height, your line of visibility forward on the vessel?

22 A. Yeah. Yeah. It wasn't anything I didn't think was out of
23 the ordinary.

24 Q. Okay.

25 A. It had stacks that were higher than the windows so you could

1 only see out of one window.

2 Q. Sure. And then so also going to -- sticking with the pots,
3 we had earlier talked about there not being a walkway, and the
4 only way over the pots was to climb over from the house all the
5 way to the -- all the way up forward. Is this pretty normal
6 setup?

7 A. Just depends on the boat. I don't like to do it like that
8 because I like to keep a tunnel so you can go up and check the
9 forepeak easier, and you can also check the tanks to see if
10 water's getting into them or whatnot.

11 Q. Was there any discussion at any point on to maybe why it was
12 set up this way versus --

13 A. Some boats just you can carry more pots because it was -- you
14 know, that whole row, it's -- you know, every row, it's different.
15 So there are probably 10 pots or 8 pots.

16 Q. Sure. Okay.

17 A. So and he -- it does make the stack tighter because the -- I
18 don't know. Every boat is just different. I like to have the
19 tunnel. Makes it easier to check on things, and it makes it
20 easier to get out there safely.

21 Q. And one other point of clarification. So you mentioned
22 earlier about the discussion, and your review of the weather
23 included the possibility of waiting 12 hours for the weather to
24 pass. Was there any discussion on that recommendation to anybody?
25 Had you made that discussion or did you hear any other crew

1 members make that recommendation?

2 A. Me and my dad were talking about it, because he saw the
3 weather picture too. He's like, why are you guys -- you should
4 wait 12 hours, let it pass.

5 Q. But was it ever -- was that recommendation made to Gary at
6 all?

7 A. I think I mentioned it, not like telling him to. I think I
8 mentioned it like, god, it would be nice to wait a day or wait 12
9 hours, whatever it was. But not like he should do that or -- be
10 nice to let the shit pass. I mean, everybody was concerned. We
11 knew we were going out in the shit.

12 Q. Okay. And then, so just last question with regards to
13 everyone's location. And I think we've now established that you
14 had seen everyone once the vessel had started to list to the
15 starboard. You had -- can we just run through one more time? You
16 had said David was up on the port side. You had established that
17 John was already outside, and Brock, can you talk about where
18 Brock's at and Gary?

19 A. Yeah. When I passed the suits out to them, Brock went over
20 to the port side to lay down on the floor and get it on. And Seth
21 was kind of just standing there kind of like looking to Gary,
22 like, what do we do, what do we do? And he asked me, what do we
23 do? Go get your suit on. Go outside. It's going to be fine.
24 And he just, he went over to the console to like talk with Gary,
25 get confirmation from Gary. He just wanted to know it was going

1 to be okay or something.

2 And just they didn't really -- I don't know if they just
3 thought the boat wasn't going to sink. I just -- I knew it was a
4 bad -- soon as I saw how far we were over, I was like, we're not
5 getting it back. There was no way. Let's call you guys and
6 arrange a helicopter ride. They got insurance. Rather let a boat
7 go and claim insurance on, you know, have somebody die trying to
8 save the boat or something. That's always kind of been my -- you
9 know, whether it be a fire or whatever, I mean, you know, there's
10 -- boats and stuff are replaceable. We weren't.

11 Q. Okay. Thank you. And was Art up there as well?

12 A. I believe Art was there. I'm pretty sure I saw Art. Like I
13 said, I passed out all the suits, and there was enough suits there
14 for everybody. I took the very last one, and I -- when I was
15 passing the suits out, I was passing them to the guys. They were
16 taking them from me. So I'm pretty sure Art was there, and he was
17 over by the chart table by Gary. They were all over there kind of
18 trying to like look to Gary for what to do, and just like they
19 were all (indiscernible).

20 CDR CALLAGHAN: All right. Thank you. Okay.

21 That's the last question I have for now. I have two that I
22 will close up with, but at this point, I'd like to turn it back
23 over to Mr. Barnum from NTSB.

24 MR. BARNUM: Thank you, Commander.

25 BY MR. BARNUM:

1 Q. Thank you again, Mr. Gribble. Extremely thorough here.
2 We've been going for almost 4 hours. You're doing great. A lot
3 of great information. I only have one follow-up for you. Bilge
4 alarm, where was that -- where would that alarm sound once you
5 tested it in engine room?

6 A. All over, all over the -- I think the whole boat had -- each
7 level had the alarm on it. I think it would ring on all of them.

8 Q. Do you know if it would sound on the bridge as well?

9 A. Yeah.

10 Q. Okay. I believe you said you didn't test the alarms in the
11 crab tanks, but you've had --

12 A. Because I wasn't there for that.

13 Q. Right. But on other vessels, are you familiar where those
14 alarms sound?

15 A. Yeah. Same.

16 Q. So on the bridge as well?

17 A. Yeah. They're all -- the whole alarm system, it's all the
18 same. They all -- every alarm sounds the same or they all trigger
19 the same spot, fire, everything else.

20 Q. During your evacuation of the vessel, you mentioned earlier
21 you didn't hear any alarms; is that correct?

22 A. No, I didn't hear any alarms.

23 Q. While on watch, during any part of the journey, the voyage,
24 did you receive any alarms?

25 A. No, I never heard an alarm.

1 MR. BARNUM: Okay. That's all the questions I had. Thank
2 you very much. I appreciate it. I believe Ms. Bell from NTSB
3 also has a follow-up for you.

4 BY MS. BELL:

5 Q. I only have one follow-up question regarding fatigue we
6 talked about earlier. You said that you worked until 2 or 3 in
7 the morning the day before you left and, admittedly, you were
8 tired. Were any of the other crewmembers voicing concerns about
9 fatigue?

10 A. Everybody tries to be tough, so not too much concern. I
11 mean, yeah, I mean, we were all tired when we got up on the 30th,
12 because we only slept for a couple hours, and we were back at it.
13 But no, I mean, maybe the only person that expressed concern was
14 me.

15 Q. Well, do you think that the captain might have -- that might
16 have played into his decision not to have anyone go out to chop
17 ice? I know weather was a factor, but do you think --

18 A. No. That's never a factor. You just go do it. Whether you
19 hurt or not, it has to be done, and you just do it.

20 Q. Okay. So you don't think he would have taken into
21 consideration --

22 A. No.

23 Q. -- fatigue as an issue?

24 A. No. If it needed to be done, and for safety, no, it needs to
25 get done no matter what.

1 MS. BELL: Okay. That's all the questions I had. Thank you.

2 CDR CALLAGHAN: Thank you, Bart. Thank you, Carrie.

3 At this time, turn it over back to Mr. Barcott for second
4 round.

5 MR. BARCOTT: Thank you, Commander. I just have a couple of
6 follow-up questions.

7 BY MR. BARCOTT:

8 Q. I'm -- I was hearing some feedback. Mr. Gribble, can you
9 hear me all right?

10 A. Yeah, you're fine.

11 Q. Okay. Good. Thank you. I want to -- Mr. Stacey asked you
12 questions about overhearing a conversation between Gary and
13 somebody about getting up fishing. Was that on the speaker phone?

14 A. No. He was just talking on the phone.

15 Q. On his phone?

16 A. Just talking on his phone. No, it wasn't speaker.

17 Q. Okay. So this would have been on the 30th?

18 A. Yeah.

19 Q. All right. And just one last question. So as I understand
20 it, the only two windows you could see out of after the glazing
21 started were the two forward-facing windows on the starboard side
22 and in front of the helm station; is that right?

23 A. Yeah. And the other ones were all iced up.

24 Q. But when you came up when the boat started going over, were
25 you able ever to get a good look at how much ice there was on the

1 boat at that time?

2 A. No. I didn't even -- I wasn't thinking about that at the
3 time. I was just trying to run for my life. When me and John
4 were climbing around on the house, you can see ice, but it wasn't
5 -- it was just a little worse than it was when on my watch. There
6 wasn't much -- not much worse.

7 Q. Oh, okay.

8 A. But maybe it fell off when it rolled. I don't -- that's
9 speculation.

10 Q. But you could see some ice when you were crawling around, and
11 it --

12 A. Yeah.

13 Q. -- looked about --

14 A. Yeah.

15 Q. -- the photograph that we looked at, Exhibit 14, page 21, of
16 Gary standing with some ice. That's about what it looked like?
17 Thank you.

18 A. Yeah. That's a good representation of what it looked like.

19 MR. BARCOTT: Okay. Thank you. That's all I have.

20 CDR CALLAGHAN: Okay, Mr. Stacey?

21 MR. STACEY: Yeah. Just a couple.

22 BY MR. STACEY:

23 Q. The size of the crab pots that were stowed on the deck would
24 be what? What size?

25 A. 8-by-8.

1 Q. 8-by-8?

2 A. Yeah.

3 Q. And do you know if any of the crab pots were left in Kodiak?

4 A. I think there was a couple of crappy ones that just we didn't
5 want to take because the web was bad.

6 MR. STACEY: Okay. Nothing further. Thank you.

7 CDR CALLAGHAN: Thank you, Mr. Stacey.

8 Okay. So just going to close it out here. So before I go
9 through my closing comment, just on a positive side, so you and
10 John are survivors, and in a lot of cases, unfortunately, we don't
11 have survivors. And so this is a unique opportunity to learn for
12 us and for other fishermen based on your testimony and your
13 feedback. So this really means a lot to us, and certainly
14 appreciate your time here to share this.

15 BY CDR CALLAGHAN:

16 Q. So would you -- saying that, is there any training or
17 anything specific that you would attribute your ability to get
18 your survival suit on, and ultimately that led for you to survive?

19 A. Just the years of putting it on and practicing with it. We
20 always have races to get it on just kind of when I was younger.
21 We practiced to get in them. So yeah, the more you do it, the
22 better you get. I've told all my friends that, after this, I'm
23 like, make that muscle memory, because like when you're freaking
24 out, and your heart's wanting to jump out of your chest, you're
25 not thinking right, and it just has to be muscle memory at that

1 point.

2 Q. And you had mentioned you were the only one who had done the
3 survival suit during the training on the *Scandies Rose* --

4 A. Yeah.

5 Q. -- before getting underway. Is that typical for a crew to
6 just do one or two people, or is --

7 A. Usually just the new guys will do it. I like to do it
8 just -- again, I like just to make sure I can do it fast in case
9 of a situation. I just had a lot of friends in situations like
10 that. It's a dangerous job.

11 Q. Okay. So and I appreciate that, and I -- I mean, muscle
12 memory is the best thing that we can practice. And so last major
13 question, so if there was discussions taking place in the fishing
14 industry on how to kind of reduce some costs, and topic of
15 potentially extending survival craft servicing periods, how would
16 you -- from your experience in the industry, what would your
17 reaction to a proposal to extend the --

18 A. To make it longer in between?

19 Q. Yes. That's correct.

20 A. Yeah. I mean, if they're still done right and -- I mean,
21 there's a lot they should change about it. And like the survival
22 suit, like they should have a personal EPIRB on each suit. That
23 was the biggest fear of mine after the boat was gone, and I'm just
24 floating to just infinity is that I have a little light, and
25 nobody's going to -- I'm not going to be able to -- if I don't get

1 in that raft, you're just going to see my head and not going to
2 see me. I was real scared about that. I was just going to float
3 and just float till I froze to death. You know what I mean?

4 I'm somewhat comfortable in the water so -- and I was
5 thinking about, oh, am I going to just drown myself? I can't do
6 that, because I'm comfortable in the water. It's against human
7 nature to do that, and human nature is just to start fighting and
8 to stay alive. And a personal EPIRB would have made me feel real
9 comfortable, because if that raft didn't come around, I would have
10 just been floating out for a long time, and you guys would have
11 had no idea where I was. And what really pissed me off if when I
12 got home, and I find out these personal EPIRBs or whatever are
13 only like \$100 more than a fucking light is. Why aren't those
14 mandatory?

15 Q. Okay. I appreciate that. And aside from some changes to the
16 survival craft that you mentioned to make it a little more useable
17 and the survival suit, the personal EPIRB, are there any other
18 recommendations that you think the industry should take on or the
19 government should push to increase the safety and the likelihood
20 of survival in the event that something like this were to happen
21 again?

22 A. Yeah. I think more flares in the bag, flares maybe that
23 floats in water and at -- makes sense. Some of those hand warmers
24 would have been real nice, because we could have just grabbed
25 those and popped them into our suit. That maybe would have kept

1 us a little warmer. Communications. I mean, stuff is so cheap
2 nowadays, and technology is there. Why aren't they using it?

3 The same safety gear that I'm using is the same safety gear
4 was when I started 20 years ago, and it's the same safety gear 20
5 years before that. So it needs to change with time. And I get it
6 you don't use it all the time, but when you do need to use it, it
7 should be there for you.

8 I mean, these owners make a lot of money off my back, and
9 especially after they did this, you know, the IFQ to where they
10 switch it, they see a lot of money. It went from the boat would
11 catch 100 percent of the crab, and then you'd split, you'd get
12 your percentage of 100 percent of that crab. But now that it's
13 all stocks and it's all a quota, the people that are leasing or
14 people from other boats that put their quota onto your boat,
15 they're putting it on it for a fee. So you're only getting like
16 30 percent of the king crab money, 30 -- 50 percent of
17 (indiscernible) money.

18 So they really screw you on the money. So they're making
19 money. So why aren't they putting the safety changes in? Why am
20 I floating to infinity without a EPIRB? Why isn't there a radio
21 in the raft? I mean, there's a multitude, man. That's what
22 helped keep me going in the raft is just being pissed about all
23 the crap that wasn't in the raft.

24 Q. Thank you for that. And so closing up, the last overarching
25 question, so are there any questions that you think we missed,

1 other information you think we should know?

2 A. Also, I would say, and probably a lot of people would get mad
3 at me for saying it but, again, is, you know, they did the
4 rationalization, make everything safer, but no rules were
5 implemented to make it safer. You just are going off the good
6 will of the people aren't going to go out into the storm. But
7 fuels still cost money, and people still want to go home. So that
8 doesn't change anything. They still go out there.

9 I haven't noticed anything different from when
10 rationalization started. We fish just as hard, just as long, and
11 what? I mean, anything over a 20-hour day is just stupid. I
12 mean, and that's what they say, isn't? Like sleep deprivation is
13 worse than being drinking and driving or whatever. So when does
14 that come into play? I'm not allowed to drink on the boat, but
15 they can work me 30 hours. Doesn't make any sense to me. And
16 I've worked for 2, 3 days straight before with no -- just a
17 10-minute break in between, you know.

18 So, I mean, 18-hour day is perfect for me. I'd be happy with
19 that, and that gives everybody 6 hours of sleep, and that's
20 enough. That's not completely overkill. I mean, I get it, you
21 want to get out of there and get -- when it comes down to it, is
22 it really worth it? Is it worth it people getting hurt and people
23 getting killed? And if it's because they're tired or just not
24 making the right call because they're tired or they're worn out,
25 and they don't -- they just don't have the ability to do it, it's

1 just not worth it.

2 I mean, I've done this all my life, and the derby was the
3 derby, and now it's not the derby. So now I get less money, and
4 it still is dangerous, if not "dangerouser," because now, when a
5 boat sinks, there's less people out there to look for you, in my
6 opinion.

7 CDR CALLAGHAN: Thank you for that. And so we are complete
8 with your testimony for today.

9 MR. GRIBBLE: Okay.

10 CDR CALLAGHAN: However, I do anticipate that you will be
11 recalled to provide any additional testimony at a later date.

12 MR. GRIBBLE: That's fine.

13 CDR CALLAGHAN: Therefore, I'm not releasing you from
14 testimony at this time, and you do remain under oath.

15 MR. GRIBBLE: Sure.

16 CDR CALLAGHAN: So we do ask you please do not discuss your
17 testimony or this case with any other -- anyone other than your
18 counsel --

19 MR. GRIBBLE: Sure.

20 CDR CALLAGHAN: -- the National Transportation Safety Board
21 or members of the Coast Guard Marine Board of Investigation Team.

22 MR. GRIBBLE: Sure.

23 CDR CALLAGHAN: And if you have any questions about this, you
24 may contact us (indiscernible) through your attorney or you can
25 contact us directly.

1 MR. GRIBBLE: Okay.

2 CDR CALLAGHAN: But certainly thank you for your time.

3 NTSB -- Bart, Carrie, Mr. Barcott, thank you very much.

4 Appreciate your time today.

5 UNIDENTIFIED SPEAKER: Off the record.

6 CDR CALLAGHAN: And we're going to go off the record. It is
7 now 1357 on September 23rd.

8 (Whereupon, at 1:57 p.m., the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

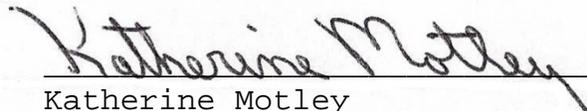
IN THE MATTER OF: CAPSIZING AND SINKING OF THE
 F/V *SCANDIES ROSE* NEAR SUTWIK
 ISLAND, ALASKA, DECEMBER 31, 2019
 Interview of Dean William Gribble

ACCIDENT NO.: DCA20FM009

PLACE: Via Microsoft Teams

DATE: September 23, 2020

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.



Katherine Motley
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Monday,
March 1, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: It is 0800 on March 1st, 2021, and this
4 hearing is now in session. Good morning ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard Chief of
6 Prevention for the 11th Coast Guard District. I'm the Chairman of
7 the Coast Guard Marine Board of Investigation and the presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 masks while seated to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table and whenever approached by another person. I ask that
18 anyone who is unable to remain social distancing, please keep
19 their mask on unless actively speaking into the microphone.

20 Due to the extensive technology used to support this hearing
21 and a potential for unanticipated delays or challenges, I ask that
22 you please be patient with us in the event of any disruptions.

23 The Commandant of the Coast Guard has convened this Board
24 under the authority of Title 46 U.S.C. Section 6301 and Title 46
25 C.F.R. Part 4 to investigate the circumstances surrounding the

1 sinking of the commercial fishing vessel *Scandies Rose* with the
2 loss of five lives on December 31st, 2019, while transiting in the
3 vicinity of Sutwik Island, Alaska. There were two survivors.

4 I would like to take this opportunity to express my
5 condolences to the family and friends of the five crew members who
6 were lost at sea. I note that many of you are watching this
7 hearing on livestream due to the COVID restrictions in place, and
8 we appreciate you being here joining us.

9 Upon completion of the investigation, this Marine Board will
10 submit its report of findings, conclusions, and recommendations to
11 the Commandant of the United States Coast Guard. Other than
12 myself, the members of this board include Commander Karen Denny
13 and Lieutenant Commander Mike Comerford. The legal counsel to
14 this board is Lieutenant Sharyl Pels. The recorder is Lieutenant
15 Ian McPhillips. Coast Guard technical advisors to this board are
16 Mr. Scott Giard and Mr. Keith Fawcett. This Board's media liaison
17 is Mr. Scott McCann.

18 The National Transportation Safety Board is also
19 participating in this hearing. Mr. Bart Barnum, Investigator in
20 Charge for the NTSB's *Scandies Rose* investigation, is here with
21 us, along with Mr. Paul Suffern.

22 Witness are appearing before the Board to provide valuable
23 information that will assist this investigation. We request that
24 all members of the public be courteous to the witnesses and
25 respect their right to privacy.

1 The members of the press are welcome to attend virtually and
2 provisions have been made during the proceedings to allow the
3 media to do so. The news media may question witnesses concerning
4 the testimony they have given after I have released them from
5 these proceedings. I ask that any such interviews be conducted
6 with full consideration of the COVID mitigation procedures that
7 the Marine Board has established.

8 The investigation will determine as closely as possible the
9 factors that contributed to the incident so that proper
10 recommendations for the prevention of similar casualties may be
11 made; whether there is evidence that any act of misconduct,
12 inattention to duty, negligence, or willful violation of the law
13 on the part of any licensed or credentialed person contributed to
14 the casualty; and whether there is evidence that any Coast Guard
15 personnel or any representative or employee of any other
16 government agency or any other person caused or contributed to the
17 casualty.

18 The Marine Board planned this two-week hearing to examine all
19 events relating to the loss of the *Scandies Rose* and five crew
20 members. The hearing will explore crewmember duties and
21 qualifications, shore side support operations, vessel stability,
22 weather factors, effects of icing, safety equipment, the operation
23 of the vessel from the past up to and including the accident
24 voyage, and survey imagery of the vessel in its final resting
25 place. The hearing will also include a review of industry and

1 regulatory safety programs, as well as the U.S. Coast Guard Search
2 and Rescue activities related to the response phase of the
3 accident after the notification that the *Scandies Rose* was in
4 distress.

5 The Coast Guard has designated parties in interest to this
6 investigation. In Coast Guard marine casualty investigations, a
7 party in interest is an individual, organization, or other entity
8 that under the existing evidence or because of his or her position
9 may have been responsible for or contributed to the casualty. A
10 party in interest may also be an individual, organization, or
11 other entity having a direct interest in the investigation in
12 demonstrating the potential for contributing significantly to the
13 completeness of the investigation or otherwise enhancing the
14 safety of life and property at sea through participation as party
15 in interest.

16 All parties in interest have a statutory right to employ
17 counsel to represent them, to cross-examine witnesses, and have
18 witnesses called on their behalf. Witnesses who are not
19 designated as parties in interest may be assisted by counsel for
20 the purpose of advising them concerning their rights. However,
21 such counsel are not permitted to examine or cross-examine other
22 witnesses or otherwise participate in the investigation.

23 I will now read the list of those organizations and
24 individuals whom I've previously designed as parties in interest:
25 Scandies Rose Fishing Company LLC, represented by counsel who are

1 here in person today; crewpersons Mr. Dean Gribble and Mr. John
2 Lawler, represented by counsel who are appearing virtually today;
3 and Mr. Bruce Culver, not present at this time.

4 The Marine Board will place all witnesses under oath. When
5 testifying under oath, a witness is subject to the federal laws
6 and penalties for perjury for making false statements under Title
7 18 U.S.C. Section 1001. Penalties could include a fine of up to
8 \$250,000 or imprisonment up to five years or both.

9 The sources of information to which this investigation will
10 inquire are many and varied. Since the date of the casualty, the
11 NTSB and Coast Guard have conducted substantial evidence
12 collection activities, and some of that previously collected
13 evidence will be considered during these hearings. Should any
14 person have or believe he or she has information not brought forth
15 but which might be of direct significance, that person is urged to
16 bring that information to my attention by emailing
17 uscg.scandiesrosembi@gmail.com. This email address will be
18 continuously monitored.

19 Mr. Bart Barnum will now say a few words on behalf of the
20 NTSB.

21 MR. BARNUM: Good morning. I am Bart Barnum, Investigator in
22 Charge of the National Transportation Safety Board's investigation
23 of this accident. The Safety Board is an independent federal
24 agency which under the Independent Safety Board Act of 1974 is
25 required to determine the cause or probable cause of this

1 accident, to issue a report of the facts, conditions and
2 circumstances related to it, and make any recommendations for
3 measures to prevent similar accidents.

4 The NTSB has joined this hearing to avoid duplicating the
5 development of facts. Nevertheless, I do wish to point out this
6 does not preclude the NTSB from developing additional information
7 separately from this proceeding if that becomes necessary.

8 At the conclusion of this hearing, the NTSB will analyze the
9 facts of this accident and determine the probable cause
10 independent of the Coast Guard. At a future date, a separate
11 report of the NTSB's findings will be issued, which will include
12 our official determination of the probable cause of this accident.
13 If appropriate, the Safety Board will issue recommendations to
14 correct safety problems discovered during this investigation.
15 These recommendations may be made in advance of the report.

16 In addition, on behalf of the NTSB, I would like to offer my
17 deepest condolences to the families and those affected by this
18 tragic accident. Thank you.

19 CAPT CALLAGHAN: Thank you, Mr. Barnum.

20 In the first five days of this hearing, we heard from owners
21 of the *Scandies Rose* and several fishermen who had sailed onboard
22 the *Scandies Rose* or had close contact with the vessel before the
23 incident. We also heard from a panel of professional engineers
24 who regularly evaluate vessel stability and had a detailed review
25 of the post casualty stability analysis that was conducted by the

1 Coast Guard. Most notably, we heard the emotional firsthand
2 accounts from one of the two survivors.

3 As I stated on the record Friday, I have decided that the
4 Board will not hear the testimony of *Scandies Rose's* crewmember
5 and incident survivor Mr. Dean Gribble during this formal hearing.
6 On September 23rd, 2020, the Board conducted a recorded interview
7 with Mr. Gribble that was extensive and was attended by the
8 National Transportation Safety Board and all parties in interest
9 representatives that were named at that time. All parties present
10 had the opportunity to examine and cross-examine Mr. Gribble
11 during the approximately five-hour interview. The complete
12 recording of this interview is now posted to the Coast Guard media
13 website for public viewing and on livestream. After reviewing
14 Mr. Gribble's previous interview and considering the emotional
15 nature of his testimony, I have determined that the Board does not
16 need additional information from Mr. Gribble during this formal
17 hearing.

18 Today, we will hear from a representative from the Coast
19 Guard who will speak about the fishing vessel program,
20 representatives from lifesaving equipment servicing company, and a
21 Coast Guard Search and Rescue specialist who will review the Coast
22 Guard efforts once the distress call from the *Scandies Rose* was
23 received.

24 At this time, we will go to a short recess and resume at
25 0815.

1 (Off the record at 8:10 a.m.)

2 (On the record at 8:15 a.m.)

3 CAPT CALLAGHAN: The time is now 0815. This hearing is now
4 back in session. We will now hear from Mr. Joe Myers.

5 Mr. Myers, Lieutenant McPhillips will now administer your
6 oath and ask for some -- ask you some preliminary questions.

7 LT McPHILLIPS: Please stand and raise your right hand.
8 (Whereupon,

9 JOSEPH MYERS

10 was called as a witness and, after being first duly sworn, was
11 examined and testified as follows:)

12 LT McPHILLIPS: Please be seated. Please state your full
13 name and spell your last name.

14 THE WITNESS: Joseph David Myers, M-y-e-r-s.

15 LT McPHILLIPS: Please identify counsel or representative if
16 present.

17 THE WITNESS: My counsel is Lieutenant Commander Matthew
18 Pekoske.

19 LT McPHILLIPS: Counsel, please spell and state your last
20 name, as well as your firm or company relationship.

21 LCDR PEKOSKE: Lieutenant Commander Matthew Pekoske,
22 P-e-k-o-s-k-e, Coast Guard Judge Advocate, witness counsel to
23 Mr. Joseph Myers.

24 LT McPHILLIPS: Mr. Myers, please tell us, what is your
25 current employment and position?

1 THE WITNESS: I'm current employed with the U.S. Coast Guard.
2 My current position, I'm the chief of the Fishing Vessel Safety
3 Division of the Coast Guard Office of Commercial Vessel Compliance
4 at Coast Guard Headquarters.

5 LT McPHILLIPS: What are your general responsibilities in
6 that job?

7 THE WITNESS: General responsibilities, I supervise and
8 manage the Coast Guard's fishing safety program for the United
9 States and I'm responsible for all facets of program policy
10 implementation, acting on statutory mandates and regulations.

11 I manage the fishing vessel district coordinator and examiner
12 programs along with overseeing certain aspects of training,
13 dockside exams and various facets of the program depending on the
14 region involved. And I am also involved with responding to
15 congressional NGO reports.

16 LT McPHILLIPS: Can you briefly tell us your relevant work
17 history?

18 THE WITNESS: My work history, I've been with the Coast Guard
19 for 38 years, and 27 of that being active duty and I've been
20 retired for the rest. I started off on Coast Guard cutters and --
21 as a damage control man welder. I transitioned into marine
22 inspections as a marine inspector with various quals. I managed
23 port state control fishing vessel examiner and marine inspection
24 courses at the marine inspection schoolhouse for several years,
25 and then I transitioned up to Coast Guard headquarters into my

1 current position.

2 LT McPHILLIPS: What is your education related to that
3 position?

4 THE WITNESS: My education, well, I have an MBA and a degree
5 in human resources, but education in that position I would say is
6 just linked to the marine inspector background.

7 LT McPHILLIPS: Do you have any professional licenses or
8 certificates related to your position?

9 THE WITNESS: I am a certified welder educator with the
10 American Welding Society.

11 LT McPHILLIPS: Thank you. Captain Callaghan --

12 THE WITNESS: And I have --

13 LT McPHILLIPS: I apologize. I apologize. I spoke on top of
14 you.

15 THE WITNESS: No, sir. It's fine.

16 LT McPHILLIPS: Well, thank you, Mr. Myers. Captain
17 Callaghan will have follow-up questions for you.

18 CAPT CALLAGHAN: Thank you for being with us today, Mr.
19 Myers. I'm going to pass it over to Mr. Keith Fawcett who will be
20 asking questions of you, sir.

21 Mr. Fawcett?

22 MR. FAWCETT: Thank you, Captain.

23 Good morning, Mr. Myers.

24 THE WITNESS: Good morning.

25 BY MR. FAWCETT:

1 Q. So all of my questions are related to the work of the Coast
2 Guard in the realm of commercial fishing vessel safety, and
3 specifically, our area of interest is for vessels the size of the
4 *Scandies Rose*, which is under 200 tons. There are some
5 regulations for larger vessels, but we want to not confuse the
6 public and focus on under 200 tons vessels.

7 So if you'd like to take a break, please let us know. And we
8 will be putting exhibits up on the monitor in front of you, and if
9 you'd like to have us move around or scroll down, please indicate
10 to us and our recorder, Lieutenant McPhillips, will move to that
11 area so you can take a good look. And take your time. Don't be
12 rushed. Give yourself plenty of time to look at the exhibits.

13 So one of the important things, stay away from any acronyms.
14 The public doesn't understand that, in the world of the Coast
15 Guard, we swim in an ocean of acronyms. And one example, like in
16 your presentation, you have an organizational chart, and some of
17 the labels -- for example, one is 5P. If you could describe what
18 that position is as you walk us down through the organizational
19 chart and do that for any other areas where we have Coast Guard
20 unique acronyms.

21 So with that, I want to thank you for preparing an exhaustive
22 presentation. And for the benefit of the public, this
23 presentation will be posted as a Coast Guard exhibit, and they
24 will be able to look at it in great detail at the conclusion of
25 today's hearing.

1 So I would like to turn it over to you, sir, and ask you,
2 Mr. Myers, that as we go through this presentation, if you'll tell
3 Lieutenant McPhillips to advance the slide. This is not an auto
4 program, so when you're finished with each slide, he'll advance to
5 the next.

6 And then some of the slides have a very exhaustive
7 explanation of policy, procedure, or regulation. If you could
8 summarize that information because the presentation will be fully
9 available to the public and to the Board for its analysis
10 throughout the investigation, and the presentation will be posted
11 at the end of the day.

12 So with that, sir, I would ask you to please call up the
13 Coast Guard exhibit that represent Mr. Myers' presentation, and if
14 you would, sir, walk us through it.

15 A. Great. Again, good morning, everyone, and I appreciate the
16 opportunity to participate this morning. And so to begin with,
17 you'll see on the first slide, this -- it's named Commercial
18 Vessel Compliance Fishing Vessel Safety Division, CG-CVC-3, and
19 the CG is Coast Guard, CVC is Commercial Vessel Compliance.

20 And so if we can go to the next slide, I'll give you a
21 breakdown of -- this is a general breakdown of the, of the fishing
22 vessel program organizational chart as a quick snapshot. Now,
23 under the Coast Guard Deputy Commandant for Operations, the DCO,
24 there are various levels and offices represented under the DCO.
25 And CG-5P, that is prevention, that's -- and that's represented by

1 Admiral Timme. CG-5PC is prevention and compliance, and when you
2 see CG-CVC, again, commercial vessel compliance, and then my
3 division, CG-CVC-3, one of the divisions within CVC, or commercial
4 vessel compliance, is fishing vessel safety.

5 Now, though we don't directly supervise, we impact and our
6 policies and program impacts a gamete of other areas and Coast
7 Guard districts and their field units and district coordinators,
8 et cetera. And so that is why you see, under CVC-3, we do impact,
9 to a certain extent, a LantArea and PacArea, which is broken up
10 into various districts, which are District 1, 5, 7, 8, 9, 11, 13,
11 et cetera. For example, District 1 is in the New England area,
12 District 17 being Alaska, District 5 being Florida predominantly.

13 Amongst these different areas, my division, CVC-3, has four
14 individuals on staff, myself and three others. LantArea has two
15 representatives. You'll see ten fishing vessel district
16 coordinators, and with the fishing vessel safety examiners, this
17 is on or about -- it fluctuates from time to time depending on
18 billets being filled or going vacant, but there's about 76 fishing
19 vessel safety examiners billets of the Coast Guard. And amongst
20 that, and I'm sure we'll get into talking about third party
21 organizations that augment the fishing vessel exam program on
22 behalf of the Coast Guard, and with those third-party
23 organizations we have -- actually, as of -- eight. We have seven
24 reflected there, but we have a new position that came into being
25 this past week.

1 The next slide please.

2 This is a quick snapshot of our fishing vessel population in
3 the U.S. domestic fleet nationwide, and you'll see there's roughly
4 -- there's about 65,336 commercial fishing vessels out there.
5 These are broken into documented vessels and state vessels,
6 documented being five net tons and above and state vessels being
7 registered by state. And amongst those, we -- I've also reflected
8 a small breakdown of fishing vessels and fish processors and fish
9 tender vessels by documentation and state that we have done
10 examinations on recently, just to give you a snapshot of that
11 population. Also, with regard to fishing vessels in D-13 and D-
12 17, we have the number reflected there and fish tender vessels
13 also being, for example, in D-13, 33 and D-17, 72. Okay. So
14 that's, again, just a rough snapshot of our population that we
15 deal with daily.

16 Next slide please.

17 And with that population of vessels -- and all these numbers,
18 by the way, are drawn from our marine information safety and law
19 enforcement, MISLE, database as we call it. And this is just a
20 breakdown of fishing vessel subtypes. So for example, pot/trap
21 vessels nationwide, about 5,460. We have a reflection of
22 longliners, trawlers, divers, dredgers, et cetera. So depending
23 on the type of fishing industry vessel, this is just a rough
24 breakdown.

25 Next slide please.

1 And now this -- I was asked in part of the preps to give a
2 basic breakdown in the advances in legislation and how they have
3 impacted the commercial fishing industry. And so, briefly, we
4 offer a snapshot of the Commercial Fishing Industry Vessel Safety
5 Act of 1988, and what this Act did was it authorized the
6 establishment of certain regulations that shaped what we know as
7 46 C.F.R. Part 28 Regulations today: lifesaving equipment,
8 communications, distress signals, firefighting equipment,
9 et cetera.

10 And this also -- this Act also established the Commercial
11 Fishing Safety Advisory Committee as we know it today also. And a
12 little bit later, we'll get into how that is transitioned into the
13 National Fishing Vessel Safety Advisory Committee. But in a
14 sense, this was the beginning.

15 The Coast Guard Authorization -- well, let -- before the
16 Coast Guard Authorization Act of 2010, we had a few initiatives
17 that built up to this 2010 Auth Act, or Authorization Act. And in
18 March of 2008, we had an Advanced Notice of Proposed Rulemaking,
19 and what this -- and they called it an ANPRM, again, an Advanced
20 Notice of Proposed Rulemaking. And what this, what this
21 rulemaking project proposed -- and this was posted on the Federal
22 Register, USCG-2003-16158. That was the docket number. But what
23 this, what this initiative proposed was to build new regs for --
24 that would encompass stability requirements, vessel maintenance,
25 safety training, et cetera, high water alarms, you know, more

1 detailed requirements in the regs. And then we march forward to
2 2010, and then we had the 2010 Authorization Act that established
3 many of these things, training, safety equipment requirements, and
4 Alternate Safety Compliance Program initiative.

5 Now the -- we add the Coast Guard and Marine Transportation
6 Act, the Coast Guard and Marine Transportation Act of 2012, and
7 the big impact of this was, in 2013, there was requirements,
8 statutory requirements enacted for classing and load line
9 requirements. And we'll talk a little bit about that later.

10 And in 2015, as you see, we have an Auth Act that influenced
11 five-year mandatory exams for vessels working beyond three
12 nautical miles and, again, requiring dockside exams at least once
13 every five years and COC, or Certificate of Compliance,
14 requirements.

15 Now what I, what I would like to add is after the -- after
16 2015, in June of 2016, there was an announcement on the Federal
17 Register to withdraw that ANPRM, that Advanced Notice of Proposed
18 Rulemaking I initially discussed, and the reason being was to
19 focus on new rule -- a new rulemaking project that would
20 incorporate 2010 and 2012 legislation that had gone into effect.
21 So, in a sense, then, we pulled back on that ANPRM.

22 And that same month in June on the Federal Register, a Notice
23 of Proposed Rulemaking project was announced, USCG-2012-TAC-0025,
24 and this was proposed legislation to align fishing vessel, fishing
25 vessel regs with the -- again, the mandatory requirements of the

1 2010 and 2012 Authorization Acts.

2 I know that's a lot to take in, but it's a complex animal.
3 And so, that being said -- but there is one special note that,
4 with this new rulemaking project, which we'll get into a little
5 bit later, this did not reflect any of the provisions, any of the
6 provisions of the Coast Guard Authorization Act of 2015.

7 Okay. Let's go to the next slide, unless there are any
8 questions? Okay. Next slide, please -- oh, there we go. Thank
9 you.

10 I briefly hit on the 2015 Coast Guard Authorization Act, and
11 a key note with this Act is that it offered a new construction
12 alternative to class option. And following these Authorization
13 Acts, if we go back to that 2010 Auth Act -- or that Authorization
14 Act; I want to watch those acronyms -- there was a requirement
15 statutorily for the classification of vessels after 2000 -- I
16 believe it was July of 2013 and also the load lining of commercial
17 fishing industry vessels after 1 July 2015.

18 Well, in 2015, there was an alternative to those -- to that
19 requirement, and this now encompasses a population of between 50
20 feet and 180 feet. And that's very important to recognize because
21 what this allows is certain fishing vessels being built after 2016
22 to be designed by a state registered naval architect or marine
23 engineer under the oversight of a marine surveyor that have
24 periodic surveys throughout the shelf life of the vessel, for
25 example, several times in five years, and again, to be audited and

1 reviewed -- subject to audit and review. So that kicked off in
2 2015.

3 Then, moving forward, the Coast Guard Authorization Act of
4 2018, there were new reporting requirements of adequacy tied to
5 the Alternate Safety Compliance Program and these new alternative
6 to class requirements, and those are in 46 U.S.C. 4503(d) as
7 you'll see in the bullet. There were also initiatives in the Act
8 enabled in the statute targeting fishing training and fishing
9 research grants, \$6 million grants, for example, annually for so
10 many years, which we're working closely with NIOSH to manage, and
11 that initiative is going well. Also, the Act required us to
12 implement a national fishing vessel communications plan and other
13 provisions.

14 The Coast Guard Authorization Act of 2020 changed certain
15 grant initiatives. For example, they boosted up the federal cost
16 share to 75 percent, which is a great assistance to those applying
17 to grants. And it also changed -- this Act also changed the name
18 from the Commercial Fishing Safety Advisory Committee to the
19 National Safety Advisory Committee. And, again, this is important
20 to note because the bylaws and certain requirements required the
21 committee had to restart this past December.

22 So that's a quick snapshot of the Authorization Acts. Again,
23 very detailed, and to be aware and and be abreast of these Acts,
24 it's a lot of homework, and sometimes, you have to read them
25 several times to soak everything in because there are a lot of

1 moving parts.

2 If we could move to the next slide, please.

3 And so what this next slide gets into is the reg process. I
4 gave you a quick brief, a quick brief and a breakdown of, you
5 know, these Authorization Acts which result in statutory law which
6 are implemented in U.S. Code, for example, for certain facets of
7 the commercial fishing industry and the maritime industry for that
8 sake. But we're concerned -- we're talking fishing vessel safety
9 this morning, and so what I -- everything I'm focusing on when I'm
10 talking about statutory requirements are predominantly in 46 U.S.
11 Code and the different parts of that.

12 And so, when there is a need for regulation in general,
13 there's a couple of different avenues that could be pursued. And
14 that could be a program initiated reg project and program, for
15 example, would initiate a reg proposal or a reg project proposal
16 or the stakeholder population, industry or other facets of the
17 fishing industry community, could petition for a regulation or
18 something to come into law.

19 And, again, there's a process and legal requirements that
20 eventually may result in an Authorization Act. And then, if it
21 reaches that point, when we get into statute and law again, a lot
22 of those are reflected in U.S. Code, and then there may be
23 mandates depending on the language. Some of that language may be
24 self-executing. For example, there may be a very specific
25 requirement that has an implementation date connected to it, and

1 it is very clear and concise, and so it's self-executing. Or you
2 may have a topic that is non-self-executing that may require
3 further elaboration and detail and it may be appropriate to flesh
4 it out, flesh out the details in a rulemaking project that would
5 result in a regulation. So that is the statute and law.

6 And then we transition them to the rulemaking project.
7 Traditionally, when we assign a project to -- we have a reg team,
8 there's a structure and procedure that looks at public comments,
9 Federal Register publications to be very transparent with the
10 public. And those may involve analysis and further analysis with
11 the public comment, economic studies, et cetera. And then those
12 are vetted by the Agency and DHS, Department of Homeland Security,
13 part -- counterparts before release to a unified agenda. And what
14 the unified agenda does is this will give us an up-to-date status
15 of where that group project may be.

16 So that being said, if we could go to the next slide.

17 And so this rule project that I mentioned previous, that
18 Docket USCG-2012-0025, again, that is the rulemaking project that
19 targets the mandates by statute as reflected by the 2010 and 2012
20 Authorization Act legislation.

21 And that -- the status of this rulemaking project is
22 available to the public if you go to reg.info.gov, and I actually
23 give a link to that in the slide, and what that is -- what that
24 provides you with is some basic information, such as when that
25 NPRM went public for public comment, and you can see it actually

1 went out for public comment several times, and then the current
2 status, which you'll see a TBD, which is to be determined, and
3 what that means is that this rule project is in a, in a, I'll say,
4 standby status, or it's -- some call it an abatement where it is,
5 it has not taken traction in the last year. And the due -- the
6 date for release as a final rule is to be determined.

7 And so that being said, I'm limited to what I can say other
8 than what is posted in the, in the unified agenda, and sometimes
9 there's various contributors that may speed up or slow down the
10 release of a rule project. And again, with regard to this
11 project, that -- I can't offer a whole lot more to that. And
12 basically, this is what we conveyed during our last Fishing Safety
13 Advisory Committee. And we have our annual meetings, we do update
14 the advisory committee where we can on the status of this project,
15 so that's all I have on that topic.

16 And then moving forward, I know we have a lot of topics here,
17 so I'll go onto the next one, and I'm sure there will be follow-up
18 questions. Now, some of these Auth Acts, Authorization Acts and
19 statutory requirements, they're very layered, and I like to call
20 them, there's a lot of buckets. And depending on what bucket
21 these regulatory requirements fall under, a lot of times they
22 touch other buckets. I guess that's the simplest terms I can put
23 them in. And so some requirements and some initiatives will
24 influence others.

25 And so one of the initial requirements that -- or I should

1 say statutory requirements came out of the 2010 Authorization Act
2 was to initiate an Alternate Safety Compliance Program. And the
3 basic population for this Alternate Safety Compliance Program was
4 to prescribe and develop in cooperation with the fishing industry
5 an alternate standard that would apply to older commercial fishing
6 industry vessels, basically that operate beyond three nautical
7 miles, that are 25 years of age and older, and that are 50 feet
8 and longer in length.

9 And if you remember, scrolling back to the 2012 Authorization
10 Act, there were requirements for certain vessels to be classed,
11 for example. Well, not necessarily for these vessels, because
12 again, applicability-wise is they were built prior to that
13 classing requirement, so they could have been built to a different
14 or to no standard at all. So it just depends on the applicability
15 of the vessel. So, that being said, there was an initiative or
16 approach for Alternate Safety Compliance Program.

17 And if we can go to the next slide, please.

18 And so, in 2016, the Alternate Safety Compliance Program
19 requirement acknowledged that older vessels required additional
20 safety measures beyond those found in Part 28. And when I say
21 Part 28, 46 C.F.R. Part 28, the fishing vessel safety
22 requirements. The Coast Guard recognized that further development
23 of an Alternate Safety Compliance Program was premature due to
24 lack of alternative standards in the first place. And so that was
25 the dilemma, the lack of standards to compare the Alternate

1 Compliance Standard to.

2 And so, with that said, back in 2016, the Coast Guard
3 suspended the development of the Alternate Safety Compliance
4 Program standards. And this was put out and detailed in the
5 Marine Safety Information Bulletin 11-16. And that being said, it
6 -- a new initiative was picked up, and this was in concert with
7 feedback and networking and communicating with the fishing
8 industry. And what developed was an Enhanced Oversight Program,
9 and these were developed additional safety measures and voluntary
10 safety best practices that certain fishing industries/vessels
11 could adopt, hitting on stability, dry docking, maintaining your
12 stability letter, for example. And, again, perhaps firefighting
13 and lifesaving requirements. And this was a living and breathing
14 -- intended to be a living, breathing document due to being
15 embraced on a voluntary basis.

16 Now, just after the EOP, or the Enhanced Oversight Program,
17 was launched, the names changed. And essentially, the package was
18 the same, but the name of the EOP was renamed the Voluntary Safety
19 Initiative and Good Marine Practice for Commercial Fishing Vessels
20 Guide. It's a long-winded name, but basically it's a voluntary
21 safety best practice guide for fishing vessels. This was released
22 in 2017.

23 And next slide please.

24 And so, that being said, and still there were -- you know, we
25 had the best practice guide as an initiative to address these same

1 fishing industry populations that were earmarked for the Alternate
2 Safety Compliance Program, so a lot was happening around 2017.

3 And then, in 2018, the Coast Guard Authorization Act launched
4 and gave us new legislation, and what that legislation did was it
5 re-designated the Alternate Safety Compliance Program to a
6 standalone sub-statute, which actually appears after the 46 U.S.C.
7 4503 topic or content. So it was actually provided its own sub-
8 content area, and it was renamed 4503(a). And what this did is it
9 changed the date of applicable fishing vessels to comply with the
10 Alternate Safety Compliance Program from the old 2020 date to a
11 new date stipulating a date three years after the date the
12 Secretary prescribes an Alternate Safety Compliance Program and
13 allows a separate Alternate Safety Compliance Program to be
14 developed for specific regions and fisheries.

15 Now, what does all that mean? What that means is -- and
16 again, I'll backpedal a little bit because when I talked about
17 different buckets, the 2016 Authorization Act, if you recall,
18 allowed for certain new alternative to class requirements in
19 4503(d), 46 U.S.C. 4503(d). Again, that's one bucket, and that
20 allowed for alternatives to class.

21 Well, this new requirement charges the Secretary or the Coast
22 Guard to monitor these new construction initiatives that are
23 applicable to vessels built after 2016, and what we will do is
24 monitor and sample those vessels over a period of time, and then
25 ten years after the Authorization Act of 2016, the Coast Guard

1 will make a report to Congress and say, was this adequate or not?
2 And if -- through sampling of these newly constructed vessels that
3 have been surveyed and had certain oversight by marine surveyors
4 and built to certain class standards, if we've sampled these
5 vessels and found these vessels to be built and maintained
6 adequately, we report back to Congress and make a determination
7 whether we need an Alternate Safety Compliance Program, or if
8 we've found that its not adequate, we report such. Okay?

9 So, again, a lot of information, but I'm happy to detail that
10 out in any questions if there are any later.

11 If we can go to the next slide please.

12 And I'm not going to reread all this because basically what
13 I've just -- as I was rambling on, I basically was discussing this
14 slide here. So I guess I should have said, let's go to the next
15 slide, but we're here, and so if you would like to, at a later
16 time, absorb what I just communicated, it's pretty much conveyed
17 in this slide. And the key thing is this analysis of adequacy to
18 certain new construction requirements, that is actively ongoing
19 now as we speak.

20 Next slide please.

21 Okay. So we talked about Authorization Acts. We talked a
22 little about statutory requirements and how that impacts our --
23 the entire fishing industry and how these are, are put into
24 different pockets and depending on -- or I'll say buckets, but
25 different pockets of different regions of the U.S. have different

1 applicabilities and different concerns with all these statutory
2 requirements. But one of the things they have in common is the
3 fish and vessel safety dockside exam, and what -- and I'll say
4 many have in common.

5 You know, when I've talked about the -- initially, the 64,000
6 fishing industry vessels out there throughout the U.S., we have a
7 certain population that operates beyond three nautical miles from
8 the baseline and some that work within three. If you work within
9 three nautical miles from shore, a fishing dockside exam is
10 optional. If you work beyond three nautical miles, you are
11 required -- and you're commercial industry vessel fishing, you are
12 required to have a dockside exam at least once every five years.
13 That is in law. That is in statute in 46 U.S.C. 4502. And many
14 things of what we do are based on that.

15 So that being said, with our fishing vessel dockside
16 examiners and our dockside exam program, we have a checklist, and
17 we use that checklist, and that's called a -- we go by the -- we
18 coined the term the 5587. Basically this is a dockside exam form,
19 Coast Guard Form 5587.

20 And if we could go to the next slide, please.

21 And within that form, the basic items that are checked for
22 all vessels are, you know, first we determine, do you need the
23 exam? And that's either voluntary or mandatory.

24 And then we move on to the next step. Okay, did -- at what
25 point -- what portion of this 5587 dockside exam form do you need

1 to adhere to? Everything is driven on applicability. And so we
2 hit different topics such as bridge, lifesaving, firefighting,
3 certain engineering topics, you know. Does the vessel require
4 operable bilge alarms, for example? Or you see the MSD, some
5 vessels may require marine sanitation device. There may be
6 pollution requirements and stability requirements for some vessels
7 also.

8 And then where we're, where we're going with these different
9 tiers of what may and may not be required, the 5587, this is a --
10 again, a compilation of all applicable federal requirements, not
11 just in Part 28, but this could be in 33 C.F.R. 164 for Nav. We
12 could have different pollution requirements that bring us out of
13 Part 28. But it is dockside exam form; this is a tool for the
14 examiner or the third-party organization that also may use this
15 tool to, to kind of bring everything together.

16 And so we're -- it's broken into requirements for all vessels
17 and then we may have specific requirements for vessels that, say,
18 operate beyond the boundary line and have more than 16 people on
19 board, for example. Or are solely a fish tender vessel. You
20 know, they may have above and beyond the general requirements.
21 They may have a separate area of applicable requirements that they
22 are going to have to add onto.

23 And so let's go to the next slide, please.

24 And so that's the basic breakdown of the snapshot of the
25 dockside exam form. And again, depending on the type of vessel,

1 where you operate and the length of the vessel, the gross tonnage,
2 it's not a cookie cutter mold. It's -- you know, everything is
3 driven on applicability. So you can't say everything is driven on
4 length, for example. Well, length, yeah, it defines some things
5 by placarding or whether you need a load line or not, but also
6 gross tonnage may apply also. So really you've got to delve into
7 first and foremost applicability.

8 But once we look at the general breakdown and general
9 provision of Part 28, as we call it, Subchapter C, you know,
10 certain things apply to all vessels. And so what I did is I gave
11 you a comparison, because we're talking this week on fishing
12 vessels and fish tender vessels, and there are some provisions
13 that apply to both and some that don't.

14 And so this being said, I wanted you to look at the
15 definition of fishing vessel versus fish tender vessel. And when
16 you look at this definition, a fishing vessel means a vessel that
17 commercially engages in catching, taking or harvesting of fish, et
18 cetera, versus a fish tender vessel that stores, supplies,
19 refrigerates, transports materials, et cetera. A very different
20 scope. And so you're, in a sense, changing the type of vessel for
21 a period of time when you transition from a fishing vessel to a
22 fish tender vessel. You know, the focus of what you're doing and
23 your purpose may change. And I'll say may because it depends on
24 the fishing vessel operation or the fish tender vessel operations.

25 So if we can go to the next slide please.

1 With this slide, this offers a comparison of load lines and
2 stability requirements applicability. Now it's -- one should
3 understand that, with fishing industry vessels, the fishing
4 vessels built before 1 July '13, as you're aware of now because we
5 kind of talked about this with advancing legislation, if you're
6 built before July of '13, you're not required a load line
7 regardless of size. If you're built after that date, okay, you
8 can see that you may be required load line, and it's dependent
9 where your operations are.

10 And it should be noted, and again, everything hinged on
11 applicability. Fishing vessels built before September 15 of '91
12 do not have regulations covering stability unless the vessel has
13 been -- gone over a major conversion or alteration. Okay. Then
14 that may restart the applicability. But again, if no major
15 conversion has happened, you may not have regulations governing
16 stability, like in these older vessels, you know, for example,
17 built in the '70s. Fish tender vessel, as you can see, driving
18 factor again is length, and if the vessel is 500 gross tons and
19 upward regardless of build date.

20 And then we actually have a flow chart that helps determine
21 -- there's a lot of statutory requirements, but in general, there
22 are contributors that may affect load line applicability, and
23 these are whether the vessel was constructed or converted in the
24 '80s as reflected here on this slide.

25 Okay. And by the way -- could we go back to the last slide

1 for one second, please? I just want to talk about this fishing
2 vessels built before 15, 1991, and we talk about alterations in
3 accordance with 28.500, and that will be the next slide. I just
4 want to give you a snapshot of what is encompassed in 46 C.F.R.
5 28.500 applicability, and it basically -- this captures vessels
6 that are not required to have a load line, and in a sense, these
7 vessels have to have certain oversight and stability instructions
8 developed by a qualified individual.

9 And when we say qualified individual, by definition in Part
10 28, that is a naval architect, and these stability instructions
11 must be formatted in easily understood manner in which the master
12 or individual in charge can understand it. Okay? That's a key
13 thing. You know, when we talk about, is that vessel, is that
14 vessel safe, stability condition maintained? Well, okay, we have
15 stability parameters that are outlined, for example, in the
16 stability booklet, and periodically, if they're updated by a
17 competent individual, the onus is on the master or individual in
18 charge to be aware of that. And it's all about safety and knowing
19 your safe parameters of your vessel, of course.

20 Next slide please.

21 I was asked to give a very brief rundown of the Fishing
22 Vessel Safety Advisory Committee. I won't elaborate too much
23 because I talked a little bit earlier on this with the Auth Act,
24 but it is important to recognize again at the onset -- as a result
25 of the Coast Guard Authorization Act of 1988, as we remember,

1 there one of the initiatives was to establish a Fishing Safety
2 Advisory Committee. Well, that's been a very robust program for
3 many years, and we've had a very solid partnership -- we, the
4 Coast Guard and the advisory committee, as they represent various
5 facets of industry, and have made very good recommendations that
6 we always welcome and consider.

7 That said, the legislative requirements of the 2018
8 Authorization Act essentially changed the name of the advisory
9 committee and where they are housed in U.S. Code. And so
10 basically, they essentially are the same committee with a
11 different name, but the same scope of responsibilities. Actually,
12 the bylaws and statutes are all just about -- are very similar.

13 And last December, we made that transition, December 2020,
14 transitioned to the National Fish Act, as we call it. And so we
15 are right now in the motion of assigning a new committee, and it's
16 in the process of approval. What that does is it gets approved by
17 the Agency and then by the White House, and then we engage and we
18 engage with that new committee.

19 And in a sense, what you see on this PowerPoint or this slide
20 are some of the initiatives and responsibilities that the Fish Act
21 oversees: navigation, equipment, procedures, vessel design,
22 maintenance, qualifications, et cetera. We get feedback on all of
23 these topics.

24 Next slide please.

25 And just as a snapshot of, hey, what have they contributed to

1 recently? They -- when I say they, the Fishing Safety Advisory
2 Committee and the now soon to be National -- have contributed to
3 many development of and comments that are leading and influencing
4 safety standards of -- first and foremost stemming from the 2010
5 Auth Act where -- and I'll pick one, stability and damage control;
6 I guess that's two, but those are two topics that have -- were
7 looked at very carefully by both the committee and the Coast
8 Guard, and we should see it on discussions for and initiatives for
9 Coast Guard accepted courses.

10 And generally speaking, when a Coast Guard course is packaged
11 up and approved and brought up for approval, that's routed up to
12 the Coast Guard National Maritime Center, and they will review
13 this package and approve it as an accepted course or an approved
14 course. And the difference between accepted course and approved
15 course, generally, accepted courses are a little more fluid and
16 you can do certain training, for example, on the fishing vessel
17 platform. And again, that could be maybe stability or damage
18 control related. If it's an approved course, you may have a
19 little more tighter restrictions. And that may be, for example,
20 have to just sit in a classroom setting with certain media. So,
21 again, a lot of times the accepted course is a little more user
22 friendly because you can get more bang for your buck.

23 2010 and 2019, the North Pacific Fishing Vessel Owners
24 Association, or NPFVOA, and AMSEA, the Alaska Marine Safety
25 Education Association, they both were very diligent in their

1 efforts in packaging and shaping curriculums for damage control
2 and stability and submitting that to the Coast Guard and those
3 courses being accepted courses. And all these initiatives stemmed
4 from one that the Authorization Act of 2010 and '12 and then the
5 advisory committee and industry input, and then the result being
6 accepted courses. So, again, that's a success story.

7 Right now, the committee's working on an initiative on man
8 overboard studies that are focusing on fatalities and falls
9 overboard on fishing industry vessels that are currently -- that's
10 still being looked at by the committee and actually is being
11 transitioned from the old committee to the new committee. So
12 that's -- and if there's any questions, I can always go into the
13 status and details of that.

14 Our last slide, I think -- or next to the last slide, please.
15 Second to the last slide. Yeah.

16 Okay, so this -- I was asked to give a quick snapshot of
17 high-risk fishing vessel initiatives, and as I've spoken before,
18 there are, there are various buckets of topics, and some of them
19 dovetail into each other and interconnect or touch. And so, and
20 so you'll see a little theme here that there's been a concern that
21 there are certain vessel populations that have been built prior to
22 1 July of '13 that are 50 feet or over in length and that trend --
23 that operate beyond three nautical miles from the baseline that
24 may be -- that may have a higher risk than newer vessels, for
25 example, that have been built and maintained to class society

1 rules.

2 And so remember, with all that history with the Authorization
3 Acts and the recent statutory changes mandated construction or
4 construction options alternatives class that first and foremost
5 did not necessarily exist before 2013. So many of these -- you
6 know, not all but many of these vessels were at risk due to their
7 lack of design standards, lack of engineering, system oversights,
8 and et cetera. So what this new initiative that kicked off back
9 in September of 2020, what we, the Coast Guard, are doing is we
10 are highly encouraging or trying to build an outreach incentive to
11 reach out to this higher risk population to simply encourage them
12 to maintain a two-year dockside exam.

13 And again, we recognize that we have the mandated five-year
14 exam, and so we recognize that that's something that has not
15 changed and still out there. When you do a dockside exam and get
16 a sticker, that sticker is good for two years, and we simply want
17 you to maintain that for two years for these older populations.
18 And so why do you want to do that? And what that does is that
19 allows a conversation between the examiner and the operator and a
20 revisiting of vessel systems and the whole envelope of that
21 vessel. And we think boots on deck will help result in a safer
22 vessel and thus a platform.

23 We started off with a population of known vessels that are in
24 this make up of about 4,800 vessels. Many of those have a
25 dockside exam form. Many of those are maintaining a two-year

1 dockside exam decal. And so, since we began this initiative in
2 September of last year with targeting these populations, we've
3 actually successfully had 20 percent of this population reach out
4 to us and get a dockside exam, a two-year dockside exam decal.
5 Again, a success.

6 And if you have any pointed questions on this initiative,
7 again, I'm happy to talk about that. Right now, we have about, I
8 think, a focal population of about, maybe less than 900 that we're
9 focusing on. And by the way, we're reaching out to them with
10 letters and trying to get that conversation with each individual
11 owner/operator.

12 And now, last but not least, I believe this is the last
13 slide.

14 A quick snapshot of outreach initiatives. All of these are
15 displayed on our DCO Fish Safe website, which is reflected right
16 there. Again, the DCO for the Coast Guard, Deputy Commandant for
17 Operations, uscg.mil/fishsafe site. You go to that site and you
18 have training initiatives, marine safety information bulletins,
19 new guidance. We have details on our Fishing Safety Advisory
20 Committee, stability training, as I said, and things like a
21 checklist generator that can allow the mariner to prepare for an
22 exam and know exactly what they need to have on board before the
23 examiner comes on board. And there's even a user-friendly
24 stability, interactive, virtual type trainer that was crafted and
25 is maintained by D-13, much to their credit. So a lot of good

1 things on that website.

2 And we detail our national communication plan and -- which I
3 like to brag that, since our national communication plan has
4 launched last year in July, we've reached out to 378,000 public,
5 and with staff involvement of over 2,500 staff involvement with
6 media, expos, training and launching of guidance such as marine
7 safety information bulletins, et cetera. So that's just a very,
8 very brief breakdown of our initiative, some of the programs we're
9 involved with on a daily basis.

10 And that, if we go to the next slide, I think that is it with
11 my, with my brief talking points. And so I'm open to any
12 questions that I may be able to answer.

13 Q. Well, thank you, Mr. Myers. That was a thorough
14 presentation, and we appreciate you putting that together. I have
15 a few follow-ups before we move into the general questions that
16 will follow. So in your presentation you mentioned public
17 comments. Could you give me just in a general example of how many
18 public comments you get when you put out Advance Notice for
19 Rulemaking? Just a general sense.

20 A. I would say -- and I can't give you exact figures, of course,
21 because I would have to go back and look at the dockets being that
22 they're over five years old or plus. But I would say, on any
23 given time when we put something out for public comment, we could
24 get hundreds, several hundred of responses from industry,
25 owner/operators, insurance companies, stakeholders, et cetera.

1 And when we get those comments, we put those into different
2 pared-out categories, and then we -- within those categories, we
3 may reach out to different subject matter experts such as, if it's
4 appropriate, the Marine Safety Center, CG-ENG on perhaps
5 lifesaving standards, et cetera. So that -- so we could have
6 hundreds of responses, and we try our best to respond to each and
7 every inquiry.

8 Q. So in general, could you characterize those public comments
9 as supporting legislation related to fishing vessel safety or
10 would the majority of them be not supportive for any particular
11 reason?

12 A. I think every rule project is unique. And if we're
13 concentrating on this past rule project, I would say each and
14 every comment, no matter how little or no matter how in depth, we
15 spoke in and that allows us to make a good judgment of the topic.
16 And so we don't take any comment lightly. And we -- again,
17 it's -- what that does is that allows us to move forward with the
18 initiative itself in hand. And so I -- to answer your question, I
19 would say that these comments do help us justify and support the
20 decision to go forward with various details within a rule project,
21 but we have to be able to support why we're making a decision in
22 the long run.

23 Q. Were public comments related to the classification program
24 one of the reasons that, that program was withdrawn?

25 A. I wish I could offer you more detail on that, but I can't,

1 specifically on that. Not to say that we can't do a little
2 research and provide you a little more specifics, but right here
3 and now, I couldn't comment that.

4 Q. So would it be a fair thing to say that if the Coast Guard
5 enacts legislation, regulations, they could have an impact on the
6 fishing industry in terms of the economy? In other words, it'd
7 cost more money to do business?

8 A. I think every rule project -- every reg -- I'll say reg
9 project. Every reg project has some kind of impact. That's why
10 when we have a team, we put a reg project team together, part of
11 that time, we do an economic analysis, and that is a standalone
12 entity that is not necessarily connected to my division. It
13 actually -- it's probably not, but a standalone entity that looks
14 at economy impact and what that impact may have on the industry,
15 operators, long-range, short-range. And so that is factored in,
16 that analysis is factored into the big equation. So, again,
17 everything has a cause and effect, and any time that there is any
18 congressional legislation that results in an Auth Act or an
19 Authorization Act, that's -- I am sure have been factored in very
20 thoroughly.

21 Q. Then you said -- I'm sorry.

22 A. Yes, sir.

23 Q. Did you want to say something else, sir?

24 A. No, sir.

25 Q. So would it be fair to say that the Coast Guard is sensitive

1 to the economic impact of any proposed regulations for fishing
2 vessels?

3 A. Yes, very sensitive.

4 Q. So my final question, just for clarification on your
5 presentation before we move on to the general questions, and I'm
6 sure some of my colleagues will have additional questions on your
7 presentation, but you mentioned the fishing vessel safety
8 communication plan. Could you elaborate on that?

9 A. Absolutely. We've -- one of the initiatives -- not
10 initiatives. One of the mandates or statutory mandates that Coast
11 Guard Authorization Act of 2019, it tasks the Secretary of the
12 Coast Guard to institute a national communication plan. In years
13 past, there was the perception, I'll say, that communications
14 weren't as good as they could be between different agencies and
15 the public. And so not just the commercial fishing industry but
16 broadly, in a broad sense.

17 So what this task initiative did was it said, hey, listen,
18 you're going to -- we want the Coast Guard to start tracking and
19 bolstering the communication initiatives between the Coast Guard
20 and industry to offer up more transparency. And when we say this,
21 there's a lot, there's a lot involved. When we talk about media,
22 fish expos, training initiatives, simply picking up a phone call,
23 saying, hey, I need a dockside exam and I'm an adult. I mean, I
24 get those -- I, personally, get those probably three a week. And
25 I may, I may direct those out to the district coordinator. We

1 track all those conversations. And as I said, over -- and I think
2 the number I communicated earlier was hundreds of thousands of
3 interactions with industry just in six months, and sometimes that
4 can be via radio or whatever.

5 So what does this do? This builds up transparency. It lets
6 industry know that we're out there. On most of our
7 correspondence, including our 5587 form, you know, we have a
8 little line there on the bottom that says, hey, if you have any
9 questions, contact us directly. And when I say us directly,
10 that's -- I give them my division's email and contact information.

11 So when I say that, and again, this is part of the
12 communications plan initiative, when we're reaching out to 1,200
13 at-risk fishing vessels, for example, we're just not saying, hey,
14 you're at risk. We're having that discussion. And this
15 piggybacks off this communication plan initiative where we give
16 them our name and contact number and say, call us up, you know,
17 each 1,200 of you, call us up. And if you have any questions,
18 we'll have that discussion.

19 So what this does, again, it offers transparency. And I've
20 been doing this for a while. I've been doing exams -- I started
21 doing exams back in '98, and I tell you, our communications now
22 today are a whole lot better than it was in 1998. And so that
23 being said, that's a little snapshot of that communication plan
24 and how they're trying to bolster up communications.

25 And my last parting shot is, in a couple of years, we're

1 required to provide a report to Congress in a very detailed report
2 on how these initiatives are progressing and being tracked, and we
3 communicate monthly with our district coordinators on progresses
4 and how they are making progress on communications with the
5 public.

6 MR. FAWCETT: So thank you, Mr. Myers -- pardon me. Thank
7 you, Mr. Myers. That's all I have on your presentation, and I'll
8 -- Captain has a couple of questions for you, sir. Thank you.

9 THE WITNESS: Yes, sir. Thank you.

10 CAPT CALLAGHAN: Thank you, sir, and I just have a couple of
11 quick questions, and then I think I'd like to propose that we take
12 a couple minute recess and then come back.

13 BY CAPT CALLAGHAN:

14 Q. But before we do that, so it's been over ten years and
15 there's been at least four to five individual Coast Guard
16 Authorization Act statutes related to commercial fishing vessels.
17 How many regulations have actually been developed and promulgated
18 for commercial fishing vessels in that time?

19 A. I will say, regulations as -- just to clarify, sir,
20 regulations as reflected in 46 C.F.R.?

21 Q. That's correct.

22 A. And I would say in the past ten years, zero. And yeah, zero.

23 Q. Okay. Thank you. And then, with regarding stability, so no
24 regulatory requirements governing stability for vessels built
25 before 1991, and I noticed the Coast Guard's taken some

1 initiatives, as you spoke about, with regard to high-risk vessels,
2 recognizing that with age comes some increased risk over time. So
3 that initiative encourages Coast Guard presence, but am I correct
4 in that doesn't change anything, like stability requirements? Is
5 that true?

6 A. You are correct. And I would like to add in the lack of the
7 regulatory arm for the -- for those older vessels, this is exactly
8 why sometimes we're at a -- we're in a situation where
9 applicability does just not apply to a certain vessel population,
10 and that is why this at-risk initiative, knowing that certain
11 requirements don't apply to the population, that simply boots on
12 deck, we hope that we can recognize a problem before it happens.
13 However, to your point, sir, that does not address certain
14 stability concerns with older populations.

15 Q. Thank you for that.

16 CAPT CALLAGHAN: And so, at this point, I'd like to propose
17 that we take a quick five-minute recess. It is now 0935. We'll
18 resume at 10 o'clock.

19 CDR DENNY: The time.

20 CAPT CALLAGHAN: Yeah. I previously stated we would come
21 back at 10 o'clock, and in notating our five-minute recess, my
22 intent was to say that we would start back up at 0940, not 10
23 o'clock.

24 (Off the record at 9:35 a.m.)

25 (On the record at 9:43 a.m.)

1 CAPT CALLAGHAN: The time is now 0943, and this hearing is
2 now back in session.

3 Mr. Myers, I'll now turn it back to Mr. Fawcett again.

4 Mr. Fawcett?

5 MR. FAWCETT: Thank you Captain.

6 BY MR. FAWCETT:

7 Q. So I want to circle back to the background questions that we
8 started your testimony with, and could you tell us how long you
9 worked within the fishing safety division of headquarters?

10 A. I started working in the fishing vessel safety division
11 January of 2018. So three years.

12 Q. And how long have you been the division chief?

13 A. Three years.

14 Q. So have you ever worked as a commercial fisherman?

15 A. No.

16 Q. And as part of your training as a fishing vessel safety
17 examiner, did you undertake rides on commercial fishing vessels?
18 And by that I don't mean like head boats or charter boats; I mean
19 working commercial fishing vessels.

20 A. No.

21 Q. And is that part of the training curriculum for the Coast
22 Guard's active duty or civilian safety inspectors?

23 A. This is a -- what you speak of is more a district or sector
24 initiative. I won't even say district. I would say the sector
25 commander has the discretion with their training programs, if they

1 would. And this is with all types of vessels, be it a fishing
2 vessel, a T-boat or a passenger ship to get, to get underway time
3 for examiners that may have -- not have experience. Do we have
4 that as a policy for commercial fishing industry vessels? No.
5 But we always encourage the facetime with industry if that
6 presents itself. So, for example, I've done it on other types of
7 vessels as a marine inspector but not on fishing industry vessels.
8 And so I do sort of leave that comment saying that it's not policy
9 but it's encouraged.

10 Q. So in Mr. Wilwert's testimony the other day, he mentioned the
11 gaps in safety inspectors in the active-duty community caused by
12 transferees and in training. Are there any other gaps in the
13 people that conduct the safety inspections from a policy and
14 headquarters perspective?

15 A. Could you, could you elaborate a little bit more of what
16 you're looking for here?

17 Q. Yeah. Do you think you have enough staff to fulfill your
18 mission?

19 A. I think we have no indicators that we are understaffed. And
20 that being said, when -- traditionally, when a dockside exam is
21 requested -- and I'm just broadly -- you know, amongst all Coast
22 Guard districts, but in general, we are very responsive in a
23 relative short amount of time. And I'm just, I'm guesstimating
24 here, but I'm saying within a week or two, we could be out on that
25 vessel.

1 Now, this is always driven, of course, by the geography area.
2 If I am in Baltimore and have -- and have a pool of examiners and
3 I have a, maybe a two-mile drive to the dock, it may not take me
4 that long to get down there, and I may have a pool of examiners.
5 But if I'm in D-17, for example, well, you may have to fly out to
6 a location.

7 So that I would say this, that -- so there's a lot of
8 variables, with that said. But I think, in general, we're
9 adequately staffed, and as far as I know as a program manager,
10 there's no indicators that we have a deficiency in examiner
11 assets.

12 Q. And by D-17, you meant the Alaska region, is that correct?

13 A. The Alaska region, yes. Yes.

14 Q. So if I'm a safety inspector and I want to provide feedback
15 for improvements in the process of the inspection, how they're
16 carried out or anything like that, how is that telegraphed up to
17 the program headquarters so that they could affect change?

18 A. Well, one of the tools in the toolbox that we have is we hold
19 periodic conference calls with our district coordinators. And
20 with that said, we do a precursor to that conference call and --
21 for example, when we're scheduling a call, probably two weeks out,
22 we will, we will reach out to the district coordinators to say,
23 hey, here are the topics we're going to talk about; reach out to
24 your folks -- and when we say your folks, your examiner pool --
25 and let us know their concerns and route up any concerns so we can

1 have a discussion during our conference call.

2 And it's just not the conference call. We have an open-door
3 initiative that we say, hey, reach out to us any time. So we're
4 very flexible. We are on a first name basis with most of our
5 examiners and our district coordinators on many levels, and -- but
6 if there's an issue, we expect them to voice some kind of concern
7 up, be it reaching out to -- we'd like them to reach out to the
8 district coordinator first and foremost because they may have
9 already been dealing with that situation or a similar situation,
10 so we like to route questions up.

11 But again, to hit what you're talking about here is we do
12 have a very active, live mechanism where examiners and district
13 coordinators can feel free to route up concerns that they may
14 have. And just one example was we had very active discussions in
15 the past year with COVID-19 and the new posture. Sometimes,
16 depending on whatever district you are at, they -- you know, maybe
17 you have a fishery observer onboard and they may have a different
18 policy then what is regionally. You know, maybe it's a national
19 policy and it doesn't jive with a local policy. So we would have
20 those discussions and then we would voice those discussions with
21 NOAA NEMS (ph.) and then we would close the loop back up with the
22 examiner and the coordinators and have that transparency of
23 concerns.

24 Q. So you mentioned the Coast Guard's Marine Safety Information
25 Database. Is -- from your position within the program, do you

1 believe that it accurately reflects the details of commercial
2 fishing vessels such as engine, horsepower, hull, whatever kind of
3 material is used to fabricate the hull and so forth?

4 A. We have our -- and if you don't mind, I'll call it MISLE, but
5 our database, our data collection covers many layers and many
6 facets of the vessel makeup, you know, what type of hull it is,
7 what color the hull is, what the gross tonnage is, various
8 aspects. And so what I would say is I feel that it does reflect
9 what is being asked on our dockside exam form. Could we improve
10 it? I guess we could always look at areas that could be -- that
11 show -- may show a track record of not satisfying a requirement.

12 And when I say a requirement, if we're, if we're pulling data
13 and we have a void in that data, we may have to look at do we have
14 adequate information. But I think, for the most part, the
15 pedigree of information that is required for an uninspected vessel
16 is in MISLE. Where you get the same information of a T-boat or a
17 barge or inspector vessel, there's a lot more granular detail
18 required of those vessels. But for an uninspected vessel, I would
19 say in general, the snapshot of the vessel makeup is -- there are
20 avenues that put that into MISLE.

21 Q. So you mentioned T-boat, and for the record, that is a small
22 passenger vessel?

23 A. Yes. I'm sorry. Yeah, a small passenger vessel. Yes, sir.

24 Q. Sir -- Lieutenant McPhillips, could you please put up Coast
25 Guard Exhibit 069? This is a chart of fishing vessel safety,

1 fishing vessel casualties.

2 A. Yep.

3 Q. And for the record, I will say that this was pulled from the
4 Internet from the forward-facing website that's available to the
5 public. And it's a very helpful graphic. Do you use this graphic
6 to make briefs to Congress?

7 A. I'm not sure. Well, first and foremost, it is outwardly
8 facing, obviously to your point. This -- I'm not sure if I've
9 physically used this slide for Congress. However, the data that
10 is reflected here, this is vetted, co-vetted between CVC-3 and
11 IMV, which -- and the different applicable data collecting offices
12 within Coast Guard headquarters. And any time we share any kind
13 of information, we do make it a point to make sure it's, it's
14 vetted applicable information. And so I would say I would be
15 happy to share this with Congress if they asked for it because we
16 know that this has been pulled out of the MISLE database.

17 Q. So for the record -- go ahead, sir.

18 A. And should be accurate as such.

19 Q. Yes. For the record, our last witness for the hearing will
20 provide and explain the most up to date statistics on a variety of
21 issues related to fishing vessel safety. But what I wanted to ask
22 you was, is this used to drive policy from a headquarters
23 standpoint?

24 A. Oh, you're asking is -- the question is, is this used to
25 drive policy?

1 Q. That's correct.

2 A. I would say that all of these unfortunate major marine
3 casualties, mishaps and sinkings, they're all relevant. And when
4 we see data, you know, me personally, I want to see if that data
5 has a trend and if, and if there's an issue within that data, does
6 it project that there's needed attention to any certain area.
7 When we look at this data right here, this reflects trends of lost
8 fishing vessels, and thus -- so yes, clearly, at any time we are
9 factoring in whether we have any focused initiatives, this does
10 influence our thought process.

11 And we, as you can see here, in the '80s and '90s, it --
12 shockingly that, you know, you see numbers in the 200s. And
13 they've gradually gone down, and for the most part, you can
14 attribute that to certain legislation and tightening up of certain
15 requirements and -- I won't say tightening, but the mandate of
16 certain statutory requirements is probably more appropriate.

17 But what I would say also is, even though we were in the
18 several hundreds in the '80s and '90s, even most recently when we
19 have vessel sinkings in the thirties, or, you know, smaller
20 numbers in the hundreds, but it's still a small number, it's still
21 a number and it's still taken very seriously. And if there were
22 one sinking, we would take that as serious as many sinkings
23 because it's lives lost potentially. So we do factor that in, in
24 the decision-making process and whether we proceed forward with
25 certain initiatives.

1 Q. So, Lieutenant, could you scroll over so we're looking at the
2 more recent data? So, Mr. Myers, could you talk to us what we're
3 seeing in the recent data in terms of the trends from a program
4 perspective?

5 A. Let me move these pictures here. You don't see what I see.
6 Okay. There we go. I'm clearing my screen a little bit. Okay.
7 What I see is a -- when we're looking at -- we see a very clear
8 line of a gradual decrease in losses of fishing vessels, sinkings,
9 losses of life and yearly averages. We could see that it
10 flattened out a little bit, if you're looking at what I'm looking
11 at. But again, in recent years, I see that they are averaging --
12 from a program perspective, from 2013 to '19, you know, we're 16
13 under, for example. And on average, you know, I think we could
14 say thirties and forties. I don't have a calculator in front of
15 me.

16 But what that's telling me is there's been legislation that
17 has been inserted into U.S. Code that -- which mandate increased
18 exams and certain elements of required instruction and/or load
19 lines on certain applicable vessels. When I'm looking at those
20 numbers there, I'm seeing something is getting better. And, you
21 know, maybe it's not perfect. We'll never get to the perfect
22 place. But it looks like that -- as a program perspective, it
23 appears to me that recent Authorization Acts and statutory
24 mandates have had a positive influence --

25 Q. So the --

1 A. -- in contrast to 20 years ago.

2 Q. So, Lieutenant McPhillips, if you'll scroll down to the note
3 that begins with the word "excluded." Okay. So there is a note
4 that says, excluded from these statistics are deaths from medical
5 conditions, those that are self-inflicted or due to misconduct --

6 A. Yep.

7 Q. -- as well as vessel losses from non-operational activity
8 such as while moored or docked in port. So do you know why the
9 decision was made to exclude those conditions?

10 A. The recent -- you see that statement is being that this is an
11 uninspected commercial vessel fleet that we respond to on many
12 levels, be it exams or perhaps an IO, investigating officer,
13 responding to a major marine casualty, for example, or death.
14 Many times when -- at the end of the day when we're pulling some
15 of our information out of MISLE, we have to try to distinguish
16 whether that death on the fishing vessel, what was attributed to
17 active commercial fishing on deck, or did the, did the person, for
18 example, have a heart attack sleeping on the rack underway. And
19 then, and then you'd have to -- you have to pare down what -- was
20 this directly related to the fishing industry, active commercial
21 fishing itself, or was it something different? So, again, that's
22 why we see operational or non-operational. And sometimes we
23 simply don't know. Sometimes we do know. But that's all drawn
24 out during investigations.

25 Q. So if -- under this scenario, if a fishing vessel caught fire

1 at the dock and other vessels around were threatened by fire or
2 firefighters might be injured in fighting that fire, that
3 statistic would not be captured in this slide. Is that correct?

4 A. I think, I think you're correct for the most part. Where we
5 would -- if a -- if you're at the pier and you have four fishing
6 vessels and one caught fire, and the other neighboring vessel
7 caught fire and perhaps was not manned and maybe they're at a cold
8 vessel status, not working at the time, that would not, that would
9 not be an active commercial fishing vessel.

10 Where we would have to look at this closer and split hairs,
11 per se, is if that vessel that caught fire was loading pots or
12 equipment and they were actively in the process of loading up to
13 go fishing, well, okay, so now we would have to -- and I'm not,
14 I'm not answering one way or another. But we would have to at
15 least look at it to say whether they were -- whether Vessel A was
16 involved in active fishing or engaged in getting ready to active
17 fish, and was Vessel B none of the above, so -- but I think, in
18 general, at pier side, we would normally say that is not active
19 commercial fishing, but it's up to discussion and review.

20 Q. So when we speak to the medical conditions, in the *Scandies*
21 *Rose* case, we have one person that had diabetes and required
22 insulin. If that person went into diabetic coma and unfortunately
23 there was a bad outcome for that, would that be captured in these
24 statistics because he was an individual with diabetes and he had a
25 severe diabetic coma and maybe passed away?

1 A. I would say the answer to that is, it's on a case-by-case
2 basis. And why I say that is if a -- if there's a major marine
3 casualty, a sinking, a death, what would happen next is we --
4 after there's response, for example, by the Coast Guard, the
5 investigating officer would start the process of determining what
6 actually happened. Sometimes that's very clear. Sometimes it is
7 not very clear. And then, once they determine the causal factor
8 or what happened during that instance, now we have to assume that,
9 that information has gone into the report and the data collection,
10 and all the details of that incident that occurred.

11 And so I think, to answer your question, it depends on the
12 questions being asked to the survivors or to the, or to the --
13 what may be evident or objective evidence. And so I couldn't tell
14 you necessarily by pulling up a vessel critical profile or a
15 narrative 100 percent all the details that happened because that
16 would have to be drawn out from somebody or a source or by
17 objective evidence and it's served into that narrative. Does that
18 make sense?

19 Q. Yes, it does. So who makes that case-by-case determination
20 as to what would feed those statistics to develop that graph? Is
21 it your office or is it the Coast Guard's Office of Investigations
22 and Analysis?

23 A. The Coast Guard's Office of Investigations and Analysis is
24 our go-to source when we need an official count. And this is a
25 very detailed process because, depending on what is being asked,

1 they are very thorough at retrieving data from MISLE.

2 Now, my office, on any given day, we have resources where we
3 can retrieve general information from our database, such as if I
4 wanted to know a number of a certain amount of vessels that are a
5 certain length. But if we wanted to know the details of a -- the
6 details of certain deaths, for example, or certain mishaps, that
7 may require a lot of leg work of the Office of Investigations or
8 IV going into every MISLE case, every case for that subject type
9 of vessel over the span of so many years and reading narratives
10 and looking at details to see if a person having diabetes or a
11 heart condition was even reflected into that case itself.

12 And so, and that's what I mean by case-by-case basis. It --
13 sometimes it just depends on the information input into the
14 incident case as a historical record.

15 Q. So you mentioned inspected vessels, and for the benefit of
16 the public, these would be towing vessels, large ocean-going
17 ships, cruise ships, tank ships, water taxis that move passengers
18 in a harbor such as Baltimore harbor. Could you tell me why the
19 Coast Guard doesn't inspect commercial fishing vessels?

20 A. We act solely on our statutory authority, and that does not
21 permit us to raise the level of inspections to that of other
22 industry vessels. So I think my answer to that is we just have to
23 interpret the statutory authorities that are given us to enforce.
24 And that influences, you know, the requirements and
25 applicabilities that we impose during our dockside exams. And

1 that's exactly why we don't call them dockside inspections; there
2 is a definitive line between exams and inspections.

3 Q. So last year at the jetties (indiscernible) in Galveston, a
4 shrimp boat collided with a chemical tanker and two of the crew on
5 the fishing vessel were killed, and the port was virtually closed
6 for a period of time during the response. Does the Coast Guard
7 examine the risk of the operation of commercial fishing vessels
8 from the standpoint of the competency of the crew and the medical
9 conditions to determine whether or not they should be inspected?

10 A. I think with regard to that question, we -- each and every
11 time there's an incident or an investigation and/or a result of an
12 investigation, we look thoroughly at causal factors and apply that
13 information from the cause of an incident and the contributing
14 factors, and then we make a decision, and those decisions may
15 influence whether we influence certain initiatives that may lead
16 to things like regulation or a proposed regulation.

17 So I would say we have to analyze, you know, the occurrence,
18 what was, again, going back to that coined word, causal factor,
19 objective evidence. And then is there a trend and is there a need
20 to impact or change a certain regulation. I can't say that one
21 incident would impact that. But, again, the information would be
22 weighed amongst other decisions.

23 Q. Based on those casualty reports, does it appear there is a
24 need to shift to inspecting commercial fishing vessels in the same
25 way that we, in the same way that we inspect other commercial

1 vessels?

2 A. I don't think I can make that judgment right here and now. I
3 wouldn't feel comfortable making a definitive call on that. We
4 would really have to lay out -- and I'm -- and the case that
5 you're talking about, I would have to thoroughly look at the
6 recommendations and all the details and then -- and I think before
7 we, at Coast Guard headquarters, make a firm decision on a
8 recommendation or many recommendations that may be a trend, we
9 really have to take a careful look at it along with other offices
10 and divisions and get a collective response so we're making the
11 appropriate response. And so right now, I hesitate to comment on
12 that.

13 Q. So within the fishing safety program, is there a strategic
14 plan or something similar to that, you could call it a roadmap for
15 plans the Coast Guard has for the future for the commercial
16 fishing safety industry?

17 A. Yes. We have a, we have an active strategic plan that we
18 update monthly out of the Office of Commercial Vessel Compliance
19 and the different divisions. We have our initiatives, and just --
20 and I'll just pick on a couple, for example. Part of our long-
21 range strategic plan, that includes our communication plan
22 initiatives, our outreach and our conversations with District 4
23 measures and OCMI's, our initiatives with the at-risk fishing
24 vessel populations, our training, auxiliaries, even looking at our
25 plusing-up and manning with our own examiner populations, so --

1 and whether there is a need with certain topics to generate policy
2 and guidance.

3 And, for example, we will routinely review our policy NAVICs
4 and guidance and determine whether -- and our MOAs and MOUs with
5 other agencies, and we will review these documents to see if there
6 is room for improvement. And so I think our long-range
7 initiatives and strategic plan is active. We review them as an
8 office on an annual basis and on a monthly basis on lower levels.

9 Q. Does that plan include anything related to developing an
10 inspection plan or campaign for these under 200-ton commercial
11 fishing vessels that doesn't cover what's already in existence?
12 For example, the material integrity of the hull. We've heard the
13 *Scandies Rose* had some issues with the forward starboard chute
14 that was cropped out due to porous welds. That type of inspection
15 campaign, are there any plans for that?

16 A. We did not, we did not have a line item to move uninspected
17 fishing industry vessels to inspected fishing industry vessels.
18 And going back to my previous comment, I think when we, when we
19 review our statutory requirement guidelines, our current policies,
20 our NAVICs, and trends, our live report of investigation results
21 collectively, and we see patterns and indicators that may point us
22 to consider going down certain roads of tighter regulation or just
23 improving certain regulation that -- then we pursue those
24 initiatives. But to have a blanket line item to transition from
25 uninspected to inspected, no, we currently do not have that.

1 Q. So the Authorization Acts in your presentation, one of them
2 talked about training, and you had talked about stability,
3 training, and so forth, but whether the Authorization Acts
4 discussed some form of certification for competency at some level
5 for commercial fishermen. And I know that there are a lot of
6 states in the United States where, to operate a vessel,
7 recreational vessel, you have to have some kind of card that says
8 you've taken a course or you're competent to operate the vessel.
9 Could you talk to us about the plans to establish some type of
10 competency for the people that are operating those vessels, the
11 commercial fishing vessel fleet?

12 A. Well, the -- currently, as you may know or may not know,
13 vessels -- the applicability of license mariners, chief engineers,
14 masters, mates, assistant engineers and -- I believe it's in 46
15 C.F.R. Part 15 that outlines the requirement for certain mariners
16 to have certain credentials. For example, a chief engineer
17 credential. Within that, there are very layered competency levels
18 and what is required of those vessels, again, over 200 gross tons.
19 And I know you're focusing on under 200 gross ton populations, so
20 being that there's a lack of regulatory guidance on certain
21 populations below 200 gross tons, what -- the gap is being filled
22 currently by certain accepted courses, outreach and certain
23 requirements that are in play with Part 28, such as mandated
24 monthly drills by a competent drill conductor.

25 Right now, we -- you know, our statutory requirements and

1 regulatory requirements have us in that position where we cannot
2 mandate certain credentialing requirements. Could that change in
3 the future? Possibly. I think, you know, I'm hesitant to say
4 either way because, again, going back to analyzing the need and
5 across the board needs for vessels under 200 gross tons, we would
6 have to look at that in further detail before we would have to
7 have a strict target initiative to say we're going to start
8 mandating training, because right now, we can't on certain levels.

9 Q. So the Authorization Act, would that be a statutory
10 requirement?

11 A. It would, yes.

12 Q. And did it mandate some form of certification? I heard that
13 you mentioned the gaps and we are filling the gaps. But that
14 then --

15 A. Yes, yes.

16 Q. Okay. So did it mandate actually producing some kind of
17 documentation for the mariner that they were competent to operate
18 the fishing vessels?

19 A. Yes. There was certain -- there were certain -- not there
20 were. There is statutory language stemming from the 2010, '12
21 Auth Acts, and that was part of -- or is part of the reg project
22 that we talked about that was -- is well detailed and that docket
23 that was in the final rule in 2016 -- I'm scrolling back. But
24 those initiatives were packaged in that Notice of Proposed
25 Rulemaking project that we talked about a little bit earlier this

1 morning. That has not come to fruition since the rule has not
2 become final and it still is in abatement, as reflected on that
3 unified agenda.

4 But to add -- to respond to your question, yes, that -- it
5 addressed -- or it does address training. But until certain
6 things make it to reg, there may be certain elements of that, that
7 may not be self-implementing or self-enacting.

8 Q. So I want to move back to something you spoke about in the
9 opening presentation, and that's the role of a third-party
10 organizations. Could you elaborate a little bit on that? You
11 mentioned there were a number of third-party organizations. Can
12 you give me some examples of who they are? Does the American
13 Bureau of Standard -- American Bureau of Shipping, are they a
14 recognized third party for fishing vessel operations?

15 A. Yes. ABS, American Bureau of Shipping, they are a recognized
16 TPO. We actually have eight right now, and I think allude to a
17 little while ago that we just received a new one this past week
18 which we're really happy about. But basically we have -- as is
19 outlined in Part 28, 46 C.F.R. Part 28, we have two various
20 groups, groupings of third-party organizations that are permitted
21 to do dockside exams on behalf of the Coast Guard.

22 We start off with accepted organizations, which vets in 46
23 C.F.R. Part 28-73, I believe, and these -- and we are -- there we
24 see Charles Taylor Marine; National Association of Marine Surveys,
25 or NAMS; we have NavTech; we have the Society of Accredited Marine

1 Surveyors, or SAMS; and we have Alaska Surveyor Associates, or
2 ASA. So we have one, two, three, four, five. We have five
3 accepted organizations. And to be an accepted organization, you
4 have to have a code of ethics, you would have to have surveyors
5 familiar with fishing industry vessels and their makeup, and they
6 have to maintain rosters of their surveyors.

7 And we do periodic audits and checks and oversight visits of
8 these organizations, to include similarly qualified organizations,
9 which are the next tier of TPOs. And the similarly qualified
10 organizations, that's in Part 28.76, and that's where we have
11 classification societies such as (indiscernible) Bureau of
12 Shipping, ARENA. Yeah, those are, those are classification
13 societies.

14 And so with the grouping of all eight, they -- all eight are
15 empowered to do dockside exams on behalf of the U.S. Coast Guard,
16 and we issue out of my office serially numbered dockside exam
17 stickers, and so we keep track of that on every sticker that they
18 issue. And they also make reports to district coordinators and
19 keep transparency of the exams they're doing with the districts
20 and applicable OCMIs, or the applicable Coast Guard units. So
21 that's the quick snapshot.

22 Q. Does the Coast Guard audit the quality of their work?

23 A. We do. We have periodic oversight visits. Right now my
24 office does -- we do visits every two years. Now the district
25 coordinators within each district and the, and the field units,

1 sectors, they're encouraged to invite TPOs to their training on a
2 periodic basis. We leave that up to their discretion.

3 And so, for example, I'll just give you an example. In -- I
4 attended a meeting, actually it was a couple of years ago now
5 since the COVID pandemic slowed things down, but in -- normally
6 this TPO, or third party meeting, it coincides with the Fish Expo
7 in the Pacific Northwest every year in Seattle. And I attended
8 one of those, and it was a very good discussion. But this is not
9 limited to face to face.

10 But to answer your first question, we do oversight visits.
11 We precursor that visit with a checklist that third party
12 organization has, and they'll fill out that checklist, and then we
13 will go over the items on that checklist with our visit, and it
14 could be virtual or face to face to make sure that they are
15 keeping up to speed with their duties and responsibilities as a
16 third-party organization. And again, at minimal, that's two
17 years.

18 Q. So in general, if I'm a vessel operator and I made use of a
19 third-party organization, do I pay for that service?

20 A. You may. More than likely, you probably do.

21 Q. So I want to go back to the slide that -- and you don't have
22 to pull it up, Lieutenant, but 5587, which was a Coast Guard form
23 that talked about safety inspections. On that form, in
24 engineering, it talked about bilge alarms, flame arrestors,
25 ventilation and the marine sanitation device. Who would be

1 responsible for inspecting or making sure the engines operate
2 properly on a commercial fishing vessel?

3 A. Well, some requirements on an uninspected commercial fishing
4 industry vessel do not require certain oversight. And what I mean
5 by that, inspected type oversight like -- I'll just give you an
6 example, and hopefully I'm on target with what you're asking. But
7 certain inspected vessels, there may be a requirement for engine
8 over speed trips and certain insulation requirements of a main
9 diesel engine. And that may, that may satisfy certain standards.

10 With a commercial fishing industry vessel, that may not be
11 required, but there may be a requirement -- if there's an
12 installation of a fire suppression system or certain alarms that
13 are connected with the fire suppression system, that may -- there
14 may be a requirement that, that has to be installed by a
15 professional engineer, while the examiner or the TPO or the --
16 whoever's conducting that exam may verify that, that exam or check
17 took place. Like, for example, again, servicing of firefighting
18 equipment. And so there may not be a requirement for engines to
19 be installed by -- from an -- or oversaw by inspected source, per
20 se.

21 Q. So none of those initiatives would apply to the *Scandies*
22 *Rose*, correct? In other words, the fact that the engine operates
23 properly?

24 A. There -- I do not believe that there is a line item that
25 would impact the *Scandies Rose*. I would look -- have to look at

1 the particulars, but I think knowing what I know now, I think as
2 an uninspected fishing vessel, that likely may not apply. I would
3 have to look at it in detail.

4 Q. So you mentioned the National Commercial Fishing Safety
5 Advisory Committee. And it has a new name. It's been rebranded,
6 but it's basically the same committee.

7 A. Yep.

8 Q. So you mentioned that the insurance industry participates.
9 Why would that be?

10 A. This was -- the makeup of the Fishing Safety Advisory
11 Committee, again, is a Congressional mandate. And within that
12 Congressional mandate, the -- and I don't want to speculate, but I
13 guess I have to speculate because I didn't write the law. But
14 they wanted a reflection and a diverse makeup of the commercial
15 fishing industry and stakeholders within that industry. And so
16 that may -- not may involve, but it does involve various
17 representatives: fishermen, underwriters, naval architects,
18 et cetera.

19 So I think the -- as a primary influence on the industry, and
20 they are probably identified as a primary stakeholder, and were so
21 by this initial Congressional mandate, so they were inserted as a
22 source that's going to be part of that committee. And so the why,
23 I couldn't speculate on the why. But I think it's basically to
24 give a snapshot of the overall makeup of the industry and
25 stakeholders.

1 Q. So prior to the accident which occurred in late 2019, how
2 many times a year did that committee meet?

3 A. There is a requirement that the committee meets annually,
4 once, at least once a year. And I believe new legislation, 2020
5 legislation is requiring twice a year now. Now, of course, you're
6 asking back then, but to answer your question, once a year. And
7 that doesn't say that we didn't meet more than once a year, but
8 again, at minimal, a once a year meeting.

9 Q. So did they, did they meet more than that? I know the
10 minimum is once a year.

11 A. Yeah. There've been on occasions where we've had official
12 business, where we met once a year with the committee, and there's
13 also been on occasions if we're not going to conduct official
14 business, for example, it maybe a signing of or voting on a panel
15 of officers for the ensuing year. That could be conducted as
16 unofficial business. Or perhaps simply progress being made on a,
17 on a tasking.

18 We've had, in the past, meeting on -- we had this man
19 overboard task right now, currently, that is an official tasking
20 but would have to be announced on the Federal Register and then
21 would have to be conveyed during an official business oriented
22 meeting, but in between that, we could have meetings that discuss
23 progress on the tasking at hand. And so that would constitute
24 official meetings that wouldn't have to be announced on the
25 Federal Register. So it kind of depends on the caliber of the

1 meeting itself.

2 Q. So does the Coast Guard provide the resources to support this
3 committee in terms of people and funding?

4 A. Yes, they do. If we're holding a virtual meeting, we
5 facilitate and coordinate that, all the logistics and the setup
6 and time and the venue, the -- and then, if we meet offsite -- for
7 example, I think our OS meeting was out in Seattle -- we would --
8 we, the Coast Guard, would, again, rent a facility, the court
9 recorder, and we would, we would take the minutes, all the media
10 and coordinate the guest speakers, and we -- and even we'd fly in
11 the committee members and reimburse them for their, for their, you
12 know, travel expenses and so forth.

13 Q. So does the Coast Guard publish the minutes of the meeting
14 that contain the content of discussion so that the public can see
15 the outcomes of these meetings?

16 A. Yes. If you go to that -- in one of my slides, the DCO
17 official website, there's a dropdown tab, and one of those tabs --
18 actually, there's two tabs dedicated to the advisory committee,
19 and you can look back the last ten years, or we have all the
20 archives listed on a yearly basis of meeting minutes on
21 announcements that were put forth on the Federal Register. We
22 have a running roster of committee recommendations and all
23 conversations.

24 So we're very transparent on that. We try our best to keep
25 that maintained as best as we can. And I believe also on that

1 site is a link to the FAC, the Federal Advisory Committee link
2 that we can also launch into advisory committee particulars. And
3 last but not least, we also list the bylaws and the members that
4 are sitting currently on that committee. So we have a dedicated
5 place in our outwardly facing DCO safety site.

6 Q. So would it be fair to say that an investigation such as this
7 or any of the high-profile investigations could make a
8 recommendation that the National Commercial Fish Safety Advisory
9 Council examined the accident and make recommendations to the
10 Coast Guard? Would that be fair to say?

11 A. I think so. I think it's -- the advisory committee has been
12 used as a variable asset in the past. And I think using the
13 proper channels, it -- I would say it would be appropriate to get
14 sound, thorough recommendations from the advisory committee. And,
15 again, that would offer solid weight on our decision making. I
16 think I talked about in the past, you know, sometimes we just
17 can't go on one incident necessarily, but we need data and
18 information and comment, and sometimes that comment comes from
19 stakeholders. And anything coming from the advisory committee, we
20 -- if it's in the form of a formalized recommendation, we welcome.

21 Q. So does the -- this is my final question about the safety
22 advisory committee, but are there adequate resources in place in
23 terms of industry people so that a subcommittee could be formed to
24 examine an accident, previous accident and so forth? Do you have
25 enough resources in terms of the industry personnel to make that

1 task commented recommendations delivered to the Coast Guard?

2 A. Yeah. So if a, if a recommendation came to the Coast Guard
3 and, hypothetically, I'm stating that we recommend that the
4 advisory committee look into this topic, whatever that topic is,
5 and then the Coast Guard says yes, we concur, and then -- and if
6 the -- and what generally would happen is the Coast Guard would --
7 our Designated Federal Officer linked to the appropriate Federal
8 Advisory Committee would assign a task to that advisory committee.

9 Once the advisory committee accepts that task, say, yes, we
10 concur, they think it's a good initiative, we accept. And then
11 they pursue initiatives to assign a -- first it would have to be
12 accepted by the committee, of course, and then the committee would
13 assign, more than likely, a subcommittee within that committee.
14 That subcommittee would traditionally involve key persons within
15 the advisory committee, and they would have the latitude to reach
16 out to subject matter experts within the industry.

17 So, for example, if there was someone on the committee
18 that -- or if the committee was lacking subject matter expertise
19 on a specific topic, they would have latitude to cast the net out
20 to the appropriate subject matter expert and get that technical
21 advice or analysis to allow them to make a decision and a
22 recommendation to the Coast Guard. And then the Coast Guard would
23 receive that and make a call and weigh pros and cons whether they
24 want to accept that recommendation or not. Does that make sense?

25 Q. Yes, sir.

1 A. Okay.

2 Q. So my final topic is, of course, recommendations following an
3 accident that's being investigated by the Coast Guard, a
4 significant accident for commercial fishing vessels, and I want to
5 talk a little bit about the *Destination*, which sank in 2017. And
6 there was a Marine Board similar to this that was stood up, and it
7 made a host of recommendations to the Commandant of the Coast
8 Guard.

9 And Lieutenant McPhillips, if you'll pull up Exhibit 128.
10 And what we've done is taken out the bulk of the report and just
11 gone to the recommendations. They come to us in a final action
12 memo, which is the Commandant's view of the report and whether or
13 not they concur or don't concur or partially concur with the
14 regulations. Would you scroll down, Lieutenant past the coverage
15 page and hold it right there for just a minute? So this will be
16 representative of the comments on the report, and if you'll move
17 down, stay there just for a minute. And move to the next page,
18 please, sir.

19 So in this case, recommendation number 1, the comment on it
20 concurred with the recommendation. I just want to ask you
21 generally, without going into the specifics, what role does your
22 office play when a recommendation is delivered as a result of a
23 report similar to this?

24 A. Traditionally, what happens -- and I'm familiar with this
25 report. And when, first and foremost, there are -- there may be

1 several stakeholders with each individual recommendation. And so
2 we normally will have -- if a recommendation is placed on the
3 district, for example, there's a good chance that we will have
4 that discussion or have discussions with district. Now, we don't
5 sway the district decision on recommendations, but it's a way of
6 being transparent that we're -- because we're obviously in tune
7 with certain actions being taken which will influence the
8 recommendation. And sometimes we have certain knowledge of
9 initiatives taking place.

10 And so I would say that regardless, if it's placed on
11 Commandant or, of course, headquarters or the districts, there's a
12 -- there's quite a few assets that we use prior to responding.
13 You know, we have to weigh the decision. And sometimes we're
14 talking, taking legal counsel, we're talking to different offices
15 within regulations or nav or the engineering departments of the
16 Marine Safety Centers.

17 And so we have to soak all that in and see how things may be
18 applicable or relevant to a certain situation and then how we can
19 appropriately respond or how the -- we can recommend that the
20 Commandant appropriately respond, because coming out of our
21 office, it's a recommendation. And again, as it goes up to the --
22 through leadership, they obviously have to concur with that point
23 of view.

24 Q. So regarding stability, the recommendations made in that same
25 report, did your office have any input on the stability

1 recommendations?

2 A. I believe we had to -- we had a review on all the Commandant
3 directed initiatives, on those *Destination* recommendations. So
4 yes, we did a -- we do an initial review. And then as appropriate
5 we made further requests for comments from various offices. So
6 yes, to answer your question, we had visibility of that.

7 Q. So in that investigation and in this, one of our colleagues
8 from the National Transportation Safety Board may make
9 recommendations. What does your office do when a report includes
10 recommendations from a separate report independently compiled by
11 the National Transportation Safety Board in terms of how do you
12 handle the National Transportation Safety Board recommendations
13 directed at the Coast Guard that relate to fishing vessel safety?

14 A. I think we -- with any recommendation from various agencies,
15 we handle the -- we pursue our response accordingly. We get the
16 recommendation. And if it's from NTSB or GAO or another agency,
17 we -- I think we handle it the same way. We look at the
18 applicability and we look at current statutory requirements. For
19 example, current regulation, current guidance, current outreach
20 initiatives. And then we see how that may be applicable to the --
21 and relevant to the requests. And then we, and then we form our
22 position, whether we say, yes, we concur and we're going to do
23 this, or we do not concur and this is why.

24 And so, without making a decision on hypotheticals, of
25 course, I think, in general, that's our course of action. We take

1 what is handed to us by way of a recommendation -- again, it could
2 be from other agencies -- and we weigh the content and the
3 applicability and the relevance, and then we push forward with our
4 position.

5 Q. So if one of these reports recommends the creation of
6 legislation and the Commandant concurs and they get input from
7 you, can you give us just an idea of how long it would take just
8 in general terms for that recommendation to become an actual law?
9 Is it a short time? Is it many years?

10 A. You know, first and foremost, I think the most appropriate
11 office to respond to that would be the office of CMT regs,
12 regulations, and so my opinion is just basic, and so I wouldn't
13 want to be quoted on it, but I -- because, again, they're the
14 subject matter experts in that field. However, I would say, in
15 general, if we have a recommendation and it's been deemed
16 legitimate for a potential reg project that then we go back to my
17 original slides earlier today and there's a very definitive
18 structure to the reg process as we know.

19 And so that could be -- it could take months to a year to
20 beyond that. And the reason I say that is, if warranted by a
21 situation, we may need economic studies. We may need analysis.
22 We may need oversight and review by different offices. Or maybe
23 even agencies. And so what I would say is the dynamics and
24 details and the complexity of the request may -- it may take some
25 time to move forward to a reg project. But by all means, we do

1 have an office within Coast Guard headquarters that could probably
2 give you a more definitive answer to that.

3 Q. So could you -- and I know this might not have been contained
4 in the topics, but could you think of any accident involving a
5 commercial fishing vessel that -- any specific accident that
6 resulted in a piece of legislation that I could go to a regulation
7 or a law and find it if I looked it up?

8 A. A piece of legislation connected to an actual incident?

9 Q. Correct.

10 A. Yeah. I think to accurately answer that, I really would have
11 to look at -- I would have to go back, look back at documents. I
12 couldn't answer that clearly here now comfortably. Now, I could
13 say that, for example, with the -- and I don't want to jump off
14 topic because I know we're talking fishing vessels, but with the
15 towing industry, there were several pointed major marine
16 casualties that directly resulted into the initiatives that
17 resulted in Subchapter M, for example. As a result to a specific
18 mishap or major marine casualty on a specific fishing vessel in --
19 fishing industry vessel, I would -- I couldn't answer that right
20 here and now today.

21 Q. So were there any during your tenure as the division chief?

22 A. Not in the three years because we haven't pushed out -- we
23 haven't had, in the last three years, a reg project that has come
24 to fruition resulting from fishing vessel major marine casualties.
25 And as I stated before, the only reg project that is sitting on

1 there on the end, final agenda right now, has been sitting there
2 prior to my tenure as a division chief.

3 Q. And I just have two follow-ups. The major marine casualty,
4 when we looked at that chart showing the trend of fishing vessel
5 fatalities and loss of vessels and it was showing a downward
6 trend, that included all accidents, correct? Or was it just major
7 marine casualties involving commercial fishing vessels?

8 A. It is my understanding that those numbers -- and I would have
9 to look at the slide to see if it differentiates between major
10 marine casualties or just general sinkings. I think, I think the
11 slide, I would have to look at the context and footnotes. And
12 being that, that was put together by the Office of Investigations,
13 I may have to ask, to ask that office the applicability, if this
14 was just major marine casualties or if it was every casualty there
15 of the last 30 years. So that being said -- and if we could maybe
16 increase that, if it's possible.

17 Q. So, for the benefit of the record, we have just pulled up
18 Coast Guard Exhibit 069, which is the chart that we were just
19 speaking about.

20 A. And I'm just scanning as we're -- bear with me, please.
21 Okay. So being that -- and as I'm looking at this footnotes,
22 being that these statistics reflect loss of life, loss of fishing
23 vessels, and, again, fatalities, I am presuming that these
24 statistics involve major marine casualties. But I think knowing
25 what I'm looking at right here, right now, if there were any

1 non-major marine casualties, I would have to put that request
2 through IMV that crafted this data and clarify with them. But I'm
3 presuming this relates to major marine casualties.

4 Q. Thank you, sir. Lieutenant, you can pull that down. And
5 just my final question, and you kind of skipped over it in your
6 presentation. The sea grant program is a program, as I understand
7 it, where the Coast Guard funds safety initiatives. Am I correct
8 in that assertion?

9 A. Well, the sea -- okay, so the -- well, there's a couple of
10 grant initiatives in boating safety -- well, there's two, there's
11 two, I'll call them, buckets again that -- when we talk to grants
12 initiatives. And we have the Office of Boating Safety, which they
13 manage certain sea grants and certain reoccurring long range
14 grants for boating safety and various entities, and I can't really
15 speak to their grant initiatives because I'm not involved with it.
16 The grant -- the fishing vessel safety and fishing vessel training
17 grant initiative that my office is involved with is a, is a
18 statutory directed grants project that has been going on since --
19 well, it was launched by the Coast Guard Authorization Act of '18.

20 And then there are appropriated funds to the tune of
21 \$6 million annually for several years. And that \$6 million has to
22 be -- there's a window that those -- that \$6 million has to be
23 used by the award recipients. The award recipients are managed by
24 NIOSH, and so the Coast Guard, my division partners with NIOSH
25 with the, with the managing, and we work as subject matter experts

1 for the Coast Guard side of the house on managing these grants.
2 We meet on a monthly to bimonthly basis, and so we just met for
3 Calendar Year 2021, and we do meet on occasions from previous
4 calendar years to monitor how those grants are being pushed
5 forward by the recipients, et cetera. So, again, we're not
6 connected to sea grants. We're the Congressionally mandated
7 appropriations.

8 Q. So, on Thursday, we'll hear from the folks at the Alaskan
9 Marine Education Association, and we'll also hear from the North
10 Pacific Vessel Owners Association. The reason I asked that
11 question is on their very, very good videos for the AMSEA folks,
12 they say that it was funded through sea grant. So it's a
13 different bucket of money as you explained. Is that correct?

14 A. Correct. Correct. Yeah.

15 Q. So I thank you very much for your testimony.

16 MR. FAWCETT: That completes my questions, Captain.

17 CAPT CALLAGHAN: Thank you, Keith, and thank you, Mr. Myers.
18 Mr. Myers, we've been going for -- I guess it's been about an hour
19 and 15 straight now. If you're okay, we'd like to take a quick
20 five-minute recess, and then I'm going to pass it over to my
21 colleagues at the National Transportation Safety Board once we
22 return. Is that okay with you?

23 THE WITNESS: Yes, sir. Thank you.

24 CAPT CALLAGHAN: All right. So it's now 1101. We'll take a
25 five-minute recess and return at 1106.

1 (Off the record at 11:01 a.m.)

2 (On the record at 11:07 a.m.)

3 CAPT CALLAGHAN: The time is now 1107. This hearing is now
4 back in session.

5 Okay, Mr. Myers, we're going to, as I mentioned before, and
6 we're going to go over to our -- my colleague here at the National
7 Transportation Safety Board.

8 Mr. Barnum?

9 MR. BARNUM: Thank you, Captain.

10 BY MR. BARNUM:

11 Q. And, Mr. Myers, thank you for being here today and
12 shepherding us through this legislative and regulatory jungle
13 here. I appreciate it. I know it's been helpful for me, so thank
14 you.

15 A. Sure.

16 Q. Just have two lines of questioning. You did mention both of
17 them earlier in your presentation, which was very informative, but
18 I just needed some clarification. So first one would be the
19 compliance programs that you have there at the Coast Guard. We
20 were talking about the Alternate Safety Compliance Program, but
21 I'm curious, before we -- I go into that, about the Alternate
22 Compliance Safety Agreement. I believe that was a -- that's a
23 program that's in place for the longline and trawl fish processor
24 fleet. Could you talk a little bit of that?

25 A. The -- yes, the -- and the acronym being ACSA.

1 Q. Right.

2 A. And that -- there are a fleet of older commercial fishing
3 vessels that -- and I wish I had numbers; I didn't prepare to
4 provide you numbers, but I can at a later time if you want. But
5 in 2006, there were -- the longline fish processing fleets or
6 certain population of aged vessels that were over 25 years old,
7 many of them, that were not built to class or -- and did not have
8 load lines. They would (audio skip) able to operate due to the
9 mere fact that they did not have load lines and class documents on
10 many of the vessels.

11 So the ACSA program came to fruition, and it was an agreement
12 between a certain population of these ACSA fleet vessels and the
13 Coast Guard that inspections would ensue on a periodic basis to
14 look at vessel systems. And it's quite a high bar. Again, this
15 started in 2006; I think there's roughly 32 or 34 vessels
16 currently in the program, because it started with a -- not a
17 substantial fleet, but in the sixties, 67, and then now, ten years
18 or plus later, we're down to about 30 and some change. But this
19 is quite a high bar that these vessels have to meet.

20 You know, we've been talking quite a bit all morning on
21 examinations. Well, this is the one small population of vessels
22 that are inspected, in fact. So we call them the ACSA fleet, we
23 call them. They are, in fact, inspected because of the high
24 caliber of systems that they have to be reviewed by a marine
25 inspector. And so they have to meet certain subchapters of the

1 Code of Federal Regulations that currently inspected vessels have
2 to meet. And I'll just give you one example is fixed firefighting
3 systems. On inspected -- certain inspected vessels, you have to
4 meet Part 76, which gets -- factors in the pressure vessel and the
5 high-pressure CO2s, and the, and the lines. Well, these ACSA
6 fleet vessels have to meet the same standards. And so that's a
7 quick snapshot of ACSA.

8 I believe, as I said, it's about 30, 34 vessels right now,
9 but right now, we have inspectors in both District 17, which is
10 Alaska, and District 13, which is running out of the Seattle area,
11 that monitor and oversees this ACSA fleet, and we have a full-time
12 billeted person in D-13 that also manages this program.

13 Q. Understood. Thank you for that. So would I be correct in
14 assuming -- in saying that, you know, the ACSA program is a way to
15 bring these 30 to 34 vessels held into a higher standard because
16 they're not -- they weren't constructed to a standard at the time
17 when they were made?

18 A. Exactly. Yes, sir.

19 Q. Okay.

20 A. Yeah, spot on. And it's known that a lot -- just the lack of
21 documentation when these vessels were constructed, a class society
22 may not want to get involved with them, and this was a way of
23 keeping a high bar that industry embraces, and they said, okay,
24 this is a, this is a way we're -- you know, we won't get shutdown
25 for not being in class, but we will have a high bar of maintaining

1 all of the applicable systems. And we, the Coast Guard, have been
2 satisfied with that.

3 Q. Now, is that the same objective for the Alternate Safety
4 Compliance Program, for the vessels 50 feet and more operating
5 outside the boundary line, 25 years and older? Is it the same,
6 you know --

7 A. I can't say, I can't say that, that was the same objective
8 initially. It could have been. But I was not drawn into any of
9 those conversations. So I can't say that, that was the initiative
10 when Congress put that into statute. I don't know. I could
11 speculate, but officially, I don't know.

12 Q. Oh, please do. If we're talking about the 2010 Authorization
13 Act and how there was a -- I guess they came out with MSIB, and
14 also, on Exhibit -- 14 December, basically summarizing in the
15 2010, '12 Authorization Act, one being the mandatory dockside
16 safety exams, but then also being the Alternate Safety Compliance
17 Program, so -- for vessels of 50 feet or more, 25 years or older
18 and operate outside of the boundary line. So approximately how
19 many vessels would that affect -- if that did come into effect,
20 understanding that it did not, but how many vessels are out there
21 that this would have affected?

22 A. Let's see -- and I'm trying to see if I have any, because I
23 thought, I thought on one of my slides --

24 Q. I know you said there was 4,800 high-risk vessels, but that
25 stat didn't include -- it wasn't specific to vessels that were 25

1 years and older. That was just vessels specific to built before
2 7/1/13, 50 feet and greater and operate outside the boundary,
3 three miles.

4 A. Yes. And I don't have numbers in front of me, of course. I
5 could get numbers, by all means. But I would say -- and, you
6 know, an unofficial guesstimate just to give you a snapshot,
7 vessels that are over 50 feet operating beyond the boundary line
8 and maybe 25 years of age and older, I would comfortably say we
9 could be talking about 7,000 to 8,000 vessels. Now, that being
10 said, if that is a number that you'd like to make impact any of
11 your decisions during this investigation, I'd be happy to give you
12 a more firmer number than that, because that's just a guesstimate.
13 But I can get closer to the mark in a short period of time.

14 Q. Yeah. I was just curious on how many -- this proposed
15 Alternate Safety Compliance Program, I'm curious how many vessels
16 would have been affected if that were to come into effect.

17 A Yeah. And I think it was, at the time -- and the reason, the
18 reason I'm hesitant in giving a solid number, and I say ballpark
19 about 8,000, is with our numbers, we -- from year-to-year active
20 commercial fishing, whether the vessel's laid up or not, it
21 changes dramatically. And so back in 2010, when we had a snapshot
22 population, that was back in 2010. Now, we're -- now, we fast
23 forward 11 years later, and so then you have to ask, how many of
24 those older vessels at the time are no longer in service, or are
25 they just pier side? Are they not active for whatever reason but

1 they just haven't been taken out of the system? So I would say,
2 if you'd like, I can give you a follow-up on that.

3 Q. Yeah. I'd appreciate that. Just to clarify, you mentioned
4 4,800 high-risk vessels. So you're saying there's more. I was
5 under the understanding this Alternate Safety Compliance Program
6 was directed at high-risk vessels, but basically you're saying
7 there's more -- potentially more vessels, then, are actually
8 classified as high-risk vessels?

9 A. Yes. You know, with this high-risk -- and I'd like to just
10 clarify, the Alternate Safety Compliance Program and the at-risk
11 program are two separate programs, two separate focuses, but with
12 like populations. And so we can make a comparison that way. But
13 that being said, when we talked about the 4,800 vessels that are
14 still out there, you know, that -- those are known vessels with
15 either active dockside exams, or not.

16 And that being said, when we go to our MISLE database or our
17 database that we track these vessels, there's a lot of vessels out
18 there that, again, are laid up and haven't been taken out of the
19 system. So it's a, it's a challenging process of sending
20 examiners out there to identify certain vessels and then to take
21 them out of the, out of the system. It is warranted. So we are
22 comfortable with the at-risk population saying, yeah, we've got
23 about -- actively, about 5,000.

24 Q. Okay. Thank you.

25 A. Yes, sir.

1 Q. Lieutenant McPhillips, can you please bring up Exhibit 47,
2 Page 3? Mr. Myers, this is, this is the voluntary safety
3 initiative and good marine practices for commercial fishing
4 industry vessels that you touched base on earlier. And so I just,
5 I just need some clarification here for the benefit of me and
6 possibly others, I'm not sure.

7 But basically, this is an explanation to why the Alternate
8 Safety Compliance Program was ultimately suspended, and I guess in
9 -- you had mentioned earlier -- so a second paragraph, the second
10 sentence, I'll read: However, without existing requirements for
11 these older vessels already in place in regulations, an
12 alternative to the standards could not be developed.

13 Now, the way I read that, it almost sounds like a bit of the
14 chicken and the egg. You know, how can you, how can you make an
15 alternative to something that isn't existing in the first place?
16 Is that, is that -- am I reading that correctly or can you better
17 explain it to me in plain words?

18 A. Well, I think you explained it how I would have explained it.
19 It's, it's -- in so many words, again, you know, getting the juice
20 of this language, there was, there was a -- there is and was a
21 lack of standards for these older vessels to meet. So we were
22 asking for an Alternate Compliance Standard that we would have to
23 mirror up and compare that standard to. And so the Coast Guard
24 stance, at the time back in 2017, simply was saying, listen, what
25 standard are we, are we talking about?

1 And it was the cart before the horse that there -- if it was
2 saying compared to ABS rules, for example, okay, that's the
3 standard. But they didn't say that. And so the Alternate
4 Compliance Standard was not very clear and did not exist. And
5 that's why they backpedaled on that.

6 Q. Yet, if the Coast Guard is able to make it work, if you will,
7 for the longline trawl fleet for the authentic compliance safety
8 agreement?

9 A. Correct. Correct. And back when they did that, yes, they --
10 a meeting of the minds came together, and they did identify a high
11 standard. And I was, I was not in either conversation, but what
12 this, what this group of vessels, I could not tell you whether
13 that was a balance or not with an action forward.

14 Q. Okay.

15 A. So I'm hesitant to comment, too, on that thought, because I
16 guess when we're talking the ACSA fleet, yes, that was a standard
17 and it was detailed out, and I could see with the Alternate Safety
18 Compliance Standard, there would need to be further looking into
19 before a model standard was even looked at, because right now, in
20 our view, the standard just does not exist.

21 Q. But -- okay, so staying with that, so -- but it's not totally
22 off the table. My understanding, the Alternate Safety Compliance
23 Program for these vessels such as the *Scandies Rose* is still on
24 the table, and in the last -- or in the 2016 Authorization Act, it
25 basically gives ten more years to -- at which point a proposal

1 could potentially be made to the Secretary. Is that correct?

2 A. Yes. Yes. And so, and so now, so now the meter's ticking
3 because -- you know, so ten years after that, 2016, so we're
4 talking 2026, which we're getting kind of close. And that's where
5 our office has started an initiative, and, again, this initiative
6 is on this content of surveys and construction standards that came
7 about in 2016. And now we are, we are kick starting initiatives
8 to start to sample those vessel populations to see if this
9 standard, this alternative compliance standard is working.

10 And so, and so what does that mean? That means that this
11 standard -- instead of being class, this Alternate Compliance
12 Standard is being conducted on the oversight of third-party
13 organizations. And they're doing periodic, in water, in/out of
14 water surveys, et cetera. And so --

15 Q. So sorry to interrupt you there, sir, Mr. Myers, but you're
16 looking at modern vessels. You're doing this comparison on
17 vessels built after 2013.

18 A. Yeah.

19 Q. Not -- but you're not looking at these vessels that the
20 program would actually apply to.

21 A. Yes. Correct. And so since there is, since there is, you
22 know, the -- well --

23 Q. So you're trying to, you're trying to see if the program
24 would be feasible for a group of vessels, but you're not actually
25 looking at that group of vessels to see if it would be feasible.

1 A. Well, and I guess, backing up, you're right. That vessel
2 population that, that Auth Act is applicable to is for -- yes,
3 it's for new vessels and moving forward.

4 Q. Okay. All right. So we found out, in 2016, that, well, we
5 couldn't have the cart before the horse, so in 2026, when that ten
6 years has expired, would that be different? You're still not
7 going to have any regulations in place, so potentially, could you
8 have the same explanation why there's no Alternate Compliance
9 Program in place because there still won't be any regulations at
10 that point?

11 A. We'd be forced to open those discussions. I would say the
12 scenario that you laid out is -- yes, it's -- this way forward is
13 addressing new constructions, and right now, since we pulled back
14 on the Alternate Safety Compliance because there's no equivalency
15 to base it on, we came out with that, the safety initiatives and
16 good practices. Obviously, they're voluntary, but we did partner
17 with industry to put them together.

18 Q. Yes, sir. Okay. All right. Thank you. Moving on to my
19 last on this line here, sir, a question you brought up in your
20 slides, which were very good, but a little more explanation. Load
21 line, could you briefly describe load line of a commercial fishing
22 vessels and kind of how it applies?

23 A. Commercial fishing industry vessels that -- up until 1 July
24 of '13, commercial fishing industry vessels that are 79 feet --
25 well, first, let me back up. Up until 1 July of '13, there was no

1 requirement for a fishing vessel to be load line. After 1 July of
2 '13, there's a requirement for fishing vessels that are over 79
3 feet to be load line.

4 Q. And let's, you know, bring up the Exhibit 106, please,
5 Lieutenant McPhillips? It might help us a little bit. So
6 basically a load line is an additional measure for a vessel and
7 basically kicks in some more stringent inspections. Is that
8 correct? If a vessel is required to carry a load line.

9 A. Yes, it's -- the issue of a load line is demonstrating the
10 safe loaded condition of that vessel. And it factors in several
11 areas: the watertight envelope of that vessel, it could factor in
12 through hull fittings, watertight bulkheads --

13 Q. Okay.

14 A. -- various penetrations, scuppers, which scuppers being it
15 allows the exit of excess water on the main deck, for example. A
16 load line has rail height requirements, et cetera.

17 Q. Okay.

18 A. And I believe that may have been on page --

19 Q. Sixteen?

20 A. -- 16, yeah. Yeah. And so -- yeah?

21 Q. Thank you. Sorry. Basically my question here is, you did a
22 very good job listing it here, but, you know, obviously *Scandies*
23 *Rose* didn't have a load line. She was a fishing vessel, but she
24 also tendered in the summer for salmon. So my question is, can a
25 fishing vessel be a fishing vessel and a tender vessel? Can it be

1 both?

2 A. Well, and so fishing vessels --

3 Q. In the eyes of regulations -- sorry. In the eyes of
4 regulations, sorry.

5 A. Oh, in the eyes of the -- okay, so -- okay. That clarifies.
6 So, in the eyes of the regulations, those are two vessel types.
7 When a, when a fishing vessel chooses to tender or change vessel
8 operations seasonally, the regulations do not differentiate
9 between the two. You are either a fishing vessel or you're a fish
10 tender vessel. And so that is -- but now, that's per regulation.
11 You know, there's a definitive line.

12 In reality, there are fishing vessels that are also fish
13 tender vessel, and in alignment with the regulations, they must be
14 aware or they should be aware of the difference, because once they
15 change that service, they're changing vessel type, and it's very
16 straightforward by definition, but -- because I know, and I think
17 slide 15, we gave a clear depiction of the definition, and there's
18 a very distinct difference between the two.

19 Q. And my understanding that, you know, it wasn't uncommon for
20 these -- a lot of these vessels such as the *Scandies Rose* to pull
21 work in the summer tendering. It was a common practice, in fact.
22 So, you know, after what you just said and looking at your slide
23 here, you know, how is the Coast Guard reaching out to these
24 vessels and telling -- informing them their interpretation of this
25 regulation and the potential requirement for these vessels that

1 have to carry a load line?

2 A. We -- and first and foremost, with -- in looking at the
3 *Scandies Rose*, when the vessel's critical profile is looked at, it
4 reflects a commercial fishing industry vessel. We don't have
5 anything that jumps out at us to say fish tendering. That being
6 said, many vessels, I think, are out there and it may be, you
7 know, they're picking up jobs here and there, and they don't see a
8 big distinction between the two, which, again, there are.

9 And so, recently, the Coast Guard has identified that certain
10 fish tender vessels do not comply with current load line
11 requirements, and recently, the Coast Guard has identified these
12 increased numbers of catcher vessels that are part-time tendering.
13 And the concern being certain vessels, as stated, are not required
14 to load line when fishing, and then when you take a job, now
15 they're required load line by regulation, in a sense changing the
16 type.

17 That being said, there are current initiatives underway to
18 address determining load line applicability compliance with these
19 fish tender populations. And so, again, with that being said, you
20 know, you say, okay, what are those initiatives? Well, we have a
21 PacArea initiative directed by the PacArea district commander, I
22 believe it was 2019, that empowered a charter group to address
23 this situation.

24 Again, we know there's an interpretation problem for -- and
25 I'll try to clarify what that interpretation was. It's -- if

1 you're a full-time fishing vessel there, it's very clear that
2 you're -- I mean, if you're a full-time tender vessel, you're a
3 full-time tender vessel. But it has been interpreted by some
4 industry vessels and some in the Coast Guard that, in the past, if
5 you're part-time tendering, that doesn't necessarily make you a
6 full-time tender. And that's where the confusion is because some
7 vessels innocently said, hey, I'm just, I'm just doing this for a
8 week, and then I'm going to, I'm going to continue fishing, you
9 know, the rest of the season. And weren't seeing the connection
10 to a certain regulation.

11 And so that being said, this all had to do with the
12 definition of a part-time tender. And what has happened amongst
13 further legal review, the Coast Guard determined that, you know,
14 what -- load line requirements do not distinguish whether you're
15 full-time tendering or not. You know, this is not an inspected --
16 by some inspected issue. It's are you required to have a load
17 line or not?

18 And so, that said, the -- as I said, the district PacArea
19 commander established a task force to analyze this problem, and
20 the task force is charged to develop and implement recommendations
21 to identify the fleet impact and conduct a risk assessment. So
22 when I say a fleet impact, they're charged with identifying the
23 population and then conducting a risk assessment to see whether --
24 or to identify the scope of the issue and then to engage with
25 industry for comment and feedback to help align with the

1 decision-making process, and then to develop these recommendations
2 to bring forth to the district commander and commandant to a
3 resolution.

4 And so then you say, okay, Coast Guard, what have you been
5 doing? Well, in 2019, when this, when this started by way of
6 District 13, 17, and the district commander getting together, this
7 task force team, which CVC-3 sits on for transparency, we got
8 together, we met out in Seattle, and we put notes out to the
9 industry -- and, again, I'm ballparking it, but I think we had 40
10 to 60 industry members at that meeting at the time. It was just
11 before the Pacific Expo.

12 And then we had CG-ENG, which I think they'll be talking to
13 you later on this week, and they detailed out to industry this
14 predicament and this dilemma and the miscommunications, and we did
15 a stability 101 with industry, and then we fielded different
16 questions. And one of the takeaways from that meeting was, hey,
17 let's do a survey of vessel populations -- which has been done; I
18 think it was kind of a dual poll of the fishing industry that may
19 be tendering in D-13 and D-17 -- and then we got those comments
20 back, and those have been studied by the group.

21 And another initiative has been during every dockside exam,
22 if you're in D-13 and D-17, there's a severity questionnaire that
23 goes along saying, hey, if you, if you should have a -- if you
24 think you need a -- if you're tendering, are you doing this, this,
25 and this with regard to stability monitoring, safe loaded

1 condition recognition, maintaining your bulkheads, two hull
2 fittings, are you going into dry dock? It's the whole pedigree.

3 And if it's identified that the vessel should be meeting fish
4 tender vessel requirements, and maybe they're not, what is being
5 done is that is reflected in the 5587 dockside exam comments.
6 It's gone into MISLE. The owner/operator is made aware that hey,
7 we've determined that you -- since you are fish tendering, certain
8 applicable fish tender requirements may be applicable, but we are
9 in a period of non-enforcement.

10 And with that posture, that is not a get out of jail free
11 card, but it is the Coast Guard looking at this problem, because
12 it's not practical to say we're just going to shut down industry.
13 That is not the purpose. The purpose is identify that there's a
14 problem, act on that problem. If there's a feasible resolution,
15 we're going to route that up to leadership with comment from
16 industry.

17 And we hope -- now, I will have to say that the COVID-19
18 pandemic has influenced the pace this has been moving. But again,
19 we're very engaged on this. And the program is sitting with the
20 panel of D-17 and D-13 in PacArea, and that's kind of a rough
21 breakdown of what's going on with this initiative.

22 MR. BARNUM: Mr. Myers, great information. I do appreciate
23 it. Thank you very much. That's all the questions I have.

24 THE WITNESS: Yes, sir.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum.

1 Right now, we're going to go to our parties in interest.
2 And, sir, I will start with legal counsel representing the two
3 survivors.

4 Mr. Stacey?

5 MR. STACEY: Good morning, Captain Callaghan. Thank you.

6 And good morning to you Mr. Myers. Just a couple of very
7 brief questions.

8 Lieutenant McPhillips, if you could please pull up Exhibit
9 106, Mr. Myers' presentation, and go to Page 18, please. Thank
10 you, Lieutenant McPhillips.

11 BY MR. STACEY:

12 Q. I want to talk a little bit about this advisory committee,
13 sir. So does advisory committee -- is this involved when the
14 Secretary provides recommendations and analyses of the adequacy of
15 the requirements to Congress?

16 A. Could you -- if you don't mind, could you rephrase or say it
17 again? I'm -- yeah --

18 Q. Certainly. So I guess, Lieutenant McPhillips, if you
19 wouldn't mind actually going up slide 12, please. Here we see in
20 this regulation that the Secretary submits to Congress an analysis
21 of the adequacy of the requirements. Does the advisory committee
22 assist in that process?

23 A. The advisory committee may assist in that process. And since
24 we are -- we're in the beginning stages, this analysis is going to
25 be a several-year analysis, so it's not just going to be a quick

1 quarterly snapshot. This is going to be a long-range analysis.
2 And we always -- when we look at these analyses and information
3 we're drawing from that, we always reserve the right to decide
4 whether the advisory committee would be a viable resource to
5 comment.

6 And sometimes, and sometimes that could be before an analysis
7 that we need subject matter expert feedback. Or it could be after
8 an analysis, saying, hey, we got this information, advisory
9 committee. Do you have anything to add? Do you have any comment,
10 anything as an extra set of eyes since you represent industry?

11 And so I would say that, that is always a viable resource
12 that we would use, you know, as tool to help us make a decision.
13 But as of yet, we have not reached out to the National Fishing
14 Safety Advisory Committee on this topic itself.

15 Q. Because I did notice, looking at the Federal Register, that
16 10 of the 18 seats are to be filled by those representing the
17 commercial fishing industry. Other are naval architects,
18 manufacturers, underwriters. Do you feel that those ten seats are
19 able to properly represent the views of and the needs of fishermen
20 (indiscernible) all throughout the country?

21 A. I do. And the reason, the reason I say that is when we, when
22 we look at -- we constantly look at our advisory committee
23 representation and, you know, in every situation, you can't, you
24 can't check every box, obviously. However, when we look at the
25 broad impact of our advisory committee, we don't want to have

1 everyone in the Pacific Northwest, for example. We want to be
2 represented -- we want to see representation, if possible, in the
3 Gulf, in the Northeast, down in Florida, et cetera, and the
4 Pacific Northwest. Can we do that all the time? You know,
5 sometimes we're restricted to the applicants of that committee.
6 So yeah, maybe we can't hit the mark every time, but we're
7 sensitive to that.

8 Q. Thank you very much. I encourage you, Mr. Myers, to continue
9 taking their points very seriously, as I'm sure you do now. As
10 the people on the ground, they have a very unique experience and
11 point of view that I'm sure is very helpful to you, so I applaud
12 you for that and encourage you to continue doing so.

13 MR. STACEY: Those are all the question that I have, Captain.
14 Thank you.

15 THE WITNESS: Yes, sir. Thank you.

16 CAPT CALLAGHAN: Thank you, Mr. Stacey.

17 And I'll now go to counsel representing the vessel owners.
18 Mr. Barcott?

19 MR. BARCOTT: Thank you, Captain. Well, let me get my video
20 going here. There we go.

21 BY MR. BARCOTT:

22 Q. Mr. Myers, I'm Mike Barcott. I represent the *Scandies Rose*.
23 Can you hear me all right?

24 A. I can. Thank you.

25 Q. Thank you for your information this morning. I have a couple

1 of questions for you. You made the statement, one sinking is
2 taken very seriously, especially a sinking of the magnitude of the
3 *Scandies Rose*, right?

4 A. Yes. And I believe that.

5 Q. Thank you. You also said, I think if I understood, there are
6 65,000 approximately commercial fishing vessels that are in their
7 portfolio -- need to deal with 65,000 commercial fishing vessels.
8 Is that right?

9 A. Correct.

10 Q. That's a big job. So there are, give or take, 60 vessels
11 involved in Bering Sea crab industry, the industry that the
12 *Scandies Rose* was involved with. Have you been following these
13 hearings?

14 A. I have.

15 Q. Okay. Did you read about the expert witnesses who came
16 forward last week, naval architects, and provided information that
17 there may be serious flaws with the stability studies on crab
18 boats as it relates to icing conditions?

19 A. I heard their testimony.

20 Q. Oh, good.

21 A. Not all, not all of them, but several.

22 Q. Oh, good. Good. I'm glad you did hear. So here's my
23 question for you. If, at the conclusion of this hearing, the
24 Board concludes that those naval architects were right -- in fact,
25 the icing conditions for stabilities studies on crab vessels,

1 nobody has ever studied those; there is no data on that. And if
2 the Board concludes it -- as written and applied, the Code
3 regulations are useless, and if it goes one step further and
4 concludes not only are they useless, but they're dangerous because
5 they lead these operators into a false sense of security -- they
6 believe they have good data and they don't -- are 60 boats enough
7 to get the attention on the national scene, perhaps the safety
8 advisory committee to take a serious look at studying the
9 deficiencies in the regulations?

10 A. To respond to that, I -- first and foremost, as I've said in
11 the past, we -- part of our, part of our review process to
12 investigations to recommendations from the advisory committee, by
13 multiple sources, we, the Coast Guard, and especially myself at
14 program and other offices at headquarters, we receive the
15 pertinent data that's laid in front of us. And if that is a
16 detailed analysis from a report that conveys such and such, by all
17 means, we weigh that recommendation and whether that information
18 is legitimate, valid, impacting and is a viable solution to a
19 problem.

20 But -- and I think, I think we have to be -- not careful, but
21 I think we are -- we're prudent in our, in our steps to not to
22 assume, because that would not be appropriate. And taking -- you
23 know, every casualty, as we know, is tragic, and we -- and I think
24 we all agree to that. And then, when we have a -- one thing we
25 have to consider on a national program and regulations and a way

1 forward, we have to be very careful to not assume and not
2 speculate and not let our emotions change our decision-making one
3 way or another, because this is for a long-range decision. And
4 then we have the analysis, the data, the interviews, as you said,
5 perhaps recommendations from advisory committees, other subject
6 matter experts, and we bring it all together and we say, hey, do
7 we need change or don't we?

8 And so it would be -- it will be the cart before the horse if
9 I were to say, yes, we need change right now. I would say, and I
10 hope you would appreciate that I would say to you, that the Coast
11 Guard is very interested in every resulting analysis and comment
12 the of the Marine Board of Investigation or any investigation to
13 say if we have any takeaway information that could help us make a
14 good decision. And so is that fair?

15 Q. It is fair, and I can't tell you how -- in my perception, how
16 seriously this Board takes this issue. And I wouldn't ask you to
17 assume anything is correct. But coming back to my question, if
18 you should get recommendations that the icing conditions related
19 to stability studies on crab vessels deserves more study, but it
20 only affects 60 vessels, is that a big enough mass to get a notice
21 at least, let's look at this on the national level?

22 A. At the national level, we -- and I don't want to dance around
23 the question, but at the national level, we look at the objective
24 evidence put forth before us and the causal factors and the impact
25 and the effect and a way forward. I would say, if we are doing

1 our job on any review of a causal factor or a recommendation, we
2 take those numbers out of the equation. So if it's one or a
3 million, if certain change is warranted, by all means, that's part
4 of our decision-making process.

5 And that's why we bring in different offices and different
6 subject matter experts. And so what I would say is, based on the
7 objective evidence put forth in front of us, we hope to be able to
8 make a very viable, straightforward decision. And not every
9 decision is straightforward, but an appropriate decision, let me
10 say.

11 Q. Correct. Thank you. That will be reassuring to the
12 community in Alaska.

13 MR. BARCOTT: Thank you very much. Those are all the --

14 THE WITNESS: Sure.

15 MR. BARCOTT: Those are all the questions I have. Thank you,
16 Captain.

17 CAPT CALLAGHAN: Thank you, Mr. Barcott.

18 Mr. Myers, I do have a follow-on question from Mr. Fawcett.

19 Mr. Fawcett?

20 BY MR. FAWCETT:

21 Q. Yes. Thanks again, Mr. Myers. Just a follow-up. In doing
22 research for this investigation, I looked at a variety of sources,
23 and one of those was Wikipedia. And they talk about a popular
24 television show, and in that entrance on the Internet for
25 Wikipedia, they talk about a vessel captain in the Bering Sea crab

1 industry that had a heart attack, and then he had, had a second
2 heart attack which was precipitated by a severe reaction to an
3 antibiotic. And then it goes on to say he had to be medically
4 cleared before he returned to work to complete filming the
5 particular season of the show.

6 And my question is, did the Coast Guard have any knowledge of
7 this medical condition based on what you know or any understanding
8 of what went on with that individual? And this individual does
9 not have a Coast Guard license.

10 A. It's -- I would say it is very difficult if you have an
11 unlicensed mariner, and in the scenario that you just laid out, it
12 would be very hard, unless if -- unless there were reports to the
13 Coast Guard or the local sector, we may not know at all. There
14 are reporting requirements as a result of certain marine
15 casualties, as we know, but not all of these reportings constitute
16 a submission of a 2692, for example. So depending on the
17 situation, we may not know. And many times, we do not know. It
18 may not warrant the visit of an examiner or an investigator, for
19 example.

20 Q. And then, just to be clear, we don't clear an individual such
21 as that to return to work. Is that correct?

22 A. No, sir. No. Now, that may be a company requirement, but
23 that is not a Coast Guard requirement.

24 Q. So Mr. Barcott asked you about the tasking of the National
25 Commercial Fishing Safety Advisory Council on the basis of these

1 accidents to examine the accidents and assist the Coast Guard in
2 providing legislation. But in the *Conception* accident, which was
3 the dive boat fire that occurred off the coast of California,
4 Congress acted and proposed legislation for the safety of
5 overnight small passenger vessels, without the Coast Guard
6 investigation being complete. Do you know if that is, in fact,
7 true?

8 A. I do not.

9 Q. Okay. Thank you, sir.

10 MR. FAWCETT: That's all I have.

11 THE WITNESS: Thank you.

12 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

13 BY CAPT CALLAGHAN:

14 Q. Mr. Myers, I have a couple of quick follow-on for you, again
15 relating to the advisory committee we discussed earlier with
16 regard to, one of the successes you had mentioned was
17 implementation of training. And so is there any currency or
18 recommendations for currency in regard to that training?

19 A. That was not that -- this is -- the training that I speak of
20 with these accepted courses, they are of a voluntary nature.

21 Q. Okay. Thank you.

22 A. Not mandated.

23 Q. And so that was my second question. Do all the fishermen
24 have to -- are they all required to take the training or is it all
25 optional?

1 A. Optional. There are certain requirements for credentialed
2 mariners, but for non-credentialed mariners, much of this training
3 is optional.

4 Q. Thank you, sir. And last, with regard to outreach
5 initiatives, are there other platforms that the Coast Guard or the
6 advisory committees utilize for the fishing vessel industry with
7 regard to maybe social media and the like?

8 A. Can you maybe rephrase that question, Captain? Are you, are
9 you looking at the various outlets for outreach or --

10 Q. Yes. Yes.

11 A. -- what they're currently using?

12 Q. Yes.

13 A. We have a very robust outreach program within the Coast Guard
14 in our fishing vessel networks of district coordinators and
15 sectors and field units. And so with -- we -- yes, we have
16 avenues such as Fish Safe websites, our DCO website, which have
17 quite a laundry list of stability and training and lifesaving
18 curriculums and videos and outreach mechanisms, guidance, and
19 Marine Safety Information Bulletins, for example.

20 But along with that, we do have a robust dockside exam
21 program where examiners may take a damaged control trainer to the
22 pier on certain industry days and run mariners through a program.
23 And we even run that through the Sea Scouts and the Boy Scouts,
24 and our auxiliary is involved with that. So I, so I think,
25 depending on the geographic area, depending on the season, there

1 are outreach initiatives, fish expos. There's media on the radio.
2 We just have a -- probably a list of dozens and dozens of outreach
3 agendas going on at any given time.

4 And part of our work instruction, the communication plans
5 work instruction, we do emphasize that with our, with our OCMIs
6 and our units to look at the need of the public, make sure it's
7 transparent, it's two-way communications, and we just don't do
8 training because we need to do training. We look at the need for
9 that geographic area, such as Mr. Wilwert the other day, last
10 Friday, commenting on weighing pots initiative in Dutch Harbor.
11 You know, that's an outreach initiative that's very successful,
12 and so we just have a lot of different tentacles out there with
13 our outreach.

14 Q. Sure, and I appreciate that. And so the last thing I just
15 want for the record to -- we would like to reach out and request a
16 copy of the strategic plan, so we'll have a follow-up with you
17 following the hearing to get a copy of that, please.

18 A. Yes, sir. Definitely.

19 Q. Sure.

20 CAPT CALLAGHAN: Thank you very much for your time. I
21 greatly appreciate your testimony today. It was very informative,
22 and I think it will serve to benefit not only the investigation
23 but the public at large. So thank you.

24 Mr. Myers, you are now released as a witness at this formal
25 hearing. I thank you for your testimony and cooperation. If I

1 later determine that this Board needs additional information from
2 you, we will contact you through counsel. If you have any
3 questions about the investigation, you may contact any member of
4 the Board.

5 Mr. Myers, thank you very much.

6 THE WITNESS: Thank you.

7 (Witness excused.)

8 CAPT CALLAGHAN: It is now 1202. This hearing will now take
9 a recess. We are scheduled to resume at 1300 today for our next
10 witness.

11 (Off the record at 12:02 p.m.)

12 (On the record at 1:02 p.m.)

13 CAPT CALLAGHAN: Good afternoon. The time is 1302. This
14 hearing is now back in session. We'll now hear testimony from
15 Mr. Shawn Simmons.

16 Mr. Simmons, Lieutenant McPhillips will now administer the
17 oath and ask a few preliminary questions.

18 MR. SIMMONS: Okay.

19 LT McPHILLIPS: Mr. Simmons, please stand and raise your
20 right hand.

21 (Whereupon,

22 SHAWN SIMMONS

23 was called as a witness and, after being first duly sworn, was
24 examined and testified as follows:)

25 LT McPHILLIPS: Please be seated. Please state your full

1 name and spell the last name.

2 THE WITNESS: Yes, Shawn Simmons, S-i-m-m-o-n-s.

3 LT McPHILLIPS: Please identify counsel or a representative
4 if present.

5 THE WITNESS: Nope.

6 LT McPHILLIPS: Please tell us, what is your current
7 employment and position?

8 THE WITNESS: Sales and certified tech at Marine Safety
9 Services.

10 LT McPHILLIPS: What are your general responsibilities in
11 that job?

12 THE WITNESS: The sales, servicing liferafts, parts, supply,
13 making sure we have the equipment that we need. Just in general a
14 bunch of miscellaneous stuff that I'm required to do.

15 LT McPHILLIPS: Can you briefly tell us your relevant work
16 history?

17 THE WITNESS: I've been working for Marine Safety for 25
18 years. My father actually started our company in 1982. And when
19 I graduated high school, I started working here, so I've been here
20 for a while.

21 LT McPHILLIPS: What is your education related to that
22 position?

23 THE WITNESS: High school graduate, and then I've been going
24 to schooling for the manufacturers since I was 17, 18 years old.

25 LT McPHILLIPS: Do you have any professional licenses or

1 certificates related to your position?

2 THE WITNESS: Yeah. I own -- I have a bunch of certificates
3 for a bunch of the equipment that we work on, you know, from the
4 firing heads to the servicing station for liferafts, EPIRBs,
5 et cetera.

6 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
7 have follow up questions for you.

8 THE WITNESS: Yep.

9 CAPT CALLAGHAN: Good afternoon, sir. I'm now going to turn
10 it over to Commander Denny for questions for you, sir.

11 CDR DENNY: Good afternoon. So I think it was Mr. Fawcett.

12 MR. FAWCETT: Okay.

13 CDR DENNY: Excuse me.

14 CAPT CALLAGHAN: My apologies. So I'm going to pass it to
15 Keith Fawcett.

16 MR. FAWCETT: Okay.

17 EXAMINATION OF SHAWN SIMMONS

18 BY MR. FAWCETT:

19 Q. So, Mr. Simmons, thank you very much for being here with us
20 today.

21 A. Yep.

22 Q. So we've taken some of the videos that were shot at your
23 facility and other documents and created a -- we have created
24 exhibits out of them. And as we move around those exhibits, if
25 you need more time to look at them, or you want us to scroll down

1 or zoom in, let us know. You'll see them on your desktop where
2 you're sitting there in your office.

3 A. Okay.

4 Q. So we really want to take the opportunity to thank you for
5 allowing us to visit your facility and the explanations that you
6 gave about principle lifesaving equipment that was used on the
7 *Scandies Rose*. So thank you again for that.

8 A. Yep. No problem at all.

9 Q. So would you elaborate on the training and certification?
10 You mentioned you were a certified tech. Would you kind of just
11 expand on that a little bit, the type of schools and how long the
12 schools are?

13 A. Yeah, so -- yeah. Go ahead. Sorry.

14 Q. No, I was going to say, you can talk about any particular
15 equipment, like for the inspection and certification of a
16 liferaft, for example.

17 A. Yeah. So typically, if you're, if you're a first service
18 tech, you have to go for a minimum of five days. After that, it's
19 a three-day week course. They show you any new stuff that's in
20 the field that you might be seeing. They go over from the firing
21 heads to the buoyancy tubes, any of the pack change, pack
22 arrangements. There's a survival pack inside the liferaft, so
23 sometimes those will move around in the liferaft, depending on
24 what model. They go over any torque changes in the CO2 bottles.
25 They've changed several times over all the years. And they use

1 all kinds of different cylinders, firing heads. And so each model
2 raft has a different firing head as a different model. Some
3 models are the same, but you have to go over the manual and make
4 sure that that's all correct.

5 But you have to get training on what you're doing, what
6 you're servicing. You have to make sure that you know what -- you
7 know, understand the manual on how it, you know, relates to you
8 when you're servicing a liferaft. But that's the main, the main
9 aspects. Once you do a liferaft, over the next three to five
10 years, they might change to a different CO2 system, so then when
11 you go to school, they'll be like, hey, we're coming out with a
12 new CO2 system. We're changing the firing heads. You know, if
13 there's any changes during the year, there will be service
14 bulletins. And then they'll say, hey, we're using this new firing
15 head, or you have to change this valve at this certain -- you
16 know, if they have a failure or something out of the ordinary,
17 they'll send out a service bulletin so you know what kind of
18 changes you'll need to do.

19 And then, if you have more questions, you'll email the
20 manufacturer's service and ask him if you have any -- you know, if
21 there's some questions about what's going on, if you don't
22 understand it.

23 Q. So for the public, when you say firing head, are you talking
24 about the device that fires a pin which punctures the cylinder
25 which allows gas to fill the buoyancy chambers?

1 A. Yes. And over the years, they've always changed. There's a
2 lot of manufacturers involved in that. You know, they've changed
3 different CO2 cylinders for different models. That's one of the
4 major changes, you know. And then, plus, they use different
5 cylinders. There's a triple mark cylinder. There's a non-triple
6 mark cylinder. And they use different gas, so you might do the
7 same liferaft but there's multiple bottles that you could put in
8 that because there's two different gas charges. But it depends on
9 the cylinder.

10 Q. So could there be a recall, for example, on a particular item
11 and you guys would affect the recall and then replace the recalled
12 item so that the proper item was fitted into the survival
13 equipment?

14 A. Yes. Yeah. Yeah. Another thing is they use torque,
15 everything's usually torqued inside the lift raft. So any
16 components there's a torquing on it, you know, from the CO2 hose
17 to the firing head, you know. Also there's a PRV valve also that
18 releases the pressure of that liferaft. They put nitrogen and CO2
19 mixture in those liferafts, and the reason they do that is
20 because, if you're in extremely cold climate, the CO2 will
21 fluctuate in pressure. That liferaft has to be board-able within
22 one minute, no matter if it's negative 30 or it's 110 degrees
23 outside. But they put nitrogen in there, and it sits on top of
24 the CO2, so if it's very, very cold, that nitrogen will push that
25 CO2 out so that liferaft will still fire in the necessary

1 timeframe.

2 Q. So for a liferaft that would be used in the Bering Sea of the
3 Aleutians, it would be serviced, in terms of the gases,
4 differently than if it was going to be used in the Gulf of Mexico
5 or the Caribbean?

6 A. No. They use the same, they use the same gas charge, but
7 they put nitrogen in there, so that way if they're in the
8 Caribbean or up in the Aleutian Chain, you know, up in Nome, you
9 know, where it's extremely, extremely cold, that liferaft will
10 still fire within one minute.

11 Q. So what you're talking about is torques, types of gases,
12 safety recalls and so forth. Does the Coast Guard inspect your
13 facility to make sure it's in compliance with the servicing
14 requirements for the rafts? Could you talk about that a little
15 bit if that's correct?

16 A. Yeah. Yeah. So every day we turn in a thing for the
17 liferafts that are being serviced the next following day. Someone
18 from the Coast Guard will come in -- they used to come in more
19 frequently. Sometimes they come in and they want to see a gas
20 firing when they launch the liferaft with a CO2 ball. That's
21 every five years.

22 They also -- they have -- the Coast Guard will also bring
23 people in here for training because they need that to get their
24 license. It's like the last step for them to be a qualified Coast
25 Guard inspector, so they'll -- one guy will bring in three or four

1 people every once in a while to get them trained up and kind of
2 sits, and it gives them the rundown of what we're doing when we're
3 servicing the liferaft.

4 And then what they'll do is an audit. And on that audit
5 they'll make sure -- there's a bunch of -- there's about a
6 two-page list of everything that has to be in spec and then also
7 everything that has to be within -- you have to have torque
8 wrenches, they have to have certifications, the scales have to
9 have certificates. You know, like we have -- we hydro, we hydro
10 and fill CO2 bottles. They look -- they just want to make sure
11 all our stuff is certified and within the year timeframe.

12 Q. So you mentioned that they, the Coast Guard, hadn't come in
13 as frequently. Does that have anything to do with -- other than
14 COVID? In other words, is that an impact of the COVID pandemic
15 or --

16 A. Yeah, it's -- I believe, I believe so because, like I told
17 the Coast Guard, we've just got to be very careful. I want to
18 make sure they're standing six feet apart when they come. And
19 basically what they're doing is they're doing an overview.
20 They're not asking a bunch of questions. They're just overviewing
21 what we're doing and what we're servicing. And if they have a
22 question like, hey, how many water run in that unit? Well,
23 there's 72 in that. Oh, okay. Did you replace the cylinder? You
24 know, they'll ask some questions like that. But they're basically
25 overviewing, like shadowing you when you're servicing a liferaft

1 just to kind of get the idea of what's going on when you're
2 servicing that.

3 Q. So is your company -- just a general question, does your
4 company participate in industry trade groups or advisory groups
5 that advise the government about safety equipment such as rafts
6 and flares and so forth?

7 A. No, sir.

8 Q. So when you're -- when equipment comes to your facility,
9 would you know if the safety equipment that would be carried on
10 the *Scandies Rose*, if you're servicing all of it, for example, all
11 of the regulated equipment that's required?

12 A. Would we know about if we did?

13 Q. Yeah. Would you, would you know if the *Scandies Rose* was in
14 compliance with what they were supposed to carry? In other words,
15 liferafts, the packages of survival equipment inside, EPIRB, and
16 other similar --

17 A Yeah. So, so for that, for -- like if a vessel came in, they
18 would drop their equipment off, and if I had a -- so let's say
19 like the *Scandies Rose*, I believe they had two liferafts. They
20 were only required one, but a lot of these vessels that go in some
21 gnarly weather that are on the Aleutian Chain, they only have like
22 a six- or seven-man crew. But they're always worried if the boat
23 rolls right or rolls left, so they'll put redundancy equipment on
24 that vessel.

25 But when they drop off the equipment, you know, if I know --

1 let's say they drop -- they have a six-man liferaft, and they ask
2 -- I'll say, don't you guys have a -- run a seven-man crew? Oh,
3 yeah, we run eight people. So they'll need an eight-man liferaft.

4 But all I tell them is they need to check their dates of all
5 their equipment, and if they have any questions, please call us.
6 And then I can point them in the right direction if anything needs
7 to be changed, et cetera. But I don't -- I actually don't know
8 what -- if they have -- if they need ten fire extinguishers. If
9 they have, they may have 30 survival suits. I'm not sure. But I
10 basically tell them, any of your safety equipment, bring it in,
11 and then I try to make sure that they have the adequate stuff.

12 They'll ask me like, hey, I got an eight-man crew. Do you
13 have any big guys on the boat? Yeah, we have a couple big guys.
14 Okay, you might want a jumbo suit for them. Well, we have this
15 little guy who's only 4'11". Well, you might want an intermediate
16 suit -- even though the adult suit will fit, you might want an
17 intermediate suit. And then I'll ask them, hey, on your EPIRB, is
18 your battery up to speed? Yep. Is your release up to speed?
19 There's a hydrostatic release that launches it off the boat if it,
20 if it goes down. Yep, that's up to speed. Make sure to check
21 your registration.

22 I have a little check sheet form that I give the customers,
23 and it kind of gives them kind of a broad stuff just to check out
24 to make sure they're within date, because the last thing they want
25 to do is get a Coast Guard inspection, and they're leaving the

1 next day, and they forgot some equipment to get serviced.

2 Q. So all of this equipment we're talking about, safety and
3 survival equipment, the Coast Guard has a specification. It's
4 called a Q-spec, and Q as in the letter Quebec. Could you explain
5 what a Q-spec is?

6 A. I'm not sure what a Q-spec is.

7 Q. Okay. Is principle safety equipment stamped with a Coast
8 Guard approval that includes the number and the type that --

9 A. Yes. Yeah, 160. So if it doesn't have the 160 number, it
10 wouldn't be Coast Guard approved. And then, on the SOLAS
11 equipment, they have like a round -- it's like a wheel, and that's
12 also a stamp that shows it's SOLAS approved.

13 Q. And so SOLAS is equipment carried by ocean going ships that
14 is part of the Safety Of Life At Sea, came after the Titanic, a
15 lot of the provisions. So it's devoted strictly to lifesaving
16 equipment. Would that be correct?

17 A. Yes, sir.

18 Q. So your facility is approved for the servicing of liferaft
19 and equipment. Correct?

20 A. Yes, sir. Yes, sir.

21 Q. So, while Commander Denny was there -- or let me back up a
22 little bit. We have an exhibit that's Coast Guard Exhibit 010.
23 It's going to come on your screen in just a minute.

24 A. Okay.

25 Q. And this is a batch of inspection and invoices for safety

1 equipment for the *Scandies Rose*. And you'll see on your screen,
2 we'll start on Page 22 first.

3 A. Yep.

4 Q. And could you just very generally tell us what we're looking
5 at?

6 A. Yeah. So the types up on the, on the top left corner, that
7 specifies the brand. So that's a DVC liferaft. And then next to
8 it says TO, and that is considered a throw-over. Now, if that
9 would have been a DAVIT or something, it would specify something
10 else. But that's a throw-over liferaft. Then the serial number
11 there is every liferaft has its own serial number, then they have
12 a date of manufacture next to it. Then down below it says fabric
13 type, so there's like natural rubber or polyurethane, so you'll
14 specify if it's a rubber or a polyurethane liferaft.

15 And then the next one will be capacity. So how many man is
16 it? That would be an eight-man. And then the next is 30M, that's
17 30 meters of painter line inside that liferaft. And there's one
18 meter outside that liferaft to tie it to this hydrostatic release,
19 you know, for -- you know, to secure it. And then you've got a
20 max height of 20 meters it can be stored.

21 Then you have -- you step down to the cylinder. Every
22 cylinder will have a serial number on it. Those numbers will be
23 listed right there. Then there'll be CO2 charge. Now, there can
24 be two different charges. They can be -- this particular one is a
25 4.2 Kg charge. Some will be in pounds; some will be in Kgs. And

1 then you just have to read next to it if it's pounds or Kgs. This
2 one's Kgs. Then you to the nitrogen charge of 2.46. That also
3 can be pounds or Kgs, and it will usually go with the same as the
4 CO2 charge. So these are both Kgs here. Then it'll have a hydro
5 test date, and that would be November of '17.

6 Then you'll step down to the emergency pack. The emergency
7 pack of this liferaft is a SOLAS A. Now, a SOLAS A does not limit
8 you. You can go anywhere in the world with a SOLAS A. There's no
9 -- you can't -- a SOLAS B, you can only go out 50 miles. So on a
10 SOLAS A, you can go wherever you want. Then there's a serial
11 number. On the pack equipment, there is no serial number. It's
12 just a pack bag with all of the equipment inside. Now, on expire
13 date -- now the equipment should line up with the expire date a
14 minimum of one year inside that liferaft. You know, some of that
15 stuff might be good for two or three or four years, but as long as
16 its good for one year.

17 Next is an EPIRB inside that liferaft. N/A, it's not
18 applicable. Some customers choose to put EPIRBs in the liferafts;
19 some do not. There's going to be EPIRB on the vessel, so that's
20 why they don't -- no, I don't need one for the liferaft. The next
21 one will be hydrostatic release. That is a Hammar release, that's
22 the type. They'll have a serial number of the release that was
23 used and then when that expires, and that would be June '20. Rear
24 reflectors are not required, so we just put N/A.

25 Then on the first aid kit, it's a marine first aid kit.

1 There's no real serial number on that, but there will be an expire
2 date, and like I said, it has to be good for a minimum of a year.
3 And then the next one below is a unit with the CO2 sensors. These
4 rafts are not set up -- those are a different style liferaft.
5 This certificate is a general and goes for all liferafts, so that
6 wouldn't be filled in.

7 The next one is a NAP test. That will be done at the ten-
8 year mark and then on, so that was performed. Then you step to
9 the gas inflation. The gas inflations are good for five years,
10 and that specifies no, it was not gas fired. The floor seam test
11 will be required -- some will require one year and then some will
12 require at the ten year and ten year on. This was done along with
13 the NAP test. And then the load test DAVIT launch, if it's a
14 DAVIT liferaft, it'll have to be tested every other year, but this
15 is not a DAVIT liferaft, so it's specified no.

16 Then there's a date of inspection. The date of inspection
17 was April 17th, 2019. The station number, Marine Safety Services.
18 Then it was issued to the ship. So we kept that liferaft, and we
19 issued it to that ship on June 1st of 2019. Then down below that
20 is the authorization number. Every service station in the United
21 States has a U.S. Coast Guard approval number, and everybody will
22 be different. Ours is 427. And what the main thing we did was an
23 annual service on that liferaft. The parachute rockets were
24 expired. A floor seam test, a NAP test, and then that liferaft
25 went into service on June of 2019. This liferaft will only be

1 good for one year.

2 Then you step down below that, it'll ask flagship of the
3 vessel, United States. Then it'll say who certified it, Jeff Lee
4 Clark. Then there's an IMO. This isn't going to be an IMO issue.
5 Same with international call sign. They don't need that for the
6 certificates for the USA. But the name of the vessel is *Scandies*
7 *Rose* and the fishing vessel *Scandies Rose* and then a signature.

8 And then all the certificates are -- come from online
9 database, so all this information has to be generated, and then
10 the manufacturer keeps this in their log. So let's say this
11 liferaft -- everybody's stuff -- nobody had a certificate. It got
12 completely lost. The manufacturer could supply that certificate
13 for that liferaft. In case you guys found it floating and all you
14 could read was a serial number of the liferaft, they can, they can
15 find out who it is.

16 Q. So a couple of follow-ups. That was a great explanation.
17 The NAP test, what is that?

18 A. So that's additional pressure added to the liferaft. So that
19 pressure has to be doubled for five minutes. After that
20 liferaft's ten years old, that pressure would be doubled of its
21 normal working pressure for five minutes. You're going to see if
22 there's any seam slippage, any weird popping noise. Then what
23 you're going to do is relieve the pressure, let it come down to
24 the normal working pressure, and then perform your test.

25 And then, and then on the gas inflation test, every five

1 years you've got to gas inflate that liferaft. You want to make
2 sure when that liferaft gas inflates, there's no weird cracking
3 noise, no weird wearing noise, there's no -- nothing out of the
4 ordinary on a gas inflation if this liferaft was used.

5 Now, on the floor seam test, that would be anybody that's 185
6 pounds, and what you'll do is you'll go around inside that
7 liferaft -- you'll set the liferaft up a little bit off the floor,
8 so the floor hangs a little bit, and what -- you'll go inside that
9 floor, you'll make sure there's no seam slippage, anything out of
10 the ordinary that, that floor could possibly rip out of that
11 liferaft because you don't know the conditions that liferaft might
12 go through.

13 Q. So the integrity of the fabric floor of the liferaft in
14 emergency situations is crucial, correct?

15 A. Yes. And that's why they say after ten years, they want that
16 floor seam test done every single year.

17 Q. So, Lieutenant, if you could pull that exhibit back up. I'd
18 like you to go to -- briefly scroll through page 23, 24, 25. And
19 just take a moment, Mr. Simmons, just to look at it. Could you
20 tell us on this page basically what we're looking at? Just an
21 overview. You don't have to go through everything.

22 A. Yeah, yeah. So that is a service and inspection charge. So
23 we charge \$275 to do the service on that liferaft. The next one
24 would be certification fee. We charge \$175. That's a franchise
25 fee that goes to the manufacturer and then also for anything that

1 has to be tracked.

2 So every liferaft is always going to have a recertification
3 fee and that's through whatever manufacturer's doing it, for them
4 to record it, et cetera. Then there's going to be an adhesive
5 replacement inside that liferaft. Every time that liferaft gets
6 serviced, you're going to change that adhesive inside that
7 liferaft.

8 Q Okay.

9 MR. FAWCETT: Mr. Simmons, please hold up just second,
10 please.

11 THE WITNESS: Yep.

12 CAPT CALLAGHAN: Mr. Simmons, we're going to take a, just a
13 two-minute recess. We've got a little technical difficulty we're
14 going to try and resolve here.

15 THE WITNESS: Yeah, no problem.

16 (Off the record at 1:26 p.m.)

17 (On the record at 1:28 p.m.)

18 CAPT CALLAGHAN: Okay, sir. It's 1328, and we're back -- now
19 back in session. I apologize for that interruption, sir.

20 THE WITNESS: No problem at all.

21 So going back here, so the inspection of that liferaft is
22 \$275. Then the recertification is \$175, and that is a franchise
23 fee for the manufacturer. Then the next line item would be repair
24 kit adhesive; if they have to make a repair, that would be done
25 every year. There will be flashlight batteries and then spare

1 batteries, so that's why there's six, and they're \$2.50 each.
2 Then there's container labels. So the container labels specify if
3 it's an A pack, B pack, how many, you know, they'll have all the
4 information on that liferaft.

5 Then there's a leak, cylinder leak test. So we'll test that
6 cylinder from a minimum of an hour just to make sure the cylinder
7 doesn't leak. And then we'll weigh that cylinder just to make
8 sure its within specifications. The next is a firing, rework
9 firing head and lubricate. So when that firing head will come off
10 that liferaft, we'll do a test fire, reset it and re-lubricate
11 that firing head.

12 Then the next is fiber washers. Those are -- because they're
13 a crushed washer, so when those come off, you'll put two new ones
14 on, and those go on to the CO2 hoses, and then they're basically
15 sealed back on those CO2 hoses. The copper washer there goes on
16 top of the firing head, on top of the cylinder, and that actually
17 gets crushed also. That's a one time -- once it's crushed, you're
18 locked, because these are torques on their also.

19 Then there will be black tape around the liferaft for a seal,
20 so that way, you know, you want to make it water resistant. Then
21 there will be a beacon light test. We'll test the, you know, the
22 batteries, you know, the batteries, the lights, make sure
23 everything was compliant. Then there will be seasick tablets.
24 There's 12 tablets per -- or six tablets per person. There will
25 be some seasick tablets in there so if anybody gets seasick, et

1 cetera.

2 Then there'll be a launching placard that shows everybody how
3 to launch that liferaft off the vessel, and then that has
4 specifications, a little picture and diagrams so they'll know how
5 to launch it. The next will be a burst strap by BVC. So that
6 liferaft is strapped in that fiberglass container, so when they
7 throw it over, that liferaft will inflate, and it blows those
8 straps off of that liferaft. And the reason there's three --
9 there's actually two -- they run three -- there's three areas on
10 the, on the liferaft of where they actually go.

11 Then there's a hinge. There's a black hinge that goes on one
12 side of that container that helps that liferaft fire right side
13 up, so it won't clam shell reverse. It'll clam shell open, so
14 it'll fire right side up. The next is parachutes. There's four
15 parachute rockets in there that also were changed out. Those will
16 be good for three-year intervals.

17 BY MR. FAWCETT:

18 Q. So without going into the other -- the following two
19 documents, which contain similar information for the other raft,
20 could you --

21 A. This --

22 Q. Go ahead.

23 A. This document here from Alaska Marine Safety, this document
24 is -- so there's two packs of lithium batteries. That would not
25 be for the liferaft. That -- because if we service the liferaft,

1 there would be a whole bunch more documentation. They picked this
2 up from our shop up in Alaska, so I'm thinking these are the six
3 batteries that -- I don't know for a fact, but I would think they
4 picked them up for their survival suits because we supply
5 batteries for the survival suits, a dated lithium battery. So
6 it's not specified here, but we just hand them to them. They
7 asked for six packs of lithium batteries, so I'm pretty sure
8 they're for their survival suits.

9 The next one is an EPIRB release. That is for the EPIRB.
10 Every two years on those EPIRB releases, they have to be changed
11 out.

12 Q. So they also talk in that previous document about a beacon
13 light. Is that -- the beacon light test, is that on top of the
14 raft?

15 A. Yes. This is, this is for the liferaft. And that next --
16 the next invoice is from our other liferaft shop up in Alaska.
17 They just bought some miscellaneous equipment.

18 Q. Okay. So both rafts were serviced by your facility. Is that
19 correct?

20 A. I believe so.

21 Q. And when they left your shop, they would be in full
22 compliance with regulations, and that would include the equipment
23 that are contained in the raft. Is that correct?

24 A. Yes, sir.

25 Q. Okay. I'm going to -- you can take that down, Lieutenant.

1 So now we asked you to talk about liferafts when we were at
2 the -- your facility, Commander Denny and you went through these.
3 So what I'm going to do is we're going to pull up Exhibit 97,
4 which takes a moment to get it together here.

5 A. Okay.

6 Q. And then you narrated this. And at the conclusion of the
7 video, if you can offer any more than you originally talked about,
8 please do. And if I have any questions, I will ask you. Okay?

9 A. Okay.

10 MR. FAWCETT: So we're going to play the first one, 97.

11 (Exhibit 97, recording of Marine Safety Systems Liferaft Walk
12 Around, plays.)

13 THE WITNESS: This is the same make and model of the BVC
14 Zodiac liferaft that the *Scandies Rose* had. So it has a double
15 insulated canopy, the boarding ramp, the insulated floor. It has
16 sea anchor on the side of it here. It has --

17 BY MR. FAWCETT:

18 Q. Okay. Do you have any additional comments about that
19 particular part of the demonstration?

20 A. No. That was the liferaft. I believe that was the same year
21 and make that was actually on the *Scandies Rose*. As you could
22 see, there is reflective tape on the top of that liferaft, and
23 then also on the bottom of that liferaft, there's also reflective
24 tape that makes a cross so that way it can be seen -- in case that
25 liferaft was upside down, you would be able to see that liferaft

1 if it was upside down, you know, also.

2 Q. And Coast Guard ships and aircraft use high powered
3 searchlights to look for victims, and that retroreflective tape
4 would be activated in such a way that it would really light up at
5 night, is that correct, so that they could help find the
6 individuals?

7 A. Yes, sir.

8 Q. Now the raft is sitting on the floor of your facility. If I
9 were to lift that raft up, would there be water packets there that
10 help keep the raft in an upright position?

11 A. Yes. There's, there's a CO2 bottle that's actually
12 underneath the front that's attached, and then there's water
13 packets storage and they're roughly about two feet, two and a half
14 feet deep, and they're all the way around that liferaft that keeps
15 that liferaft from flipping upside down.

16 Also there's a sea anchor that's automatically launched when
17 that liferaft inflates. That's going to be towing in about 150
18 feet behind you. So when they're getting in that liferaft and if
19 it's really wavy, those ballast pockets are going to keep that
20 liferaft pretty steady in the water.

21 Then there's a drogue that's towing 150 feet behind you to
22 keep that liferaft on the breaking waves trying to throw that
23 liferaft upside down. There's also a spare sea anchor inside that
24 liferaft that they can also deploy if it's that extreme weather
25 that they have to say, you know, this is -- we need to deploy two.

1 There's actually two. One's automatic, one's a manual.

2 Q. So have you ever gone to these training programs like AMC or
3 the North Pacific Vessel Owners Association or the Crawford School
4 to give them information about safety and survival equipment?

5 A. They actually call us a lot. We've been working with a lot
6 of the programs, and they actually call and talk to us every once
7 in a while. We do a lot of the safety rafts, actually, for their
8 training purposes because there's training going on everywhere,
9 and they -- we actually do a lot of the training rafts, you know,
10 just, you know, so that way someone can see a gas inflation, you
11 know, just how the liferaft works, what are they expecting. And
12 then they'll jump in the liferaft, you know, and they'll talk
13 about, you know, what to do and et cetera.

14 But no, we don't really get involved with actually doing the
15 training. But the trainers will call, you know, and ask us some
16 questions. Or they'll need a pack. You know, they'll say, hey,
17 we've got to show these people what is inside a liferaft. You
18 know, they don't know when they need a liferaft. We have to show
19 them what's inside. So we'll give them a whole pack bag, so that
20 shows they'll have food, you know, rockets, flares, you know, PRV
21 plugs, repair kit, flashlight. So that way they'll have an idea
22 what is in that liferaft.

23 Q. So PRV?

24 A. Yeah. Pressure relief plugs. So let's say, let's say
25 they're in -- it's extreme weather and there's a wave breaking

1 over that liferaft, right? So there's PRV plugs or PRVs on that
2 liferaft that'll start dissipating some of the pressure on that
3 liferaft. So let's say the liferaft is going flat because the
4 waves keep coming down on that liferaft and just crushing it.
5 They can put this plug on the PRV so it'll stop leaking all that
6 air, so that way if they're pumping inside -- I mean, this is
7 pretty extreme, but you just never know the conditions that you're
8 in.

9 Q. And speaking about extreme and looking at that particular
10 raft, if the unimaginable were to happen and that raft were to
11 capsize in those big breaking waves or high winds, is there a way
12 to flip that raft using the equipment in the raft back to the
13 upright position?

14 A. No. They wouldn't use the equipment in that liferaft.
15 Actually there's a strap, there's a strap that goes on the back of
16 that liferaft where it will actually hang on, place their feet on
17 the CO2 bottle. There's a little diagram that shows they place
18 their feet, they grab that strap and then pull it back onto
19 themselves.

20 MR. FAWCETT: So now we're going to move to Exhibit 98, and
21 that's another video you did. So if you could pull that up,
22 Lieutenant.

23 (Exhibit 98, recording of Marine Safety Services Liferaft
24 Demo, plays.)

25 MR. FAWCETT: Could you stop it, Lieutenant, real quick?

1 BY MR. FAWCETT:

2 Q. I didn't want to stop it, but I do want to say that we don't
3 have any clear images of the boarding platform. So if you look in
4 the lower left corner, could you talk about the boarding platform
5 before we resume the video, Mr. Simmons?

6 A. Yeah. So if you look on that bottom platform, there's
7 actually four straps. There's a strap that goes on the top of it
8 and then also the side of it so that way that boarding ramp can't
9 shift right or left. Then there's also two straps that run across
10 that also so that way they can put their foot to pop themselves
11 in. Back in the day, they used to use air ones with filled air.
12 But with this, this can be punctured.

13 So let's say they have their shoes on and they're, you know,
14 trying to get in, you know, and that would deflate the liferaft.
15 So this is actually a non-inflatable boarding ramp, and what
16 they'll do is they will get their foot on that thing there and
17 then pop themselves into that liferaft. And they have -- and you
18 can see there, the two you're looking on the one side, that just
19 keeps it from shifting in right or left directions.

20 Q. So if I was in my survival suit and I was in the water, I
21 would approach the area in the lower left-hand corner, the kind of
22 white slab?

23 A. Yes.

24 Q. And then grasp the raft and then hoist myself as far as I
25 could get. And then another heave or maybe subsequent heaves,

1 pull myself into the raft. Is that correct?

2 A. Yes. And what you'll do is you'll put -- so you can see a
3 strap run across that white, the platform right there. There's
4 two of those straps. So you can put your foot on there to apply
5 pressure to pop yourself, so that way you've got something to push
6 against to get into the liferaft.

7 Q. And what am I going to find on, you know, a dark night when I
8 have to do this in regard to the canopy opening? In other words,
9 is it going to open --

10 A. Yes. Yes. The canopy will open, and then right by my hand,
11 you see a tie. That tie goes up there into a little round loop.
12 And then there's a tail. So if you have a gumby suit, all you're
13 going to do is pull that tail and pull. That releases it so you
14 can close the canopy.

15 But every liferaft, the canopy will actually be open when you
16 go to get into it. Other than a Givens liferaft. A Givens
17 liferaft actually closes the door and you have to actually open it
18 up. But for this scenario, 99 percent of the U.S. Coast Guard
19 approved liferafts, they have an open door so then they can get
20 inside. Now, if this liferaft was a 10-man or bigger, there would
21 actually be two entryways.

22 Q. So, in your professional opinion, is it important that you
23 get trained so you know how to rapidly and effectively get in the
24 raft?

25 A. Absolutely.

1 Q. Okay.

2 MR. FAWCETT: So, Lieutenant, if you'd resume the video,
3 please.

4 (Exhibit 98, recording of Marine Safety Systems Liferaft
5 Demo, plays.)

6 BY MR. FAWCETT:

7 Q. Do you have any follow-on for us, Mr. Simmons?

8 A. Yeah. So you'll have to use -- if you throw that liferaft
9 over the vessel and you deploy that liferaft, you'll have to pull
10 out, you know, the 90 feet and then fire that liferaft. Now that
11 liferaft, if you tied that off to a railing and they jump into the
12 liferaft, right, then if the liferaft goes down and they can't cut
13 themselves free quick enough, that liferaft goes down with the
14 vessel. And so one of the biggest things is these boats have high
15 free board, and they're always afraid, once they fire the liferaft
16 off, you know, they got to be able to hang onto the painter line.

17 Now, there's a hydrostatic release that that's onto. That
18 will break at 550 pounds of pressure. So if the vessel goes one
19 way and the liferaft goes the other way, that will break. But
20 what -- or let's say they jump into that liferaft at 2 o'clock in
21 the morning, and the vessel starts sinking, and the raft's
22 starting to buckle. It will break free from that vessel. And
23 that's from a four-man up to a 150-man, you know, on the
24 hydrostatic releases.

25 Now, what I have seen is they hook it up incorrectly, and if

1 that -- let's say a vessel sinks tomorrow, they'll hook up -- it
2 says hook to a solid point on the vessel, and they're not paying
3 attention. They don't really know how to hook up a hydrostatic
4 release because they weren't trained. We try to show them, but
5 they hook up that liferaft to that hydrostatic, that vessel goes
6 down, and it's 2 o'clock -- those vessels happen to go down very,
7 very quickly, and it's never on a nice day, you know, 8 o'clock,
8 you know, 6 o'clock in the afternoon; they've got time. It's
9 usually very dark, extreme weather, they have to act very quickly.
10 And if they secure that painter line to the vessel, and that
11 vessel goes down, that liferaft will go down with that vessel. So
12 knowing where to -- how to cut -- your knife, cut yourself free,
13 that's a major, that's a major thing that they have to know.

14 And also, you know, hooking up the hydrostatic release
15 correctly. I go out in the field, you know, I'm out in the marine
16 industry a lot, and I see a lot of stuff. And a lot of these
17 hydrostatic releases, they just don't hook them up correctly by
18 following the directions. And if that thing is not hooked up, it
19 will not work. And that is a big thing that actually worries me
20 because who -- once these liferafts leave out in the field, how do
21 we know if they're hooked up correct? And the problem is, you
22 know, we don't know.

23 So if something's -- like on the *Scandies Rose*, that vessel
24 went down, those hydrostatic releases launched those liferafts
25 underneath the water and popped to the surface because they were

1 hooked up correctly. But I do see a lot of liferafts hooked up in
2 the field, if they were in the same ordeal as the *Scandies Rose*,
3 the liferaft would have never popped to the surface because it
4 would have went down with the vessel because there's no weak link
5 point. Once that painter line is connected to a solid point, it
6 needs to be hooked to the proper part on the hydrostatic release.

7 Q. Now, you won't -- you may not know the answer to this
8 question, but for an inspected vessel, does the Coast Guard, when
9 they go out, do they actually inspect the correct connection of
10 the hydrostatic release and the raft and the webbing that holds
11 the raft to the cradle?

12 A. I'm not sure.

13 Q. And you were talking about the traumatic experience of a
14 vessel sinking. How about if the crew elected to -- you know, in
15 case someone on the *Scandies Rose* put the raft on deck and
16 inflated on deck. Would there be -- would that be a bad thing to
17 do?

18 A. Yeah. Because they could bang around on the deck and rip the
19 liferaft possibly. It would be very dangerous. I wouldn't
20 recommend that. They could do it, but I wouldn't recommend it. I
21 would recommend throwing -- try to read the wind, throw it over,
22 you know, hold the line or least wrap it around maybe once to hold
23 it so that it can't, you know, float away. Get into the liferaft.
24 Where you tied it around -- you didn't knot it, you just kind of
25 held it there, you know, used -- you know, for pressure. Then you

1 get in the liferaft. And then once you get in, you can cut
2 yourself free.

3 But if you can't get in a liferaft, it's not tied to a solid
4 point, because, you know, some of these vessels are only four feet
5 off the water, you know, and they've got a 100-foot painter line.
6 Because we don't know if they're putting it on a raft that's four
7 feet off the water or, you know, it's 60 feet off the water. We
8 don't know. But we want to make sure that liferaft, it meets all
9 those requirements. But the thing is, is I've seen them where
10 they pull the painter line, and they've tied it off to a solid
11 point, and I'm like, you don't want to do that. You just -- you
12 have just now bypassed your hydrostatic release weak point that
13 will release that liferaft.

14 And when you have to find that knife in a lickety-split,
15 those liferafts -- a lot of liferafts, the knives move around. So
16 you might have went in a training course, that knife was right
17 here, and the next -- you know, their liferaft, it's in the
18 canopy, or it's a little bit over here. There's no specified --
19 it's just the knife has to be next to the entrance point of that
20 liferaft. There's no specified point where it has to be. And the
21 problem is, even if they know where it's at, I mean, you've got to
22 do this in an instant, you know.

23 And that's, that's -- I'm just happy they -- I've seen a
24 vessel with it incorrect, and I'm talking people that had them for
25 20 years, and I just happened to look -- and also my shop in Dutch

1 Harbor, my guys went out today, hooked this up correctly. Oh, we
2 thought it was correct. No, it's incorrect. And it absolutely
3 has to be hooked up correctly. It's very, very important. And
4 nobody looks at it. Once they leave my facility, they don't look
5 at that always.

6 You know, like on the *Scandies Rose*, it worked exactly how it
7 was supposed to. The vessel went down, it launched anywhere from
8 9, 6 to 12 feet deep, and then underneath the water, the raft
9 floated. It snapped, the 550-break point, and then they fired up
10 into the surface. Now, if they would have hooked that raft up
11 incorrectly, it would -- those rafts would have never showed up to
12 the surface.

13 Q. So when you mention a lot of vessels don't have the rafts
14 hooked up correctly, are you saying that some of those are fishing
15 vessels?

16 A. Yeah. I just, I just happened to see it. And I, you know,
17 I've been doing this 25 years, and I know a lot of these people in
18 the industry. You know, I've seen their -- I just, I do this
19 stuff full-time. I've been doing it a long time, my father's been
20 doing it 38 years, so I know all these people personally. And
21 although I see something, I'm like, you guys got to hook this up
22 right. And the problem is someone told somebody how to hook it
23 up, but they didn't know. So they just hooked it up how they
24 thought it should go, you know. And the problem -- you can't --
25 you know, and that's someone -- you should make sure that someone

1 -- absolutely make sure they're hooked up correctly.

2 Q. And just to reiterate, it was mentioned in the video, you did
3 mention it about the thermal protection offered by the double
4 floor and the double canopy. Could you just elaborate on that a
5 little more?

6 A. Yeah. So all the off-shore liferafts, they will have a
7 double canopy and a double flooring, so that way for hypothermia
8 so that way they can stay warm. Also there's a ten percent --
9 they have to put a thermal protective suit, ten percent in the
10 liferaft. So a four-man all the way to a 20-man, they'll have two
11 of them. Now on 25, they'll have three because ten percent.

12 So they'll have these thermal suits, and so let's just say
13 you had a six-man crew, and two people didn't get into their
14 survival suits. They have these two thermal protected suits they
15 can also get on to stay warm because the double floor and the
16 double canopy are very important for warmth, mostly in the kind of
17 waters between here and Alaska, because it gets extremely,
18 extremely cold for hypothermia.

19 Q. Is the thermal suit kind of like an elaborate rain gear or
20 something? You know, it would fit anybody?

21 A. Yeah. It's a general suit. It's like a big -- I would say
22 like a -- what do you call it? It's like a, it's like a coffin
23 style. It just -- yeah, it will go all the way down to your feet.
24 They all fit in it. And that goes right up to your face, so the
25 only thing you're going to see is your face. And then it has

1 arms. But it generally fits, it generally fits everybody.

2 It's like a -- what would it be -- like a sleeping bag. It's
3 like a sleeping bag with arms, you know. A sleeping bag has a
4 bottom cone and then it comes all the way up. So there's no real
5 feet. You just stick your feet in there and then your arms, and
6 then that's all you're going to see of your face to keep your body
7 warm in case nobody can get into -- in case some people didn't get
8 into their survival suits.

9 Q. So I want to shift your attention now to the emergency
10 position radio indicating beacon which is also called an EPIRB.
11 I'll just call it a beacon, okay?

12 A. Okay.

13 Q. It's a radio beacon.

14 MR. FAWCETT: So if you could please go to Exhibit 99, which
15 is another demonstration video of the -- I'm sorry, go to 100,
16 Lieutenant.

17 (Exhibit 100, recording of Marine Safety Systems EPIRB Video
18 1, plays.)

19 MR. FAWCETT: Do you have anything to add about that segment
20 that we might not have covered in that segment?

21 THE WITNESS: No, that's exactly how they work. Basically
22 the vessel goes down, that hydrostatic release releases at a
23 certain pressure, then it flings it out, and then that EPIRB will
24 float up to the surface and then also start travelling, you know,
25 with the drift. And then that's where you'll get your

1 coordinates, kind of get an idea where your searching pattern is.

2 MR. FAWCETT: So if you could, Lieutenant, please play
3 Exhibit 101?

4 (Exhibit 101, recording of Marine Safety Systems EPIRB Video
5 2, plays.)

6 BY MR. FAWCETT:

7 Q. Okay. Any further comments on that before I ask you a couple
8 questions?

9 A. Yeah. No, so that's -- when it sits on that magnet --
10 because a lot of those vessels get a lot of moisture, waves, you
11 know, whatever, that way it keeps that unit from turning on by
12 sitting in that bracket the way it has to sit. Then, once it's
13 out of that bracket, then it's live. As soon as it gets submerged
14 in water, those active foam (ph.) points, then it will trigger.

15 Q. So you could also manually -- you could pick that device out
16 of the bracket. You could take it somewhere like the pilothouse
17 of a vessel. In the event you were going to have an emergency,
18 you could have -- manually push the button and make it activate.
19 Is that correct?

20 A. Yes, sir. Yeah. So you could break -- there's a little
21 safety tab. You would move that safety tab and then hit the
22 button. Now, let's say you pulled it out and you had it in your
23 hand, right, and you're walking up to the house, and a wave hits
24 you and knocks it out of your hand. You're like, oh my god, I
25 didn't turn it on. It'll automatically turn on at that point.

1 Even if you didn't hit the manual button -- you know, like you'd
2 want to hit it, and then you want to keep it with you, but let's
3 say it gets hit out of your hand and goes floating away, it'll
4 activate automatically.

5 Q. Does it have to float to transmit effectively? In other
6 words, could a brief signal be emanated from the radio beacon if
7 the, if the radio beacon was wet and the vessel started to sink,
8 would a signal come out?

9 A. No. No. The signal will only go once it's activated. And
10 they recommend they don't have it inside the liferaft because
11 every time it shoots the coordinates, it won't, it won't shoot the
12 exact coordinates. It might not give me -- you know, burst off to
13 the satellite. Same if you take it in the vessel. If you have it
14 in the vessel, the vessel's blocking the signal that it's trying
15 to put out.

16 Q. So was this EPIRB or this radio beacon equipped with a GPS
17 which would transmit the position of the radio beacon?

18 A. Yes, sir.

19 Q. And is it important for vessel owners to properly register
20 their EPIRB so it would have, for example, the name of the vessel,
21 the name of the owner, the telephone number to contact to prevent
22 false distress signals or accurately identify the actual vessel in
23 distress?

24 A. Absolutely. Yeah. Because if you put that EPIRB in there,
25 and it's twisted a little sideways so it's not sitting on that

1 magnet properly, and then you take a couple waves, that EPIRB will
2 turn on. Then if the phone -- that's why you want to make sure
3 your registration is current because it will have all the correct
4 phone numbers. They'll call and say, hey, we got an EPIRB going
5 off on the vessel; is everything okay? Oh no, we're sitting at
6 the dock, or we're just out, let me go look. Then they'll look
7 and see the EPIRB's a little crooked in that case, and that's why
8 it's sending that signal because it's getting wet. Then they'll
9 fix it, get it in the thing, and then it -- they won't have a
10 problem.

11 But yes, keeping a current registration is important, and
12 that is done every two years from NOAA. Every two years, they'll
13 send you -- if you're registered, every two years, they'll send
14 out a form and say, is everything current? If there's any
15 changes, we need to know.

16 Q. So if you've studied the sinking of the *Scandies Rose* from
17 the newspapers, periodicals, television, the EPIRB did not
18 transmit. Do you have any ideas as to what could have prevented
19 the transmission of that radio beacon signal to the satellite?

20 A. The only thing, it had, it -- that EPIRB is a new model
21 EPIRB, and actually, it's good for ten years on the battery and
22 two years on the hydrostatic release. That's a pretty new EPIRB.
23 The only thing I can think of is when the vessel went down and the
24 suction of that vessel -- maybe when the windows blew out, it
25 created a suction, and maybe it -- where the EPIRB was located --

1 I don't know exactly where the EPIRB was located, maybe it sucked
2 it into the hull as it was going down so it couldn't fire the
3 signals off. That's -- if I had to guess, that's what I would
4 guess because I don't know. That EPIRB should have went off.

5 Q. So in testimony that we had here, the way I heard a witness
6 say it was that the housing for the EPIRB, the launching
7 mechanism, it appears to be made of plastic or some kind of
8 composite material. Is that in any way delicate? In other words,
9 if I had training which I conducted with my crew every month, and
10 I wanted to show them, here's the EPIRB, here's how you take it
11 out, and I put it back in and out. Is that a fragile mechanism?

12 A. Well, I mean, it's a piece of electronic, so you're going to
13 want to be careful with it. But, you know, it's not, it's not
14 that fragile, but it is something -- you know, it is electronics.
15 That's why they recommend you test it every month, you know, just
16 to make sure you have no problems, et cetera, with it because it
17 is a piece of -- you know, it's an electrical device outside in
18 the weather and all the conditions, you know.

19 Q. So I'm not taking about the beacon itself. I'm talking
20 about --

21 A. The container?

22 Q. Yeah, that container and all the associated parts that we
23 saw. And we'll look at another image of that in a minute, but is
24 there any part of that that's fragile?

25 A. No. I mean, the container is pretty solid. It's a pretty

1 solid piece of plastic.

2 Q. All right. So moving off the rescue beacon, there was some
3 testimony that -- first, let's talk about the canopy top light.
4 Can you talk a little bit more about that? How it works, what's
5 the power source.

6 A. Yeah. So on the canopy light, there's a light on the top and
7 then there's also a battery with a light on the bottom. So inside
8 the tube, you'll see a square battery, and then it has a light
9 there, and then there's a wire that comes from there, and the wire
10 goes up to the light. And that's on a trigger pin, so when that
11 canopy inflates, it pulls the trigger pin and basically activates
12 that light. So as soon as that canopy pops up like that, the
13 trigger's pulled, and it automatically turns on.

14 Q. So to aid rescue forces, the exterior light, is that a strobe
15 light or does it have some special --

16 A. Yeah, it's a -- it's like a blinking strobe light. Yes, sir.
17 It's a blinking strobe light.

18 Q. And does it have a lens that it magnifies the intensity of
19 the light coming from it?

20 A. I'm not sure.

21 Q. And the light inside, you're talking about the one that's
22 part of that component, is that to illuminate the inside of the
23 raft?

24 A. Yes, sir.

25 Q. So the flashlights that are in the survival pack, could you

1 talk a little about what they are, what kind they are?

2 A. Yeah. It's typically a D-cell flashlight, and then it has a
3 spare bulb on the inside if you undo the cap. And then, and then
4 it's just on a switch, and then you also have a little button also
5 to, you know, just to use it when you need. And it also has a
6 switch. And then it has a set of spare batteries also.

7 Q. Is there anything unique about it? In other words, is it
8 designed to be watertight to a certain depth? Does it flash an
9 SOS signal? Does it use special or unique batteries with a long
10 shelf life?

11 A. No. It uses D-cell batteries. Some of the new lights, new
12 liferafts, they actually use a double C-cell, but they're at -- to
13 manufacturer recommendations that are approved by the Coast Guard.
14 So I don't know what approvals they get, but it is a Coast Guard
15 approved flashlight for those liferafts.

16 Q. So looking at the survival pack for a vessel like the
17 *Scandies Rose*, are there any other items that aren't in the pack
18 that might be helpful to be put in the pack that aren't contained
19 within the typical pack that you'll see today, the SOLAS pack?

20 A. The one thing that some of the customers would like to put is
21 a VHF, so that way if they got in the liferaft, they could do a
22 mayday or try to get someone on the, on the comm or a SART, Search
23 and Rescue transponder. That basically goes off to anybody's
24 radar that's hitting them. It runs a line across their thing and
25 turns off their autopilot and says, there's someone in distress at

1 this angle. And then, and then an EPIRB. You could do a personal
2 EPIRB that they get in the liferaft, they click on the EPIRB, so
3 they could be floating 200 miles away from where the vessel sank,
4 but they'll know where that liferaft's at, so it will help for
5 quicker response time.

6 Q. So let's -- am I correct in -- the personal EPIRB you're
7 talking about, would that also be called a personal locator
8 beacon?

9 A. Yes, sir.

10 Q. So I looked them up on the Internet. They cost approximately
11 \$400. Would that be ballpark?

12 A. Yeah. We sell them for \$295.

13 Q. And if I had one of those as part of my equipment and I had
14 it with me, do they clip to your survival suit? Do they have a
15 lanyard? How do you hold on to them when you're in trouble?

16 A. Yeah, so it has a lanyard, and it goes through -- there's a
17 little hole in the pocket of the survival suit, and then that goes
18 and it ties basically to itself. So if it's floating out there,
19 it's not -- it sits in the pocket, and then if you turn it on, it
20 might sit in the pocket, but it's going to float next to you so
21 that way it doesn't float away from you.

22 And I have some customers that actually put them on every
23 single survival suit on the vessel so each individual guy has one.
24 So if, let's say, the last man on that vessel didn't get into a
25 liferaft, and that liferaft is moving quickly away or he's moving,

1 because he has no drag, and he's 20 miles from where the liferaft
2 -- he's going to get picked up, because it's most likely -- let's
3 say he got -- he tore his survival suit trying to get off the boat
4 or something like that, if he was in distress, he will get
5 hypothermia. He will get picked up, because they're going to be
6 getting signal, and they'll be like, there's an EPIRB going off
7 over here. We don't know whose it is maybe, but they're going to
8 know that it's off of that vessel.

9 Q. So if a survivor enters the water and they happen to have one
10 of these personal locator beacons, you mentioned they -- what do
11 they do? Do they sort of mirror the way a rescue beacon, the
12 larger rescue beacon is? Do they send a satellite signal with GPS
13 coordinates so that the Coast Guard or the Canadian Coast Guard
14 could hone in this person in distress?

15 A. Yes. It does the exact same thing as the vessel. It just
16 doesn't last as long. And it also is telling it's a PLB, it's a
17 personal locator beacon. So people use them for skiing, hiking,
18 multi-use. But that -- if that way, when it's registered going
19 off, they'll say, is this a PLB? And then some people will just
20 put it to the vessel. So one vessel might have ten EPIRBs, but
21 they send a tag that has the numbers. It'll start out ACDC. It's
22 a 15-digit code. So they put that tag on every individual EPIRB
23 so that way they can track them so that way you don't put the
24 wrong tag on the wrong EPIRB.

25 Q. So I'm going to back to the bigger EPIRB, the rescue beacon

1 that is carried in the housing up on the handrails of a vessel.
2 And, Lieutenant, if you could pull up Exhibit 114? These are
3 going to be photographs of an unknown date from the EPIRB housing
4 for the *Scandies Rose*. And I just want you to take a look at them
5 for a minute and see if you see anything in those images that
6 would not be part of a properly functioning EPIRB or rescue beacon
7 or a radio beacon.

8 A. No. That's just, that's just a unit with hydrostatic release
9 taken out, and it looks like they're probably changing the
10 hydrostatic release there.

11 Q. And where would the magnet be?

12 A. Right up in the top corner. You see where that -- the handle
13 there?

14 Q. Yes.

15 A. Up there on the right, left hand side in the plastic.

16 Q. So the magnet in these images is not present?

17 A. Yeah. You can see it in the other one a little bit, yeah.
18 It's in the plastic molding there.

19 Q. Okay. It is in there.

20 A. Yep.

21 Q. Okay. Thank you, sir. So getting to my last area, talking
22 about survival suits, would you talk about the servicing or the
23 required servicing interval for survival suits that would be
24 carried on the *Scandies Rose*?

25 A. Well, technically, they can service their own survival suits.

1 The manufacturer recommends getting them serviced every two years
2 from a service center, but that's not required by the C.F.R. Now,
3 if they fall under a SOLAS reg, you know, a SOLAS vessel, that
4 would be every three years for a pressure test, and then after the
5 ninth year, it'll be ever single year. For the U.S. Coast Guard,
6 there's no requirement. The Coast Guard will say, we would like
7 to follow the recommendations of the manufacturer, but they --
8 customers like the *Scandies Rose*, they could service their own
9 survival suits. There's nothing saying that they have to bring
10 them in, other than the Coast Guard says, we would like you to
11 follow the manufacturer recommendations.

12 But as long as they change the flashlight batteries out, they
13 go through the survival suit and make sure there's no tears, no
14 issues with them, make sure the main zippers all work properly,
15 you know, go through the whole suit, log all the -- you know, log
16 information or something, something they can show that, yes, we
17 went through our survival suits. But the Coast Guard recommends
18 two years, four years, and then every year after that. That's
19 what the manufacturers and that's what the Coast Guard tries to
20 tell them. But there's nothing stopping them from servicing their
21 own survival suits.

22 Q. So if a vessel of the United States was inspected and classed
23 as a SOLAS vessel --

24 A. Yes.

25 Q. -- they would require you to do a pressure test?

1 A. Yep. We have a lot of foreign vessels that come to port, and
2 SOLAS regulations is every three years, and after the tenth year
3 -- or after the ninth year, it's every year after that. So, you
4 know, some of the guys will just buy new suits, but on any SOLAS
5 vessel, it is every three years they have to get pressure tested.
6 Yes, sir.

7 Q. So size of suits, could you tell me the different sizes of
8 survival suits?

9 A. Yeah. So there's a child suit that's up to 4'4" and up to 90
10 pounds, I believe; then there's an intermediate that's up to 180
11 pounds at the 5'7"; then there's the adult that is up to 330
12 pounds, up to 6'3"; and then there's a jumbo suit for anybody
13 that's over 6'3" and over 330 pounds. Now, let's say you have a
14 guy on the boat that's 7 feet tall, 500 pounds. He can fill out a
15 form and have a special suit made for him, but he will -- and then
16 that would be a custom suit, and they do do that, but it takes
17 about 16 weeks. So it would be four different sizes.

18 Q. So how important is it that the suit fits the wearer, and are
19 there manufacturer recommendations for that particular sizing?

20 A. Well, I mean, they put ankle straps so that way -- let's say
21 you have this really short guy in a survival suit, and the legs --
22 you're stepping on the legs, so you could fall. So you pull up
23 your, you pull up your legs, they make an ankle strap that goes
24 onto the leg so that way you've still got a firm surface so you're
25 not tripping over yourself.

1 But, I mean, you would want to try on your suit. You know it
2 fits you. So if you have two minutes to get this suit on, you
3 know it will fit you. Because what you don't want -- let's say
4 they're running a drill, and they're not paying attention, and
5 they stick a jumbo suit that's in the green bag, not paying
6 attention, they stick it in a little intermediate bag, a red bag.
7 So now you have an emergency situation, and you're going to get
8 off the boat, you grab your green bag, right, and it has a little
9 tiny suit in there. You're done.

10 Because that's why, when we run the drills on the vessels, I
11 tell the guys -- because we actually do a lot of survival suit
12 pressure testing, and I talk to a lot of the customers. I say,
13 it's extremely, extremely important, mostly on the bigger vessels
14 where they're doing a drill and they have 50 people -- well, they
15 have 50 people trying these suits on. Well, some guys are big;
16 some guys are small. They have a serial number on the bag itself.
17 Make sure that serial number goes in the exact bag that it came
18 out of, because if there was an emergency, and they stuck an
19 intermediate suit in a jumbo bag, and you had a guy that's 6'4",
20 350 pounds, he ain't getting in that suit. Even though it's in a
21 green bag, it's in the incorrect bag.

22 And that is why there is still, today, some manufacturers
23 that don't -- they made their bag all red, and they have a little
24 box in it, a little square box, and you check if it's a jumbo, an
25 intermediate, or adult. Well, you're not going to have time at 2

1 o'clock in the morning to get out and look with a flashlight, is
2 this, is this going to fit or not. That's why the colored bags is
3 very important.

4 And then, like I said, another very important thing is, is
5 making sure that the correct suit is in that bag, because they're
6 running drills all the time, you know, and they don't think it's
7 important. Oh, you know, I just ran a drill last week. I'm just
8 going to shove it in. It's very important they pay attention to
9 this, because at 2 o'clock in the morning, if you didn't have the
10 right suit in the right bag, it can be a problem.

11 But like I said, there is one company that I know of that
12 makes a survival suit, they're all red bags, and it has a little
13 square where you'd say jumbo, intermediate, or adult. That is not
14 adequate at all. But, you know, that's the only survival suit
15 I've seen with it. But I believe, you know, like I said, that's
16 very important.

17 Q. So at night, is there any way if somebody took the suits out
18 of the bags and dumped them on the, on the pilothouse deck or the
19 wheelhouse deck, is there any way I could identify what suit was
20 what in terms of size?

21 A. Yeah. On the, on the corner of the suit, it'll say adult,
22 jumbo, or intermediate. Now, if it's intermediate, you're
23 actually supposed to write the name of the person on that suit, on
24 that suit to make it a Coast Guard approved, on the intermediate
25 only. Also on the, I believe -- I'm not sure if it's on the bag,

1 but on the suit, you have to write the name of the person that
2 it's linked to so that way they don't get the wrong suit.

3 Q. Is that applicable to fishing vessels to your knowledge?

4 A. Yes. Yes. That's on all vessels.

5 MR. FAWCETT: So the last thing I want to show, and I'm --
6 this is -- I don't have any particular questions for it, but I
7 think it would be informative, is Coast Guard Exhibit 102, is a
8 video of a survivor donning a survival suit. It will show the --
9 someone who's put on a survival suit before and is familiar with
10 them. So we'll run that, and if you have any observations, please
11 make them, and that will conclude my questioning.

12 (Exhibit 102, recording of Dean Gribble Donning Immersion
13 Suit, plays.)

14 BY MR. FAWCETT:

15 Q. So just a final question -- and thank you very much,
16 Mr. Simmons, for your explanation. But the black band around the
17 upper torso in that short video, what is that black band and
18 what's the purpose of it?

19 A. So what they would do is they would blow into that. There's
20 a little one-way valve. They'll take their hand and they'll blow
21 into that. That basically creates a cushion that goes around here
22 and around their back, so when they're laying in the water,
23 they're not down so deep the waves are coming up and splashing
24 them. It's kind of like a back support to keep their head so that
25 way they can kind of see what's going on, you know, looking for

1 people if they were laying out there for multiple -- you know, for
2 a long period of time.

3 Q. Could you just point on your upper shoulders where the light
4 would be?

5 A. It would be right here in the corner.

6 Q. Okay, sir. Thank you very much.

7 MR. FAWCETT: I'm done with my questions, Captain.

8 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

9 Sir, I'm just going to pass it over to my colleagues at the
10 National Transportation Safety Board to see if they've got any
11 follow-on questions.

12 THE WITNESS: Yep.

13 MR. BARNUM: Thank you, Mr. Simmons. This is Bart Barnum. I
14 do have one question for you, it's on Exhibit 014, Lieutenant
15 McPhillips. And I'm sorry, I didn't forewarn him, Lieutenant
16 McPhillips, though he's taking a couple -- an extra couple seconds
17 to bring it up.

18 THE WITNESS: No problem.

19 MR. BARNUM: All right. So page 17, please, sir. All right,
20 Lieutenant, if you could scroll down to the second photo on this
21 page and zoom in.

22 BY MR. BARNUM:

23 Q. So, Mr. Simmons, this is the, this is the screengrab from the
24 ROV survey of the *Scandies Rose*. This is showing the EPIRB
25 housing and bracket. Can you tell by looking at this picture if

1 the EPIRB was hydrostatically released or removed manually?

2 A. I can't tell, but -- that EPIRB was definitely removed from
3 there, but I can't tell if it's -- you would probably want to
4 check with the manufacturer, but I can't tell, because I don't
5 know if that looks like what the bolt would like if it, if it
6 broke free, you know, if the hydrostatic release kicked free.
7 I've never seen one, you know, launched underneath the water, so
8 that could possibly be the bolt of the part of it releasing the
9 hydrostatic release, if you know what I mean.

10 Q. Yeah.

11 A. Because I think it's a two-piece setup, and so when it
12 releases, it pops free. And that right there, you see that little
13 black, that could be the second part of the hydrostatic release,
14 so it did kick the EPIRB free.

15 Q. Okay. Well, let me ask you this. If it was to be removed
16 manually, and then, once the vessel sank, the hydrostatic release
17 triggered, would it still -- could it still look like this?

18 A. Yes. Yeah, because what they would have did is took the
19 EPIRB out and took it with them, and then once the vessel goes
20 down, the EPIRB release would kick free.

21 Q. All right. Okay.

22 MR. BARNUM: Thank you, Mr. Simmons. That's all the
23 questions I had.

24 THE WITNESS: Yeah, no problem.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum.

1 Mr. Simmons, I'm just now going to pass over to our party in
2 interest, counsel for the two survivors.

3 Mr. Stacey?

4 BY MR. STACEY:

5 Q. Good afternoon, Mr. Simmons. Can you hear me okay?

6 A. Yep.

7 Q. Awesome. Thank you very much for your testimony. It's been
8 very, very helpful. Looking at the products that -- you know, the
9 life vest, the immersion suits, the canopies and everything, is
10 there, is there anything that you think -- you discussed earlier
11 what is not necessarily mandated, required by law, but sometimes
12 that we put in. Do you find with your customers anything that is
13 frequently requested that is not currently mandated by law?

14 A. What do you mean, like buying extra stuff?

15 Q. Yeah. If, you know, special add-ons that aren't required on
16 an immersion suit but, you know, people will frequently request
17 it?

18 A. Yeah. I mean, some people request PLB, EPIRBs. And, you
19 know, they can, they can put it in their survival suit, but then
20 let's say they go hiking or skiing or snowmobiling, they could,
21 you know, they could put it there. They can use it for multiple
22 use, so it's not only like it's going on their survival suit.
23 That would probably, that -- I would probably say that's the most
24 requested on a survival suit, you know.

25 And then inside the liferafts, some people will ask for a

1 little bit more food, more thermal protective suits because, you
2 know, they just never know, you know, if they can get their
3 survival suits on. But yeah, but, you know, some people will go
4 put some extra expired. No, no, it cannot be expired. It has to
5 be good, you know. But that -- the survival suits, PLBs, it's a
6 pretty good idea.

7 You know, and then a lot of people will say, hey, is my, is
8 my liferaft hooked up correctly? They'll send us a picture real
9 quick. Yep, you're golden, you know. Or they'll say, can you
10 come out and install it? We don't install the liferafts, you
11 know, putting them on the vessels and pulling them off. They can
12 do that. They have the crew. You know, they just ask us, hey, is
13 this, is this legit? Yep, that's good. Or oh, no, no, no. You
14 hooked it up incorrectly. Okay, perfect then, glad I called, you
15 know.

16 Q. Got you. So is there -- I know you said that you have
17 customers who will ask for it. Is there anything that, you know,
18 that you believe should be mandated by law that isn't currently?
19 You think that -- you know, I just think that we should require
20 it?

21 A. It's like, in the *Scandies Rose*, the rafts worked exactly how
22 they were supposed to. The vessel sank. It sank very quickly.
23 They're floating on the surface. Oh my god, what is, what's
24 happening. They don't even know what's happening. The liferafts
25 pop up to the surface. I've had a lot of customers that have sat,

1 you know, in -- like I said, my father started 38 years ago. I've
2 had a lot of people, 2, 3 in the morning, sitting there going, oh
3 my god. And the raft pops up out of the thing.

4 If those rafts are not correctly hooked up, they -- if they
5 don't got their survival suits on, they're toast. And I've had it
6 happen many, many times. We've been very fortunate, you know. I
7 did have one customer tied off to a railing. They got in the
8 liferaft, and it was such a quick response, they weren't -- they
9 didn't know any better. They thought there was a weak link on to
10 the liferaft. It sank. They all jumped out of the liferaft. One
11 person died because it was -- they didn't have any survival suits.
12 It happened so quick. It was an old steel boat. And the raft was
13 so high, so they just didn't know.

14 But someone verifying that those hydrostatic releases are
15 hooked up is -- it's like a parachute. If, you know, you have the
16 parachute on, if the strings aren't connected, it doesn't matter.
17 And it's, it's very -- you know, we go through all this, perform
18 -- you know, we go all, CO2 bottle, you know, make sure absolutely
19 that raft works correctly in an emergency. And very few get used,
20 but the ones that get used absolutely have to be correctly hooked
21 up. And that's the only thing that actually worries me, because
22 like I said, I know a lot of these people, and if they have their
23 kids or whatever and that raft didn't pop to the surface, they're
24 going to blame me, and I'm going, I don't know how it was hooked
25 up, you know.

1 Q. Yeah. How easy is it to confirm that it is hooked up
2 correctly?

3 A. It's very, very easy. All it has to be is a snap of a
4 picture.

5 Q. Perfect. Thank you very much, Mr. Simmons.

6 MR. STACEY: Captain, those are all the questions I have.

7 CAPT CALLAGHAN: Thank you, Mr. Stacey.

8 And now to counsel for the vessel owners, Mr. Barcott?

9 MR. BARCOTT: Thank you, Captain.

10 BY MR. BARCOTT:

11 Q. Thank you, Mr. Simmons. Can you hear me all right?

12 A. Yep.

13 Q. So I'm Mike Barcott. I represent *Scandies Rose*. I've just
14 got a couple of questions for you.

15 A. Yes, sir.

16 Q. So the testimony from the survivors is that when the *Scandies*
17 *Rose* eventually went down, it bow up in the air, went down by the
18 stern, the stern first. The information is also very clear that
19 the EPIRB was on the stern of the boat. It was on a stern rail.
20 So as the boat's going down by the stern, if that EPIRB pops
21 because of the hydrostatic release, are there things that can get
22 hung up in all of the rigging that is in the water column above
23 it?

24 A. Yeah. I mean, it can get, it can get stuck anywhere. It's
25 meant to float to the surface. I've had them where they've got --

1 where the back of the house comes over a little bit, and I've had
2 them stuck there, you know, and not went down. You know, hanging
3 up on a line, you know, if it's a line, it's going to, it's going
4 to go out and it's going to top up. The only thing, if it has a
5 surface that's back over there -- and I've had them put it out
6 there. They're like, it's really nice. I can just go out and
7 grab it right out beside the door. But I'm like, yeah, but if the
8 boat goes down, it's just going to sit there, and that's the only
9 thing. I mean, it's very possible that it could have got hung up
10 that way.

11 Q. Yeah. And if it's trapped underwater, it doesn't send out a
12 signal, right?

13 A. No, sir.

14 Q. Okay. So I want to talk about icing and boats that might
15 fish where there's sleeting ice, there are ice storms, and it
16 coats the gear.

17 A. Yeah.

18 Q. Is there anything in the housing for an EPIRB that allows it
19 to release if that housing has been covered with ice?

20 A. No, sir. No.

21 Q. Okay. Has anybody ever talked with you about that? That,
22 that might be a good idea to figure that out?

23 A. So up in the Artic, if a, if a vessel is operating up by
24 Prudhoe Bay, and there's a longitude and latitude up there, they
25 have a -- it's a blanket that they put over the liferafts, it's a

1 thermal blanket, because what has happened is some of these
2 vessels that have been inspected, the liferafts are like a brick
3 of ice.

4 Q. Right.

5 A. And they banged on them, you know, they come in. The problem
6 is they don't want to beat the hell out of them with the hammers,
7 with the sledgehammers. But it's gotten so bad that they froze
8 up. They're an ice cube. So until that thing de-thaws or all
9 that ice is broke off -- but there is a part up there that they do
10 require -- I believe it's under SOLAS regulation; I don't know if
11 it's under Coast Guard -- that they make a thermal blanket. If
12 they're up there, they have to have this thermal blanket on the
13 liferafts. EPIRB, I'm not sure. But I know on the liferafts, up
14 in certain areas like Prudhoe Bay and stuff like that, if they're
15 operating, they're required to have those blankets on the
16 liferafts.

17 Q. I want to turn just very quickly to personal locator beacons.
18 That little thing you wear.

19 A. Yep.

20 Q. Those are not Coast Guard required, are they?

21 A. No, sir.

22 Q. Okay. Thank you, Mr. Simmons. We appreciate you being here.

23 MR. BARCOTT: Those are all the questions I have. Thank you,
24 Captain.

25 CAPT CALLAGHAN: Thank you, Mr. Barcott.

1 So, Mr. Simmons, I have one last closing question, and that's
2 regarding functionality and usability and the feedback mechanism
3 for folks that have survived and had to use some of this gear. Is
4 there a good feedback loop, particularly in this case, I'll use
5 the example of survival suits, and you mentioned, you know, how
6 getting in the liferaft, you could -- you may have different areas
7 in each liferaft where the knife might be located. But talking
8 like the functionality of trying to get in there in a survival
9 suit and really fumbling around with the bag and the gear in that
10 liferaft with your gear, with that immersion suit on, is there a
11 mechanism to provide that kind of feedback to the company for
12 improvement?

13 THE WITNESS: Like I said, if you're in that survival suit, I
14 would go to the -- I recommend the asset manufacturers put a
15 survival suit on and show me how you use -- get to this -- access
16 to this equipment. I mean, you're in survival suits, it's
17 2 o'clock in the morning, you're freezing, you're trying to get --
18 you know, it's very hard. Then, once you open the bag, where do
19 you even know the equipment is at? I mean, there's a lot of
20 equipment in that.

21 Some liferafts have separate -- one is food and water, one is
22 supplies. Is it labeled? No, but you can -- you know, I know
23 from the weight and stuff, but if they open it up, they see it's
24 food, you know. Maybe a better thing is one labeled food and
25 water, one's labeled supplies. And maybe the water not so much,

1 but the supplies. Maybe something that it's like a clear bag that
2 they can at least kind of see what they're going to grab, you
3 know. I need the flashlight. They can see what they're grabbing
4 inside there.

5 Because, you know, if it was me, and it was 2 o'clock in the
6 morning, and I've got my survival suit, I'm taking that stuff out.
7 I need to see what's going on. I'm dumping it out. Now I've got
8 debris all over the liferaft, and now I take a wave and the
9 thing's full of water, the liferaft is not sinking because they
10 are 100 percent overload capacity, but there goes -- floats all my
11 equipment out before I even close the door up, you know. So maybe
12 by -- maybe a clear bag for maybe just the parts, you know, for
13 the stuff that you would use. Then the food and water, you know,
14 it can just be labeled food and water, you know. That's if you're
15 out there for multiple days, you know, and then you've got the
16 next morning to worry about that or -- you know, you're not,
17 you're not, oh my god, I need some food and water right now.

18 But knowing where the parachute rockets, you know, you see a
19 plane, you're seeing something, you don't even know where your
20 rockets are. You're having a hard time, fumbling. You know,
21 those -- the mobility of a survival suit is not very good. But
22 then they make these other survival suits you can get at your hand
23 access. Well, your hands and your head, it's huge. You can
24 get -- your hand will cramp up, and you can't even move it. So
25 the suits are -- you know, some of those suits are a good idea if

1 they're right on the vessel and try to change, but if you're
2 inside the liferaft, you could be cramped, and you can't even use
3 your hands.

4 So I would make it so, if you had a survival suit on, show me
5 how you access that equipment. And as long as they show you how
6 to access the equipment, they pass it on to me, or they pass it on
7 to the schools. So then, when the schools are saying, hey, how do
8 you -- once you get in this liferaft, what do you do next? Well,
9 you get the equipment. Well, how do you get the equipment with a
10 survival suit on? Well, I don't know. And so here's how. This
11 is the procedure. You do this and you do that.

12 And you've got to remember, because people aren't thinking
13 they've got a gumby suit on. And as you could see with that last
14 -- the guy that was showing you how -- you know, the survivor that
15 was showing you, you know, he was in that survival suit. It's not
16 very comfortable, and it's very hard to access stuff, you know.

17 CAPT CALLAGHAN: Yeah. Well, thank you for that. I really
18 appreciate your time. We greatly appreciate it. I know we kind
19 of kept you a little long, but the value of what you do and the
20 message about survival gear, the importance of keeping things not
21 only in serviceable condition, but, you know, installation and all
22 the rest of it and how important that is.

23 So thank you for your time today. At this point, you're now
24 released as a witness from this formal hearing. Thank you for
25 your testimony and cooperation. If I, at a later date, determine

1 that this Board needs additional information from you, I'll
2 contact you through -- or contact you directly. If you have any
3 questions about the investigation, you may contact us through the
4 investigation recorder, Lieutenant McPhillips.

5 THE WITNESS: Okay.

6 CAPT CALLAGHAN: Thank you very much sir.

7 THE WITNESS: Not a problem. Thanks to you guys. Are we all
8 good?

9 CAPT CALLAGHAN: Yes, sir.

10 THE WITNESS: Okay. Thank you.

11 (Witness excused.)

12 CAPT CALLAGHAN: The time is 1434. We're going to take a
13 brief recess, and we will start with our next witness as soon as
14 possible.

15 (Off the record at 2:34 p.m.)

16 (On the record at 2:47 p.m.)

17 CAPT CALLAGHAN: The time is now 1447. This hearing is now
18 back in session. We'll now hear from Mr. Scott Giard of the 13th
19 Coast Guard District.

20 Mr. Giard, Lieutenant McPhillips will now administer the oath
21 and ask you a few preliminary questions.

22 LT McPHILLIPS: Please stand and raise your right hand.

23 (Whereupon,

24 SCOTT J. GIARD

25 was called as a witness and, after being first duly sworn, was

1 examined and testified as follows:)

2 LT McPHILLIPS: You may be seated. Please state your full
3 name and spell the last name.

4 THE WITNESS: Scott Jeffrey Giard, G-i-a-r-d.

5 LT McPHILLIPS: Please identify counsel or representative if
6 present.

7 THE WITNESS: Lieutenant Commander Matt Pecoske.

8 LT McPHILLIPS: Counsel, please state and spell your last
9 name as well as your firm or company relationship.

10 LCDR PEKOSKE: I'm Lieutenant Commander Matthew Pecoske,
11 P-e-k-o-s-k-e, Coast Guard Judge Advocate and witness counsel to
12 Mr. Scott Giard.

13 LT McPHILLIPS: Mr. Giard, please tell us, what is your
14 current employment and position?

15 THE WITNESS: I'm employed by the United States Coast Guard,
16 specifically the 13th District in Seattle, Washington, where I am
17 the Search and Rescue program manager.

18 LT McPHILLIPS: What are your general responsibilities in
19 that job?

20 THE WITNESS: I oversee the Pacific Northwest SAR mission. I
21 provide expertise in SAR, consultation and advice to leadership,
22 coordinate efforts and enhance our incident preparedness across
23 the Pacific Northwest, as well as I'm SAR mission coordinator and
24 official exercising ASSA authority.

25 LT McPHILLIPS: Can you briefly tell us your relevant work

1 history?

2 THE WITNESS: Yes. I've been D-13 SAR program manager since
3 2016. Before that, I worked with the Coast Guard up in Juneau,
4 working Search and Rescue from 2006 to 2016. Prior to that, I was
5 on active duty and reserve components of the Coast Guard as a
6 boatswain's mate and operation specialist from 2000 to 2006.

7 LT McPHILLIPS: What is your education related to your
8 position?

9 THE WITNESS: I've taken many courses with the National SARs
10 school, resident courses there in the Maritime New England SAR,
11 courses with the National Association of Search and Rescue,
12 Federal Emergency Management Agency, and other courses with the
13 International Association of Emergency Managers.

14 LT McPHILLIPS: Do you have any professional license or
15 certificates related to your position? Please explain if so.

16 THE WITNESS: No.

17 LT McPHILLIPS: Thank you, sir. Captain Callaghan will have
18 follow-up questions for you.

19 CAPT CALLAGHAN: Thank you.

20 Mr. Giard, I'm now going to turn it over to Commander Karen
21 Denny.

22 Commander Denny?

23 CDR DENNY: Thank you, Captain.

24 EXAMINATION OF SCOTT J. GIARD

25 BY CDR DENNY:

1 Q. Good afternoon, Mr. Giard.

2 A. Good afternoon.

3 Q. All of my questions are going to be either directly or
4 indirectly related to the timeframe leading up to sinking of the
5 *Scandies Rose* on the evening of December 31st, 2019, and
6 subsequent Coast Guard rescue efforts.

7 A. Okay.

8 Q. So again, really appreciate you being on the line and
9 attending this hearing virtually today. If at any point you're
10 asked a question that you don't understand or you can't hear
11 because of technical difficulties, please don't hesitate to say
12 so, and we'll repeat or rephrase the question. In addition, we'll
13 be taking breaks throughout this hearing, but if you need a break,
14 please let us know.

15 Also, using the Zoom platform, we have the ability to share
16 the exhibits. And you have prepared a presentation in advance of
17 this that the Board has reviewed, so we'll be pulling that up, and
18 just please tell the recorder, Lieutenant McPhillips, to advance
19 the slides if -- when you need to.

20 A. Okay.

21 Q. So, Mr. Giard, you've given us a brief introduction of
22 yourself as well as your primary duties and responsibilities. Is
23 -- would you like to elaborate in any way on your primary duties
24 and responsibilities for -- as the D-13 program -- SAR program
25 manager?

1 A. Sure. Yeah. In addition to being one of the SAR mission
2 coordinators and persons -- officials exercising ASSA authority,
3 or active suspension authority, I provide expertise and subject
4 matter expertise in SAR case consultations and advice to senior
5 leadership, usually at the division officer and the admiral's
6 level.

7 I advise headquarters on issues pertaining to the D-13 AOR,
8 as well as weigh on national level SAR policy issues. I'm one of
9 the liaisons and subject matter experts of the International Civil
10 Aviation Authority and the International Maritime Organization. I
11 provide awareness of D-13 priorities and concerns and needs to
12 various entities when it comes to supervising policy, but I also
13 maintain the Seattle Search and Rescue plan.

14 I act as a subject matter expert and review all changes and
15 updates to D-13 catastrophic incidents SAR plan and the need for
16 DSF 9, as well the liaison to FEMA region and for DSF marine. I
17 administer the district's program for cost pass SARSAT and manned
18 space flight programs, but primarily the liaison for Search and
19 Rescue for all local, federal, state, tribal, Canadian and other
20 foreign rescue coordination center activities.

21 And then I provide training to all of our joint rescue
22 coordination center advancement personnel throughout D-13 on SAR
23 matters as they come through, and I also develop and oversee and
24 administer the ASSA and SMC program when it comes to training for
25 the district.

1 Q. Thanks, Mr. Giard. I really appreciate that. And I forgot
2 to mention this at the beginning, but there is such a tendency for
3 us to use acronyms within the Coast Guard because we know and
4 understand what's in the mission subset, but for the benefit of
5 the Board and the webstream audience, I would ask that you please
6 avoid and not use the acronyms moving forward.

7 A. Yes, ma'am.

8 Q. Thank you. So I'd like you to take a step back and just for
9 our benefit just explain briefly how the Search and Rescue chain
10 of command works and how does it -- how would that have worked
11 during a wintertime Search and Rescue case off of Sutwik Island.

12 Q. Sure. The SAR chain of command is kind of an intertwined web
13 of kind of a multitude of people. But while there are quite a few
14 people involved in the process, they all have kind of roles and
15 responsibilities and the reason why kind of certain people
16 intertwine.

17 At the top of the SAR chain of command is the SAR
18 coordinator. Each Search and Rescue region has a SAR coordinator,
19 and in the Coast Guard, we assign the district commander who is
20 also the SAR coordinator for his Search and Rescue duty. So
21 Admiral Bell is the North Pacific Search and Rescue Region SAR
22 coordinator, and his staff provides top level review, oversights,
23 and ultimately suspension for people and search subjects that end
24 up not being found. As provided here, (indiscernible) in the
25 Search and Rescue program and just make sure that folks doing SAR

1 operations have what they need while they're conducting it.

2 The next level down is the SAR mission coordinator. SAR
3 mission coordinators essentially are the managers of any Search
4 and Rescue case. Many carry up Alaska supplementing,
5 coordinating, and arranging the actual response to Search and
6 Rescue incidents. We assign them at various levels of our
7 organization, and D-17, which is our district in Alaska, there's
8 two -- there's three units that can assume SAR mission
9 coordinator. There's two sectors, the one in Anchorage and in
10 Juneau, as well as the district office, and they all have the
11 ability to assume SAR mission coordinator because they have
12 distinct areas of responsibility. And that's the primary why and
13 when.

14 There's some other circumstances of why I assume SMC in each
15 others' areas, but it's little -- that's a little outside of this.
16 I can answer it if that comes up. But that's you see who really
17 carries out the functions or support of command center or the
18 rescue coordination center watch standards and really make sure
19 that everything is being carried to make sure that the SARUs
20 ultimately get on scene and rescue and search for people.

21 And then the final of the SAR command, just below the SMC,
22 are the Search and Rescue units and the on-scene coordinators.
23 And they're like the pointing end of the stick, so they're the
24 helicopters and boats and planes and cutters and folks that we
25 actually send out and do the searching and rescuing. They have

1 very specialized training in what they do, and they all report to
2 the SAR mission coordinator. Sometimes they are the on-scene
3 coordinator where the SAR mission coordinator just kind of gives
4 them the plan on what, on what they're up to during the specific
5 time period, which we call an EPOC, and yeah, so that's how it
6 kind of works.

7 Q. Okay. And so could you describe how -- can you describe the
8 duties of that Search and Rescue mission coordinator and also the
9 person that exercises what you called ASSA, which is active search
10 suspension authority?

11 A. Sure. Yeah. Our SMCs, or the SAR mission coordinators, are
12 generally people that have a wealth of knowledge. They have
13 experience -- there's experience level requirements as well as
14 prerequisite training requirements to either perform the
15 designations -- they're generally designated either by community
16 and officer of the units or the SAR coordinator him or herself.
17 And after they have shown that they have the requisite experience
18 and knowledge and skills, they're, you know, the ones that take
19 information from our community centers and rescue coordination
20 centers and formulate the plans for search and/or the rescue of
21 individuals.

22 The official exercising ASSA authority, or active search
23 suspension authority, generally are senior folks in our
24 organization, either usually O-5/O-6 on the military side and
25 GS-13 or higher on the civilian side, that are specially trained

1 and designated only by the SAR coordinator to suspend active Coast
2 Guard operations and searches while the search object or persons
3 are still missing. So there's a case where searching for folks
4 ends and we get to a point where the survivability is negligible
5 or we've exhausted our resources, it's the official exercising
6 suspension authority's ultimate authority to decide when and how
7 we're going to suspend those activities.

8 That's done in consultation with the chain of command
9 generally as well as next of kin, local agencies, any other
10 agencies that are participating. We generally get a good sense
11 then about how the media has played into a case. There's a lot of
12 factors that go into suspension, but really survival and next of
13 kin are the two primary factors that weigh in on whether or not
14 and how we're going to suspend active searches.

15 Q. Okay. So let me, let me check this a little bit. How does
16 the Search and Rescue mission coordinator or the regional command,
17 command center controller communicate to the Search and Rescue
18 units to launch in order to assist mariners who are in distress?

19 A. Yeah. That's several ways. So at our sector command
20 centers, specifically the ones in Juneau and Anchorage, but very
21 similarly at all of our sectors throughout the United States Coast
22 Guard, we have a vast radio network and phone network. Usually,
23 primary alerting is done via phone, and then sometimes the unit
24 leader has what they call a SAR alarm. It's even a button, and it
25 sends a signal through the ready unit to alert them that there's a

1 Search and Rescue case.

2 The command center or joint rescue coordination center
3 controllers will then convey kind of a situation report to the
4 Search and Rescue units' leaders and let them know kind of what's
5 going on, where the case is, and what they might expect on scene,
6 do some risk managements and kind of get things moving and find
7 out how long it's going to take for them to get either in boat or
8 airplane or helicopter and get airborne to start either searching
9 or rescuing.

10 And then, yeah, it's usually done by phone, or sometimes if
11 the unit's already airborne, underway, we can do that via chat,
12 via to the ship or we can do that via radio if they're, if they're
13 already up. And then we can divert them while they're already in
14 the air.

15 Q. Okay. So what's the Coast Guard's general posture when it
16 comes to launching assets for Search and Rescue cases?

17 A. Generally, the Coast Guard has a very forward leaning
18 process, or forward leaning stance on launching resources. There
19 are response standards that are used mostly for metrics, but there
20 are two response standards: one is a 30 minutes to become either
21 airborne or underway once you've been notified from a -- as a
22 Search and Rescue unit, and then there is a 90 minutes from when
23 you launch to arrive on scene standard. And those can be affected
24 by a multitude of factors: weather, planning, risk management
25 discussions, mechanicals, et cetera.

1 They are, I would say, generally pretty well met within the
2 Coast Guard, but there are certain instances where they're not
3 able to be met or they just aren't met due to other circumstances.
4 But it is an expectation that the SARUs are point and ready to go.
5 We do have -- generally, if they're in a Bravo-0 status, which
6 essentially means they can get underway within 30 minutes, those
7 guys are poised and ready to go. They can wake up, get their
8 stuff together, get the boat or airplane started, and get airborne
9 or underway within 30 minutes. Yeah.

10 Q. Okay. So we'll touch on that in a little while.

11 A. Okay.

12 Q. So let's shift a little bit to what are the ways that
13 mariners can make the Coast Guard aware that they're in trouble,
14 that they're in distress?

15 A. Sure. There are a multitude of ways that mariners can let us
16 know that they are in distress. The first is radio systems,
17 whether it be VHF, MF, or HF -- high frequency, medium frequency,
18 voice -- we have coast stations that monitor those. They can also
19 let the -- let us know through a system called digital selected
20 phoning, which is a -- it's a digital packet of information that
21 essentially sends us a VHF, MF, or HF alert that's not voice to
22 one of our coast stations that's encoded with their VHF
23 information and their GPS location, if it's hooked up to a GPS.

24 They can also let us know via a multitude of satellite
25 systems, and MARSAT and Meridian are two of the primary used for

1 distress alerting. They both have distress alerting and phone
2 features. That Search and Rescue satellite, called the SRSAT
3 system, is an international system with emergency beacons that the
4 vessels have either an EPIRB, DLT (ph.) or PLB onboard that sends
5 that off. It goes up to a satellite and lets us know that they're
6 in distress.

7 And then there's also the last satellite is called SEND,
8 which is satellite emergency notification devices. These have
9 come online in the last like 15, 20 years from -- you might have
10 heard of them, like it's inReach or SPOT. There's some others
11 called Somewear Global, Yellowbrick. They're commercial products
12 that don't go through the SRSAT system. But they do have the
13 ability to send distress and non-distress alerts and use some kind
14 of autonomous tracking of vessels, those odd various kind of modes
15 for transmitting the information. A lot of times, they're
16 primarily used to send the information to a family or like a
17 person holding the float plan.

18 And then there's always the phone, whether it be cell, SAT,
19 or landline. We have a lot of -- just looking at significant
20 amount of our distress calls, more than 50 percent through cell
21 phones and landlines still.

22 And then lastly are the distress signals, which are like
23 flares, guns fired at one-minute intervals, the international
24 ones, like a mayday on the radio, parachute flares, November
25 Charlie flags, et cetera.

1 So if any of those -- if we hear about any of those happening
2 or we are alerted on any of those methods, that generally
3 activates the SAR system and gets moving -- and at least gets us
4 starting the best way how we can help somebody out there.

5 Q. Mr. Giard, so you mentioned quite a long list of ways that a
6 mariner could indicate distress. You mentioned satellites, so
7 that's for the global positioning system, right, GPS, and is that
8 how the EPIRB would send the distress signal? Because we've heard
9 about EPIRBs in previous testimony.

10 A. Yeah, so EPIRBs can have a GPS chip embedded into them. It's
11 an added feature that essentially encodes the GPS -- a GPS
12 position into the packet of information that the EPIRB sends up to
13 the satellite, and then, when that's received through the system
14 -- and I can briefly describe the system if you want -- instead of
15 the satellites using Doppler to try to figure out where the signal
16 is coming from, it actually just takes the GPS encoded position
17 and plots it for us instead of the satellite trying to figure out
18 where it is.

19 Q. So based on your experience, your Search and Rescue
20 experience, could you offer up some thoughts on why -- for a
21 vessel that's carrying an emergency positioning indicating radio
22 beacon and encounters a distress situation like a capsizing or
23 sinking, what are your thoughts on potentially why that beacon
24 would not activate or report to the system?

25 A. Improper maintenance. Batteries, if the batteries are not --

1 if it's not being serviced and the batteries are not being taken
2 care of, or the hydrostatic releases are not being serviced, that
3 could certainly hamper the ability for the EPIRB to automatically
4 deploy, or even if manually deployed, if the battery's depleted or
5 there's an issue that it wouldn't go off.

6 I've seen instances where training takes the EPIRB out of the
7 bracket manually or they're told that -- there's many, many
8 vessels that are -- have kind of an SOP of taking the beacon out
9 of the bracket and then having them take it with them to the
10 liferaft as opposed to just letting it float free with hydrostatic
11 release. And I guess if the person was inside the vessel or the
12 beacon was left inside the vessel or something like that, you
13 know, it wasn't able to float free, then it wouldn't be able to
14 transmit. It might -- it would certainly activate underwater, but
15 the signal would never reach the satellite because of being, you
16 know, surrounded by like a pilothouse or something.

17 And then sometimes EPIRBs -- I've seen some pictures of
18 EPIRBs getting caught in debris, so they do float free, and then
19 when there's a multitude of debris, they can get caught. I've
20 even seen a picture of a vessel kind of on its side on a ladder,
21 and the EPIRB got like stuck in the ladder as it was trying to go
22 up. It was activated, but it just never reached the surface. So
23 those are some of the kinds of things I've seen in the past on why
24 a beacon wouldn't activate.

25 Q. Okay. Thank you for that. I want to shift just a little

1 bit. Can you describe the Search and Rescue radio systems that
2 service the West Coast? If you could, please elaborate on who
3 listens to it and just elaborate on the importance, specifically
4 in Alaska.

5 A. Sure, yeah. We have a few different radio systems that the
6 Coast Guard uses. In the continental United States, we have --
7 and Hawaii, we have what's called Rescue 21. It's a VHF
8 terrestrial radio package that we purchased from General Dynamics
9 for Sea Area Coast 1, Sea Area 1 coverage. It's got pretty darn
10 good coverage in the continental United States and Hawaii. But
11 that system wasn't feasible to be deployed in Alaska or the
12 western rivers, so the western rivers in Alaska had separate
13 projects that were completed, but they were not -- while they were
14 called Rescue 21 Alaska or West Rivers R21, they were not the same
15 robust system that was put on the rest of the contiguous U.S.

16 There is VHF coverage in Alaska. It's based on legacy towers
17 that were already there. Some of the equipment was upgraded by a
18 large contract with, I believe, Motorola several years ago and --
19 but there has been -- I know that there at least recently has been
20 a lot of trouble maintaining the sites on time kind of response.
21 (Indiscernible) has been low just for tons of issues, generate
22 issues, logistics, fueling, snow, all those antennas are up at the
23 very high mountain levels and are very difficult, and they have
24 propane backups and microwave systems, and they're very difficult
25 to maintain, whereas the towers that are in the lower 48 are

1 generally on like cell phone type towers and pointing -- just kind
2 of looking just out to the coast, and they're much easier to
3 maintain.

4 But VHF is just one, and those are listened to by our
5 sectors. So our sectors have a communications unit within them,
6 staffed by operation specialists generally that are trained in
7 listening and responding to radios. The folks at Sector Juneau
8 and Sector Anchorage take care of the VHF comms in Alaska. Comms
9 are pretty decent, I would say, kind of Southeast Alaska, Prince
10 William Sound, Anchorage, and Kodiak. Not as robust as the lower
11 48 at all, but there is coverage.

12 And then there's the communications detachments in Kodiak who
13 works for our communications commands, has a few other radio
14 systems. They still listen to high frequency radio as well medium
15 frequency. A lot of just -- a lot of people have sidebands.
16 While it's not used a whole lot, it is, it is still used. We
17 still do have cases in which, like the *Scandies Rose*, that was
18 kind of the only alerting that was able to happen to the Coast
19 Guard was on these, on these high frequency bands, and so those
20 are, those are the -- and obviously we have SARSAT and MARSAT
21 coverage in the area, and all those, all those alertings go up to
22 the joint rescue coordination center in Juneau.

23 Q. Okay. So let's talk about the type of equipment, programs
24 and tools that are used to plan Search and Rescue cases and the
25 type of environment. Could you tell us about that, please?

1 A. Yeah. We just got a very robust software set that's call
2 SAROPS, which stands for Search and Rescue Optimal Planning
3 System. It's a graphical user interface, environmental data
4 servers, simulation software, and even some mapping tools in a GIS
5 program that allow us to simulate search objects in maritime
6 environments over time and project where they either have been or
7 can go to over time. We can also use the simulations to plan
8 searches using the other side of the software called the planner.

9 We also have just using the local knowledge. It's really
10 important, when we have training programs for our command center
11 controllers and joint rescue coordination center guys, knowing the
12 local area and having a local area knowledge is very helpful. We
13 use weather sites models and forecasts. We use social media posts
14 and other social media metrics to try to, to try to find
15 information and plan. Imaging sources, we have other mapping
16 tools, survival models, search object descriptions.

17 We have a multitude of SAR databases to include like driver's
18 licenses, law enforcement intel databases to try to help us gather
19 information on people so that we can help try to locate exactly
20 where they are. We also have the ability to request cell phone
21 and radar forensics from various agencies, and then we have a few
22 different vessel and aircraft tracking tools and services, as well
23 as in some areas we have like cameras, port cameras, radar systems
24 and, again, use -- we use SAROPS. There's another function. We
25 use SARSAT inside SAROPS as well in planning of Search and Rescue

1 cases.

2 Q. So you mentioned this SAROPS, right, this optimal planning
3 system, and then you mentioned that you put in different variables
4 to -- for this search object. Can you tell us about the factors
5 that go into that please?

6 A. Yeah. So SAROPS is made up of a graphical user interface
7 that simply makes it easy for information to put in and
8 manipulated within the system itself, and then it uses
9 environmental data servers to gather like wind and current and
10 water data. And then what it does is it takes that information
11 and puts it into a simulation software.

12 The simulation software, the simulation wizard takes -- what
13 we do is we create scenarios, and so say there is a person in the
14 water -- so there's a, there's a scenario for person in the water,
15 and then we put in all the pertinent information, the last known
16 position, other information about the person, and then we can
17 build in other -- like that -- on the last known position scenario
18 -- sorry, last known position of the person on the water. We can,
19 we can then assign search objects based on a catalog of different
20 items that we have in the toolbox to drift.

21 So essentially, we can -- in the software, we can drop
22 different things in the water, whether it be a liferaft, a person
23 in the water, debris, different size vessels, stand up paddle
24 boards, surfboards, lots of different things. So we can drop all
25 these -- we can use all these things, assign them, so if we have a

1 case where, say, a fishing vessel like the *Scandies Rose* capsizes,
2 we could use the *Scandies Rose* itself, the description of that, we
3 could use the *Scandies Rose*'s liferafts and we could use different
4 descriptions of people. We have different types of people that we
5 can drift, like if they're wearing a survival suit or not wearing
6 a survival suit, they're wearing a life jacket, they're not
7 wearing a life jacket. All of those things drift differently in
8 the water based on wind and current data.

9 So essentially that -- we package all of that up, and then a
10 computer simulation model downloads the environmental data for
11 that -- for a very specific area that we're working in, say, you
12 know, Sutwik Island. It draws a big box around Sutwik Island, and
13 then it downloads the environmental data from different sources.
14 We use sources -- like most of them come from the National Weather
15 Service or the National Ocean Survey, some are from like other
16 models, some are just tide current tables, some are commercial,
17 and we have different ones that we can pick from.

18 And then, after the simulation wizard is completed, it
19 actually completes a simulation where it drops these particles
20 into the water and drifts them off. And then it drifts it over a
21 period of time. So say, you know, something happens at 8 p.m. and
22 your airplane is going to get there at 9 p.m. You can move the
23 little dial, and what it will do is it'll move and animate the
24 particles over time to 9 o'clock and tell you where each one of
25 those particles might be in the water at 9 o'clock when you're --

1 as you arrive. So then you can create a plan with that
2 helicopter, boat, or plane to search for those particles.

3 That's kind of a gist of how it works. There's lots of
4 different types of searches.

5 There's also some metrics inside of SAROPS. It uses --
6 there's kind of three basic probabilities that it uses:
7 probability containment, probability detection, and ultimately,
8 probability of success. And those are measures for how well the
9 computer thinks the search is going to be completed if we use
10 certain sensors in certain conditions under certain weather. We
11 put all that information in there, and then it gives us kind of
12 these probabilities to see kind of how we do. And if the numbers
13 are low, then we can manipulate the search or change things to try
14 to even get them to go a little higher so we can, we can have a
15 better time searching. Or if they're really low, sometimes maybe
16 we just need to reallocate our asset to a different area so we can
17 have a higher probability search.

18 Q. Okay. So I have a question about some of the variables that
19 you're talking about. You talked about a couple of different
20 factors that go into the function of, you know, determining the
21 probability. Is there an assumption that the models are based on
22 that differentiate between whether a person purposely enters the
23 water as opposed to traumatically entering the water?

24 A. For search objects, no. The search objects really -- it just
25 matters kind of how they sit in the water essentially. So like if

1 they use a person in the water wearing a survival suit, the
2 simulator actually uses a model of a person kind of more laying
3 back with their feet up, you know, in a laying position. So
4 essentially their head is out of the water, but their body is in
5 on the very top of the water. Not really into the water column
6 all that much. So that person's going to drift a little bit
7 differently than if a person just had a life jacket on, because
8 then their head is out of the water but they're more in a vertical
9 position. But it doesn't take into account like any severity of
10 how that happened.

11 There are a lot of variables within search objects themselves
12 like liferafts. Like with liferafts, there's -- you know, you can
13 choose to have a liferaft have a drogue, have ballast and have a
14 canopy, or any of the combination of those three. And if you
15 choose not to have any of them, you know, that liferaft moves
16 significantly faster than like a liferaft with a drogue and a
17 canopy and a ballast.

18 But yeah, it doesn't, it doesn't really take into like if the
19 liferaft is damaged or if a person, you know, was injured after
20 they were in the water. We do take that into account when we're
21 talking about survival, but it doesn't really drift any
22 differently.

23 Q. So you just mentioned survivability. Does the Coast Guard
24 have a tool that helps determine a person's survivability time in
25 the water?

1 A. Yeah, we have a couple. The first is called the probability
2 of survival decision area, or PSDA. It's an application -- it's
3 really a dataset, but it's been made into a graphical user
4 interface application, and we use it for all cases we know there's
5 a person in the water, or where there is risk of hypothermia or
6 dehydration when a person is not immersed in the water.
7 Essentially, it takes environmental factors like water temperature, air
8 temperature, wind speed. And then there's ensembles of clothing
9 built in. So we can -- there's like fall fishing outfits, we can
10 choose survival suits, we can choose like summer -- like a t-shirt
11 situation or fishing -- like a Gordon's fisherman outfit.

12 And then what it does is we can take the person that we've
13 created and then submerge them in the water a certain distance.
14 Basically it's like up to the neck is kind of the worst, and then
15 we can tell how turbulent the water is. And then what that does
16 is then it calculates out two numbers for water -- for people that
17 are in the water: one is called functional time and the other is
18 called survival time. Functional time is the length of time in
19 which an individual can participate in self-rescue or take actions
20 that are going to enhance survival or protection from exposure and
21 cold; survival time is a time when the core temperature drops to 28
22 degrees centigrade, and below that threshold, the probability of
23 death due to hypothermia significantly rises. So we sort of
24 associate the survival time with an ability to not self-rescue
25 anymore.

1 And we use these -- you know, it helps our communities and
2 our ASSA authorities and SMCs kind of understand one factor of
3 what we're searching for. The model itself does not take into
4 account what's called the will to live. It's a widely researched
5 human instinct that if a person wants to live, its times are way
6 longer, especially under duress or in life threatening situations.
7 So, you know, we have -- you know, really more so in warm water
8 environments that you see people like on these rafts that are, you
9 know, out to sea for 150 days, and we come upon them and, you
10 know, they have like a -- they've been living with a -- living
11 with just nothing or just eating fish out of the water situation.

12 And then we do have some hypothermia tables. We do treat --
13 we do make sure we have a pretty robust hypothermia program within
14 the Coast Guard and make sure our folks understand what
15 hypothermia looks like and how that -- what turbulent water
16 hypothermia does and different aspects of survival. But those are
17 kind of the main, the main ways that we kind of figure out and
18 understand how people might survive in the water. And it's based
19 off like an Army research model itself.

20 Q. Okay. Thank you. That was very thorough, and I appreciate
21 it. So I'd like to shift just a little bit and I'd like for you
22 to tell us a little bit about what a case review process is. What
23 does that mean and what does it entail?

24 A. Okay, yeah. A case review process -- there's two. The Coast
25 Guard has a case study and review policy that was updated in 2020

1 after a long working group session. It had been about 30 years
2 since we updated the policy. It was actually finally updated in
3 2018. It's been around. But essentially it provides a mechanism
4 to voice and document things, cases that would improve the SAR
5 system. Effectiveness and continuous improvement of the SAR
6 system is a super important thing to the SAR system.

7 If we could know, just like kind of how the Marine Board --
8 if the Marine Board is trying to find things that could prevent an
9 accident from happening again, and we're trying (indiscernible)
10 the SAR system, it's similar, which is an abbreviated process that
11 informs the SAR systems from any level. Whether you're a boat
12 driver, a rescue swimmer, a planner, anybody within the SAR system
13 can inform, you know, the SAR chain of command of either how the
14 SAR system is working well or not working well and how it can be
15 improved. And that's usually through someone creates an opinions
16 recommendation based off a specific dataset that's being looked
17 at.

18 The SAR case study process is a very onerous study. I mean,
19 it's an objective analysis that stems from the execution of a
20 specific SAR case and requires kind of analysis -- a top to bottom
21 analysis of the case and the SAR system around the case.

22 There is an abbreviated version that's called SAR case review
23 that can be used instead when there is a limited scope that the
24 person who is initiating the review wants to look at. Instead of
25 a kind of top to bottom review, they can just look at one or two

1 aspects of the case, whether it be good or bad, to expedite
2 getting information into the SAR system. The goal is to try to
3 get the information to the people that do SAR kind of as fast as
4 possible. Sometimes it takes a really long time, and the longer
5 it takes the information to get to the people, you know, the
6 longer the people have to actually do that -- you know, take those
7 on, those recommendations. So a case review is kind of the most
8 expedited means of doing that, and there was a case review done by
9 D-17 for the *Scandies Rose* case.

10 Q. Very good. Thank you. Because that was going to be my next
11 question. So I'd like to focus from the more overarching Search
12 and Rescue topics that we've been covering here to your connection
13 with the *Scandies Rose* marine casualty and Coast Guard response.
14 So, Mr. Giard, where were you on December 31st, 2019, during the
15 evening through January 1, 2020, when the Coast Guard began
16 searching for the *Scandies Rose*?

17 A. I was at home, off duty here in Seattle.

18 Q. So did you play any role in that specific case?

19 A. I did not. I, over the course of January 1st, exchanged a
20 couple of text messages with my counterpart in Juneau. I'd seen
21 that, that had happened and kind of wished him well and asked him
22 if he needed anything from me. He said they think they had it and
23 they were busy and -- yeah, I try to do that whenever possible
24 when there's a big case going on. And especially when I know --
25 we have a very small, tight group of the SAR program introduced

1 within the Coast Guard. There's only 11 of us. So we keep pretty
2 tight tracking each other, and we're kind of self-supporting in
3 that way.

4 Q. Okay. So you could you tell me how you became engaged in the
5 -- or confirm for me that you were engaged in the SAR case review
6 process?

7 A. The SAR case review was completed by -- a command member in
8 Sector Juneau had assigned -- it was assigned to him by Rear
9 Admiral Bell soon after the case had been completed. I previously
10 worked with a person that completed the SAR case review and was
11 consulted as a SAR SME, along the case review itself, just to kind
12 of look at facts and timelines and generally kind of just go over,
13 go over the recommendations and opinions that he had formed.
14 That's very typical of my position from the Coast Guard. I did go
15 to Juneau, and I talked to him one on one, and I also did some,
16 did some informal interviews with some of the watch standers and
17 people involved in the, in the SAR case to assist in that process.

18 Q. Okay. Lieutenant McPhillips, could you please pull up Coast
19 Guard Exhibit 076? And, Mr. Giard, that is the Search and Rescue
20 case presentation that you provided to the Marine Board of
21 Investigation. So that will pop up here just shortly. Let me
22 know if you can see.

23 A. Yeah.

24 Q. Okay. So what I'd like to do now is essentially have you
25 present this presentation and walk us through your review of the

1 circumstances of the Search and Rescue effort made by the Coast
2 Guard for the *Scandies Rose*.

3 A. Okay. All right. Next slide. This is an overview of the
4 case. I do think it's been pretty well covered in the preamble of
5 the MBI. This is my shortened version of that, so if we can go to
6 the next slide.

7 The next side is location overview, just for folks that may
8 not be familiar with Alaska and kind of where things are. The
9 green triangle is the last known position of the *Scandies Rose*.
10 The box around it is the search area that the U.S. Coast Guard
11 searched and then the SAR District locations of prominent Coast
12 Guard units that were involved in the case.

13 The next slide shows some of the distances to the last known
14 position from in between Air Station Kodiak and the Coast Guard
15 Cutter *Mellon*. The C-130s were up in Anchorage due to weather,
16 and so they had to travel 417 nautical miles to the last known
17 position. Air Station Kodiak is 190 miles as the crow flies, and
18 the *Mellon* was just south of the peninsula on the chain, and they
19 were approximately 185 miles southwest of the last known position
20 of the *Scandies*.

21 Next slide.

22 This is just a visual depiction of the Search and Rescue
23 units that we utilized during the Search and Rescue case. they
24 were using the J models of the C-130 airplane, the T-models of the
25 MH-60 helicopters, the previously commissioned 378-foot high

1 endurance cutter, and then just a quick kind of stock photo of
2 what one of our joint rescue coordination center and what it looks
3 like.

4 Next slide please.

5 This is a timeline I put together for what happened just over
6 the Search and Rescue case. I won't go over all of this, but
7 essentially, a call came in to COMDET, who quickly notified the
8 joint rescue coordination center in Juneau. They then notified
9 Sector Anchorage, who assumed SMC -- I believe Sector Anchorage
10 assumed SMC, SAR mission coordinator, due to them thinking that it
11 was in their Search and Rescue responsibility area and not -- it
12 was in the joint rescue coordination center's predesignated area,
13 but they assumed SMC and got the ball rolling on starting to
14 request support within the Coast Guard.

15 A few minutes later, they notified Air Station Kodiak and
16 started talking to them about how they were going to get some
17 assets on scene, and then the COMDET in Sector 8 both issued an
18 urgent marine information broadcast, which is a broadcast that
19 goes out over various radios and even satellite means to let
20 mariners know that there's a distress situation, essentially some
21 parameters about that, and if they're going to assist
22 (indiscernible).

23 After about an hour or so, there's been a lot of, a lot of
24 discussions back and forth between -- in and around the SAR chain
25 of command and with the SARUs at Air Station Kodiak. It was --

1 the decision was made for Captain Hollingsworth at D-17 to assume
2 SAR mission coordinator back from Sector Anchorage due to kind of
3 the distance and complexities as well as using the high endurance
4 cutter and weather.

5 And at that time, the *Mellon* was formally diverted to the
6 scene. At 11:30 local time is when the first helicopter from
7 Kodiak was airborne. And then, about two hours later, the first
8 C-130 got airborne and headed to the scene. At 2 o'clock, the
9 first helicopter arrived on scene and very quickly located a raft.
10 They first located an empty raft and then found the second raft
11 that had the survivors in it and was able to hoist them. There
12 was some question on where the survivors were going to be taken to
13 and where they were going to get fuel from. Ultimately, the
14 aircraft commander decided to take them all the way back to
15 Kodiak.

16 Right about the same time that the survivors were hoisted,
17 the C-130 got on scene. The C-130 -- the original C-130 was very
18 ineffective in searching due to the weather on scene and really
19 wasn't able to do a whole lot of -- certainly no visual searching.
20 They tried to do some radar searching, but it's really difficult
21 when they have the weather that they did on scene. Shortly after,
22 the second helicopter is dispatched from Kodiak, and then about 15
23 minutes after that second 60 was launched, the original 60 with
24 the survivors landed on deck and transferred those survivors to
25 emergency medical services.

1 Around 5:30, the second 60 began searching and then within
2 about an hour or so was search complete due to weather and
3 fatigue. The search conditions were pretty horrible. Between
4 wind and visibility, it was very hard -- and wave actions, it was
5 very hard to see anything, and the helicopter crews went through
6 quite a bit of fatigue on scene just to try to keep the helicopter
7 kind of going straight line searching.

8 The second C-130 departed right before 8 o'clock in the
9 morning, and then -- or sorry, the first C-130 departed right
10 before 8, and then the second C-130 departed right after 8. And
11 they sort of passed in the wind to each other.

12 A third 60 was launched at 9 o'clock and got on scene about
13 an hour and a half later. They were on scene for a little bit
14 less than an hour. They had a mechanical issue. They had an APU
15 failure, auxiliary power units, and it's essentially a generator
16 onboard, and they use it especially when it's -- when they're
17 deicing and it's really cold, depending, you know, on how that APU
18 went online. So when they have -- they have two, but when they
19 have one of the APUs go down, they generally return to base and
20 try to troubleshoot, and that's what they did.

21 They did launch a fourth 60 at about 2:20 on the 1st of
22 January. It got back on scene a couple hours, just a couple of
23 hours later, right about the time that the Mellon got on scene,
24 completed some searching, and then was low on fuel. Due to the
25 distance from Kodiak to the scene -- you know, it's 190 miles as

1 the crow flies -- it only allows them about around an hour of
2 search time. Then if they're -- if they have to -- if they find
3 something and stop and hover and look, then that degrades down
4 even more, so you're looking at maybe only about an hour or
5 slightly less than hour each time once he was down on scene and
6 searched.

7 And then, during that time is when the family was being
8 briefed and the Coast Guard was briefing and formulating
9 suspension plans. And then the *Mellon* stayed on scene. It was
10 the last SARU to stay on scene until Admiral Bell granted
11 suspension shortly after 6 o'clock p.m. Alaska Standard Time on
12 the 1st.

13 So the next slide.

14 So the next set of slides, these are screenshot from the
15 SAROPS program that I ran. These were the, these were the runs
16 that were completed for the case itself, and all I did was take
17 screenshots and put some additional information. So this is, this
18 is the last known position -- so that little SOS symbol with the
19 boat is the last known position that was initially reported to the
20 Coast Guard, and then the orange raft or the red raft was the
21 location where the two survivors were located.

22 The next slide shows the initial, the initial drift model
23 when the first helicopter arrived on scene. So the particle --
24 they drifted three different search objects: they drifted a
25 liferaft with no drogue, no canopy and no ballast, and then they

1 drifted two different persons in the water, one in a sitting
2 position and one in a laying position. So those drift
3 differently.

4 So the search, they can kind of see the outline around that
5 raft. There's a little bit -- there's a gray triangle -- sorry, a
6 rectangle around it. That was the planned search for the 6038s,
7 but instead of completing that search, they located the two
8 liferafts and decided not to do the search and hoist --
9 essentially, they hoisted the survivors. So the first search was
10 not completed by the helo because they located survivors, and then
11 the C-130 was unable to complete their search pattern due to
12 weather and search conditions. So they basically stayed above the
13 clouds and provided cover in the form of like a flying radio
14 station.

15 Next slide is on the second set of searches. So each of
16 these EPOCs -- and an EPOC is just the next stat of simulation.
17 So the first one we designate, we just start with Alpha. So the
18 second set of searches is Bravo. We had one search plane in
19 Bravo, just Bravo-1. It was, it was completed. However, where
20 the red -- or the yellow arrow is and pointing to that circle, the
21 controller that was -- well, the team that updated the scenario --
22 the original scenario was based off the last known position of the
23 *Scandies Rose*, that green circle with the SOS. Well, this area
24 was changed due to the liferaft location, and the liferaft
25 location -- ultimately, there were multiple different positions

1 passed for where the liferaft was located, and they wanted to use
2 the liferaft as their next data marker just to have their second
3 searches based off of.

4 Unfortunately, what happened was the -- in some way, it's not
5 completely clear, but the position was passed incorrectly. And so
6 the second set of searches were based off of that brown circle,
7 and that's where the Coast Guard assumed the second liferaft was,
8 so -- and that's north of Sutwik Island, which I looked at these
9 models, and I drifted them back and forth and included a bunch of
10 other search objects in the area. It would be, it would be very
11 hard, based on the weather conditions that night, for a search
12 object at this point in time to have gone around the northeast tip
13 of Sutwik Island and end up north of Sutwik Island. I know they
14 have these discussions on the watch board, but from when I talked
15 to them, they just had nothing else to base it off of, so they
16 just went with what they had. So in my opinion, this search is
17 kind of completely useless because the general -- the particles
18 were moving south and east and not north and east. So this search
19 was probably just for nothing.

20 Next slide is the first C-130 pattern.

21 And then the next slide is the third helicopter search. This
22 is the one -- this is the helicopter sortie that had to depart
23 early. On the chartered search, there was two helicopter patterns
24 planned next to each other. The dark black was the search that
25 was actually completed before the helicopter had returned to base.

1 And then just south of that you can kind of see a darker gray kind
2 of shadow. That was the second search that was planned, but it
3 was not completed because they had to leave because of that APU
4 failure.

5 Next slide was the second C-130 search that was completed.
6 So the second C-130 after the first C-130 was able to complete 90
7 percent of its search. It's a pretty large search kind of just
8 south of Sutwik Island. They did relocate the raft on this
9 search, and the helo did a search for signs of life as well as the
10 C-130, and there was nobody inside the the liferaft. The liferaft
11 had made it pretty far at this point from the last known position
12 of the vessel. It really was moving.

13 And then the next slide was the final helicopter search.
14 About 75 percent of that search was completed when that liferaft
15 was found. They did lower the swimmer and then ultimately
16 deflated it. It's a general practice to keep liferafts afloat for
17 a certain period of time in the event that a survivor finds one
18 and jumps into it, but usually, when it's gone a very far distance
19 and there's no, there's no -- it's been checked more than once,
20 instead of having it continue to leave the area -- it may become a
21 navigational hazard or need to be relocated farther away and waste
22 time -- we deflate them so we don't have to deal with them in the
23 future.

24 Then the next slide is the *Mellon* search. Once they got on
25 scene, it was a small search. The *Mellon* -- the vessel searches

1 are much slower. So it looks small, but it does take quite a bit
2 of time, and it was centered over an area -- a high probability
3 area based on where those persons in the water still were. You
4 can see here there's kind of two distinct colored areas. The area
5 around where the *Mellon* was searching and then that area south and
6 east, that kind of larger longer blob, that larger longer blob is
7 the simulator liferaft. So the liferaft just moves faster than
8 the PIWs do, and so at that point, they almost -- they were almost
9 completely separated.

10 And then the next slide is just an overlay of all the final
11 searches overlaid together that were kind of all completed
12 concurrently with the *Mellon*, C-130, and the 60 here.

13 And then the next slide shows -- the simulation is
14 approximately at the time of suspension, so around 1800 local
15 time, and you can really see where the, you know, the majority of
16 the search -- the searches were completed over the area, you know,
17 between kind of last known position and where the liferafts were
18 located.

19 And then that second set of the liferafts just continued to
20 keep pushing and pushing out, and that's because the liferaft has
21 sail area, and the sail area of the liferaft and the search
22 objects action that they used, because it has no drogue and no
23 canopy and no ballast, is essentially like -- you know, just like
24 really scoots across the water. It really -- the current doesn't
25 have a whole lot of effect on it, and the wind really does, so it

1 really moves quite quickly. I don't, I don't think it would have
2 moved that quickly if they would have selected a different, a
3 different liferaft. That liferaft was actually -- the two
4 liferafts that were onboard -- if they gave us a description of
5 the two liferafts that were on board, I don't think it would have
6 drifted as quickly.

7 And then the next slide is just a depiction of all of the
8 search effort and search patterns overlaid without the particles
9 and probability grid there, just so you can kind of see -- all
10 those black lines are essentially where the airplanes, helicopters
11 and boats actually flew over.

12 And then the last slide here is -- it's just a search effort
13 summary. So for the *Scandies Rose* case, there were ten searches
14 planned. Six of those planned searches were completed. There
15 were two scenarios; both were last known position -- one was the
16 last known position of the *Scandies* and the second scenario was
17 the kind of onerous liferaft position off the Bravo search. In
18 total, there were 780 square nautical miles searched, 817 tracked
19 miles searched. For that case duration of about just under, just
20 under 24 hours, we were on scene about ten hours actually
21 searching. The total case duration was 20.3 hours.

22 And then the last slide is just the logo.

23 Q. Okay. Mr. Giard, I thank you for that presentation. I'd
24 like to take just a few minutes to focus on a few different areas,
25 and then I'll save the rest of the time. Can you speak again --

1 you mentioned it before, but can you speak to the timeframe of the
2 Coast Guard response to the *Scandies Rose* case?

3 A. Yeah. Specifically, there were -- there was some gaps in
4 time where our assets were not on scene. We generally try to like
5 have continuous coverage, especially when you have persons in the
6 water or there's a potential for people in rafts or people in the
7 water, and that's just to provide them the most opportunity to be
8 found. It's not always possible, especially due to the sheer
9 distances, you know, and the weather.

10 It would be really hard to provide 100 percent coverage in a
11 case like this. You could if you had a lot more assets or more
12 assets available or if they were closer, faster for some reason,
13 and that just wasn't the case. There were -- there certainly was
14 a lot of time where we weren't searching, and there were gaps of,
15 you know, three, two and a half, three and a half, four and a half
16 hours between the main times of your searching that there was,
17 there was nobody on scene searching.

18 There's a lot of reasons why that happens. I think, after
19 talking to the crews and planners, weather played a huge part into
20 that. Crew availability on New Years Eve night played into,
21 played into that. The C-130s being in Anchorage played into that.
22 I think the vantage (ph.) control and oversights, the risk
23 management discussions played into, played into that. The shift
24 of SMC from the sector to the districts took up some time, and I
25 think there were gaps. Some of those gaps were kind of built in

1 based on some of the risk management decisions and weather. But
2 some were kind of exacerbated by the Coast Guard's maybe tunnel
3 vision on trying to figure out, you know, what they could do to
4 get things out there instead of just moving quickly to get things
5 out there.

6 I think that, in this case, we would have had to continually
7 launch assets about every hour or so, one to two hours, to try to
8 get continual coverage on scene. There wasn't that many assets
9 available to do that, but there were also, I think, significant
10 gaps in time where we probably could have launched aircraft a
11 little bit quicker to get them on scene faster. But that could
12 have provided gaps in different parts of the case, so yeah. I'm
13 not sure if that answered your question.

14 Q. Sorry with the technical difficulties over here. So it did
15 answer quite a bit of the question that I had. So from your
16 assessment, and very, very briefly, you mentioned some of the
17 challenges. Would you elaborate on some of the challenges with
18 the Search and Rescue response?

19 A. Yeah. Weather was a huge factor. Weather is always a factor
20 in Alaska, so it's kind of -- you know, it's always assumed like
21 things are going to take longer because the weather in Alaska is
22 terrible. But the crews there are trained to understand weather,
23 and the Search and Rescue training program that we have in the
24 entirety of the Coast Guard, there is a significant amount of
25 training that's put onto local weather systems, how things work,

1 how to get around them, you know, how to mitigate them.

2 But weather was a huge factor, and, you know, if there's
3 50-knot headwinds and snow and icing conditions, it's going to
4 slow things down. There's just nothing we can do about it. We
5 don't have assets that can go, you know, any faster than that. We
6 have assets that can go in that, but it certainly slows them down
7 and really keeps them from having more time on scene because it
8 burns a lot of gas.

9 I think the launch times and kind of asset logistics played a
10 huge role into some of the gaps that we had between search parties
11 on scene. I think the time of year, being that it was New Years
12 Eve, they're only, they're only required to have one B-0 crew, and
13 so they only have one crew that's ready to go. And then, when
14 they need more crews, they simply have to kind of call around and
15 find more crews. And when that happens on a holiday, that's a
16 little bit harder due to various things. People are just off
17 duty. So we'll find -- there's always an oncoming crew that's
18 ready to come up, but they need to have a certain amount of sleep
19 before they can start.

20 And then, but I do think that the operations staff at the air
21 station did an exceptional job of getting extra crews to man those
22 helicopters to come out. There certainly could have not been able
23 to have that many crews been together, and we would even have a
24 smaller response than we did. But I think they did a great job of
25 trying to get them. It was just really hard.

1 SARU Comms were very difficult on that first helicopter.
2 There's a lot of back and forth on whether the helicopter was
3 going to recover at Akutan or go to Cold Bay or recovery at Sand
4 Point or go all the way back to Kodiak. And ultimately, it --
5 based on a breakdown of communications and they couldn't hear, the
6 pilots decided to go back to Kodiak, which I'm not sure -- I did
7 not really game out if any of those other fuel options would have
8 saved some time of getting that helo back on scene. But they had
9 two survivors on board as well, and dropping off two survivors in
10 Akutan in the middle of that kind of weather is clearly not as,
11 not as nice as getting them to Kodiak. So I think getting them --
12 I think the pilot's decision to take those -- to take Mr. Gribble
13 and Lawler to Kodiak was a good one, albeit probably took them a
14 little bit longer to get back on scene because they had to recover
15 all the way back to Kodiak.

16 And then the rest was just coordination, longer coordination
17 calls and coordination oversight calls between the SMC, the
18 districts, the command centers that kind of took up a lot of time
19 and took the focus off of -- took the sole focus off of making
20 sure that the Coast Guard was leaning forward and getting assets
21 on scene as quickly as we possibly could. I think that we
22 probably could have done a little bit better job at making sure --
23 leaving those comms up a little bit or negating some of those
24 comms and just focusing on getting our folks on scene.

25 And then also it's kind of minor, but we did have -- the

1 joint rescue coordination center put in a significant amount of
2 effort trying to find owner and next of kin information. And we
3 had some of that available to us, but it's just not really built
4 in. There's a multitude of ways you get it. In Alaska, a lot of
5 times the harbor masters and just kind of local people that we
6 just have these 24 hours numbers for and didn't receive the
7 information we're looking for, but a lot of times, it's right
8 under our nose as well in databases that we own, whether it be in
9 the MISLE database or in the SARSAT registration database.

10 So I think that we, as a Coast Guard, can do better at
11 training our folks to look at the things that we have and that
12 might have kept them focused on things that -- really more focused
13 on getting resources on scene then just trying to find next of kin
14 and try to find the -- if the EPIRB had gone off, then the
15 registration database would have sent them an alert with all of
16 that on it. But since the EPIRB didn't go off, it didn't. But
17 they didn't think to go into the database for an EPIRB that didn't
18 go off, so that's not the standard.

19 Q. Mr. Giard, thank you so much for your testimony today.

20 CDR DENNY: Captain Callaghan, that is all the questions I
21 have at this time.

22 CAPT CALLAGHAN: Great. Thank you, Commander Denny.

23 Mr. Giard, I kind of -- it's been -- we had about, just about
24 an hour and 20 since the last break. Are you okay for a quick
25 five-minute recess?

1 THE WITNESS: Yes, sir.

2 CAPT CALLAGHAN: Okay. We'll go ahead to a five-minute
3 recess and reconvene at 1616.

4 (Off the record at 4:10 p.m.)

5 (On the record at 4:18 p.m.)

6 CAPT CALLAGHAN: Okay. It's now 1618. This hearing is now
7 back in session.

8 Mr. Giard, thank you being patient with us. So just one
9 question from me before I pass it to our friends at the National
10 Transportation Safety Board.

11 BY CAPT CALLAGHAN:

12 Q. With respect to other efforts -- so we've talked a lot about
13 Coast Guard efforts in, you know, internal to our resources. Were
14 there any efforts related to this case with the *Scandies Rose* to
15 reach out to other resources, other vessels in the area to try and
16 make contact?

17 A. Yes, Captain. Originally, there was some call outs done by
18 comms at Kodiak, and then that's the -- essentially the primary
19 purpose of sending the urgent marine information broadcast is to
20 try to get folks to call back and see if they, one, heard the
21 mayday call and, two, to see if there's anybody nearby that could
22 assist based off the last known position.

23 Q. And so in terms of doing that, is there a common tool that
24 the Coast Guard can use to readily find, say, SAT phone numbers,
25 you know, in a real time case?

1 A. There's a couple of different methods. Generally, certain
2 fishing vessels, they almost all have registered EPIRBs. And so
3 one of the fastest ways is to query -- if you know about someone
4 who might be able to respond and want to get a hold of them, you
5 can look up them in the NOAA's SARSAT registration database, and
6 it usually has a cell phone number and a MARSAT number for the
7 vessel and sometimes other numbers, and/or has at least the
8 contacts for those vessels, and they usually provide us numbers.

9 There's also a system called AMBER. It's a Coast Guard run
10 LRT based system, satellite-based tracking system that is
11 voluntary that vessels provide us with a multitude of information
12 including kind of their positions, their DR tracks of where
13 they're headed, information about how to get ahold of them, and
14 then also any special personnel that might be onboard, like if
15 they have a physician's assistant or a doctor or an EMT on board,
16 and then contact information so we can get ahold of them, we can
17 query them to see if maybe they can turn around and help us out.
18 Because it's very helpful in the offshore environment and in areas
19 where there's not a whole lot of Coast Guard presence.

20 Q. And what -- along those lines, what tools does the Coast
21 Guard have or utilize to identify where the nearest vessels would
22 be to identify who to reach out to directly?

23 A. They have a common operational picture that is amalgamated, a
24 whole bunch of different sources that uses terrestrial AIS and
25 uses satellite AIS, LRIT, and it's on a graphical user interface.

1 And also provide the MS data, and there's some other sources that
2 are also potentially available. They all come up and shows all
3 the AIS tracks, and then we can generally figure out who's gone
4 where. It also provides track histories and generally contact
5 information for the vessels.

6 Q. Okay. Thank you, Mr. Giard.

7 CAPT CALLAGHAN: I'm now going to pass it to National
8 Transportation Safety Board. Mr. Barnum?

9 MR. BARNUM: Okay.

10 BY MR. BARNUM:

11 Q. Hi, Mr. Giard. Bart Barnum, NTSB. Thank you for your
12 testimony today.

13 A. Yes, sir.

14 Q. So just a question here. So along with all the challenges
15 that the Search and Rescue experienced that -- you've listed many:
16 the weather, the location, the time and date, et cetera. Would
17 you expect to see -- you made the response, the four-hour response
18 for the 2150 -- roughly four hours from the 2150 mayday to the
19 0200 arrival of first chopper. Is that a typical response time or
20 did you expect to see one quicker or longer given those
21 challenges?

22 A. I certainly would expect that there would be a delay, a
23 reasonable delay given the extreme environmental conditions for
24 the first crew and then adding some additional time for risk
25 management. However, given the severe nature of the -- kind of

1 what we knew of the case and limited cold-water survivability at
2 the time, and the fisheries that are both well aware, I think that
3 the launch time of an hour and 22 minutes does seem, does seem a
4 bit long and probably should have been shorter.

5 Q. Okay. Great. All right. Thank you. You obviously noted
6 that it was a successful mission that recovered two survivors so
7 that should be noted.

8 MR. BARNUM: That's all the questions I have for you, sir.
9 Thank you.

10 THE WITNESS: Thank you.

11 CAPT CALLAGHAN: Thank you, Mr. Barnum.

12 Mr. Giard, now I'm going to turn it over to our parties in
13 interest.

14 I'm going to counsel representing the two survivors,
15 Mr. Stacey?

16 BY MR. STACEY:

17 Q. Good afternoon, Mr. Giard. Can you hear me all right, sir?

18 A. Yes.

19 Q. Perfect. One quick clarification on your presentation. I'm
20 not sure -- Lieutenant McPhillips, if you'd please pull up Exhibit
21 number 76, please, and go to page 2? So you'll see the first line
22 that says, at 2130, you received the mayday call on this first
23 slide. Now, Lieutenant McPhillips, if you wouldn't mind now going
24 to Page 6. On this very helpful timeline here, I see it says,
25 2150, receives the mayday call. Do you recall which -- what the

1 exact time was?

2 A. Yeah. I believe that was a typo on that second slide.

3 Q. Okay.

4 A. I believe the correct time was 2150.

5 Q. I'm sorry, you cut out there a little bit. 2130 was the
6 correct one?

7 A. No, 2150 is the correct one.

8 Q. Fifty, okay. Sorry. Thank you. And so, when you received
9 the call, that's a fairly instantaneous, you know, radio call,
10 right? It's not like it's delayed for, you know, minutes or
11 anything like that?

12 A. No, it's -- essentially, it's instantaneous.

13 Q. Okay. Wonderful. That's what I thought, but I just wanted
14 to confirm, and 2150 is the time.

15 MR. STACEY: Those are all the questions I have. Thank you
16 very much, Captain.

17 CAPT CALLAGHAN: Thank you, Mr. Stacey.

18 And now to counsel representing the vessel owners,
19 Mr. Barcott?

20 MR. BARCOTT: Mr. Giard, Mike Barcott for *Scandies Rose*. We
21 want to thank you and your colleagues for what you do, and I have
22 no additional questions. Thank you.

23 THE WITNESS: Thank you, Mr. Barcott.

24 CAPT CALLAGHAN: Mr. Giard, I want to thank you. You know,
25 we took quite a bit of time to conduct the view of the Search and

1 Rescue efforts. We certainly appreciate that contribution to this
2 investigation and to the Board. We greatly appreciate your time
3 today.

4 I think we can agree that there are certain challenges
5 expected with a Search and Rescue case. In this particular case,
6 there were challenges that began to kind of build on top of
7 themselves given the extreme circumstances and the weather and
8 some of the decisions that go into preparing for that weather with
9 moving the C-130s and just how that potentially moves things down
10 the road a little bit. So it greatly helped -- we greatly
11 appreciate your help in understanding how that all plays out.

12 I want to thank you and all of your peers across the Coast
13 Guard for you all do to run Search and Rescue on a regular basis,
14 and certainly it helps increase the chances of success when we do
15 have cases. And, you know, fortunately, while it wasn't 100
16 percent success, we did have a couple of survivors that were
17 picked up in this case, and that's in a large part to the folks
18 like yourself across the Coast Guard that do this mission. So
19 thank you for that.

20 I want to thank you for your testimony. At this time, you
21 are now released as a witness from this formal hearing. Thank you
22 for your testimony and cooperation. If I later determine that
23 this Board needs additional information from you, we'll contact
24 you through counsel. If you have any questions about the
25 investigation, you may certainly reach out and contact the

1 investigation recorder, Lieutenant McPhillips.

2 Thank you very much, sir.

3 THE WITNESS: Thank you, Captain. Have a good day.

4 (Witness excused.)

5 CAPT CALLAGHAN: I'm going to take the opportunity to thank
6 all of our witnesses today for their time and their testimony in
7 regarding what it brings to the investigation as a whole. As in
8 previous days, all exhibits that were presented today will be
9 posted to the MBI media site. In addition, we uploaded a helpful
10 video explaining vessel stability to our livestream and Coast
11 Guard media site for the interest of the public.

12 Tomorrow, we'll hear from Coast Guard witnesses involved in
13 the Search and Rescue case and from a representative from the
14 Coast Guard's office of Search and Rescue.

15 It is now 1629 on March 1st. The hearing will now adjourn
16 for today and resume at 0800 tomorrow, March 2nd.

17 (Whereupon, at 4:29 p.m., the hearing was recessed.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: March 1, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Romona Phillips
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Tuesday,
March 2, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of *Scandies Rose Fishing Company, LLC*)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:03 a.m.)

1
2
3 CAPT CALLAGHAN: It's 0803 on March 2nd, 2021, and this
4 hearing is now in session. Good morning, ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard Chief of
6 Prevention for the 11th Coast Guard District. I'm the Chairman of
7 the Coast Guard Marine Board of Investigations, and the presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been placed -- have been spaced out far enough at the main
15 table to remove their masks while seated to maximize clarity and
16 minimize disruption. Members are to place masks back on at any
17 time when leaving the table, and whenever approached by another
18 person. I ask that anyone who is unable to maintain social
19 distancing please keep their mask on unless actively speaking into
20 the microphones.

21 Due to the extensive technology used to support this hearing
22 and the potential for unanticipated delays or challenges, I ask
23 that you please be patient with us in the event of any
24 disruptions.

25 The Commandant of the Coast Guard has convened this Board

1 under the authority of Title 46 U.S.C. Section 6301 and Title 46
2 C.F.R. Part 4 to investigate the circumstances surrounding the
3 sinking of the commercial fishing vessel *Scandies Rose* with the
4 loss of five lives on December 31st, 2019, while transiting in the
5 vicinity of Sutwik Island, Alaska. There were two survivors.

6 I would like to take this opportunity to express my
7 condolences to the family and friends of the five crew members who
8 were lost at sea. I note that many of you are watching this
9 hearing on livestream due to the COVID restrictions in place. We
10 appreciate you being here with us.

11 Upon completion of the investigation, this Marine Board will
12 submit its report of findings, conclusions, and recommendations to
13 the Commandant of the Coast Guard. Other than myself, the members
14 of this Board include Commander Karen Denny and Lieutenant
15 Commander Michael Comerford. The legal counsel to this Board is
16 Lieutenant Sharyl Pels. The recorder is Lieutenant Ian
17 McPhillips. The Coast Guard technical advisors to this Board are
18 Mr. Scott Giard and Mr. Keith Fawcett. This Board's media liaison
19 is Lieutenant Commander Scott McCann.

20 The National Transportation Safety Board is also
21 participating in this hearing. Mr. Bart Barnum, Investigator in
22 Charge for the NTSB *Scandies Rose* investigation, is here with us,
23 along with Mr. Paul Suffern.

24 Witnesses are appearing before the Board to provide valuable
25 information that will assist this investigation. We request that

1 all members of the public be courteous to the witnesses and
2 respect their right to privacy.

3 The members of the press are welcome to attend virtually, and
4 provisions have been made during the proceedings to allow the
5 media to do so. The news media may question witnesses concerning
6 the testimony they have given after I have released them from
7 these proceedings. I ask that any such interviews be conducted
8 with full consideration of the COVID mitigation procedures that
9 the Marine Board has established.

10 The investigation will determine as closely as possible the
11 factors that contributed to the incident so that proper
12 recommendations for the prevention of similar casualties may be
13 made; whether there is evidence that any act of misconduct,
14 inattention to duty, negligence, or willful violation of the law
15 on the part of any licensed or credentialed person contributed to
16 this casualty; and whether there is evidence that any Coast Guard
17 personnel or any representative or employee of any other
18 government agency or any other person caused or contributed to the
19 casualty.

20 The Marine Board planned this two-week hearing to examine all
21 events relating to the loss of the *Scandies Rose* and five crew
22 members. The hearing will explore crewmember duties and
23 qualifications, shore side support operations, vessel stability,
24 weather factors, effects of icing, safety equipment, the operation
25 of the vessel from the past up to and including the accident

1 voyage, and survey imagery of the vessel in its final resting
2 place. The hearing will also include a review of industry and
3 regulatory safety programs, as well as the United States Coast
4 Guard Search and Rescue activities related to the response phase
5 of the accident after notification that the *Scandies Rose* was in
6 distress.

7 The Coast Guard has designated parties in interest to this
8 investigation. In Coast Guard marine casualty investigations, a
9 party in interest is an individual, organization, or other entity
10 that under the existing evidence or because of his or her position
11 may have been responsible for or contributed to the casualty. A
12 party in interest may also be an individual, organization, or
13 other entity having a direct interest in the investigation in
14 demonstrating the potential for contributing significantly to the
15 completeness of the investigation or otherwise enhancing the
16 safety of life and property at sea through participation as party
17 in interest.

18 All parties in interest have a statutory right to employ
19 counsel to represent them, to cross-examine witnesses, and have
20 witnesses called on their behalf. Witnesses who are not
21 designated as parties in interest may be assisted by counsel for
22 the purpose of advising them concerning their rights. However,
23 such counsel are not permitted to examine or cross-examine other
24 witnesses or otherwise participate in the investigation.

25 I will now read the list of those organizations and

1 individuals who I've previously designated as parties in interest:
2 *Scandies Rose Fishing Company, LLC*, represented by counsel
3 appearing virtually today; crewpersons Mr. Dean Gribble and
4 Mr. John Lawler, represented by counsel appearing virtually today;
5 Mr. Bruce Culver, not present at this time.

6 The Marine Board will place all witnesses under oath. When
7 testifying under oath, a witness is subject to the federal laws
8 and penalties for perjury for making false statements under Title
9 18 U.S.C. Section 1001. Penalties could include a fine of up to
10 \$250,000 or imprisonment up to five years or both.

11 The sources of information to which this investigation will
12 inquire are many and varied. Since the date of the casualty, the
13 NTSB and Coast Guard have conducted substantial evidence
14 collection activities, and some of that previously collected
15 evidence will be considered during these hearings. Should any
16 person have or believe he or she has information not brought forth
17 but which might be of direct significance, that person is urged to
18 bring that information to my attention by emailing
19 uscg.scandiesrosembi@gmail.com. This email address will be
20 continuously monitored throughout the proceedings.

21 Mr. Bart Barnum will now say a few words on behalf of the
22 NTSB.

23 MR. BARNUM: Good morning. I am Bart Barnum, Investigator in
24 Charge for the National Transportation Safety Board's
25 investigation of this accident. The Safety Board is an

1 independent federal agency which under the Independent Safety
2 Board Act of 1974 is required to determine the cause or probable
3 cause of this accident, to issue a report of the facts,
4 conditions, and circumstances related to it, and to make
5 recommendations for measures to prevent similar accidents.

6 The NTSB has joined this hearing to avoid duplicating the
7 development of facts. Nevertheless, I do wish to point out this
8 does not preclude the NTSB from developing additional information
9 separately from this proceeding if that becomes necessary.

10 At the conclusion of this hearing, the NTSB will analyze the
11 facts of this accident and determine the probable cause
12 independent of the Coast Guard. At a future date, a separate
13 report of the NTSB's findings will be issued, which will include
14 our official determination of the probable cause of this accident.
15 If appropriate, the Safety Board will issue recommendations to
16 correct safety problems discovered during this investigation.
17 These recommendations may be made in advance of that report.

18 In addition, on behalf of the NTSB, I would like to offer my
19 deepest condolences to the families and those affected by this
20 tragic accident. Thank you.

21 CAPT CALLAGHAN: Thank you, Mr. Barnum.

22 Yesterday, we heard from a representative from the Coast
23 Guard who spoke about the fishing vessel program, a representative
24 from the lifesaving equipment servicing company, and a Coast Guard
25 Search and Rescue specialist for review of Coast Guard efforts

1 once the distress call from the *Scandies Rose* was received.

2 Today, we will hear from Coast Guard representatives involved
3 in the Search and Rescue efforts for the *Scandies Rose*, as well as
4 a representative from the Coast Guard Office of Search and Rescue.

5 At this time, we'll take a short recess and resume at 0815.

6 (Off the record at 8:12 a.m.)

7 (On the record at 8:16 a.m.)

8 CAPT CALLAGHAN: The time is now 0815. This hearing is now
9 back in session. We will now hear from Captain Hollingsworth,
10 United States Coast Guard, retired.

11 Captain Hollingsworth, Lieutenant McPhillips will not
12 administer the oath and ask you some preliminary questions.

13 Lieutenant McPhillips.

14 LT McPHILLIPS: Please stand and raise your right hand.
15 (Whereupon,

16 JOHN HOLLINGSWORTH

17 was called as a witness and, after being first duly sworn, was
18 examined and testified as follows:)

19 LT McPHILLIPS: Please be seated. You can be seated,
20 Captain. Please state your full name and spell the last name.

21 THE WITNESS: John Hollingsworth, H-o-l-l-i-n-g-s-w-o-r-t-h.

22 LT McPHILLIPS: Please identify counsel or representative if
23 present.

24 THE WITNESS: Lieutenant Commander Matt Pecoske. He's
25 virtual.

1 LT McPHILLIPS: Counsel, please state and spell your last
2 name, as well as your firm or company relationship.

3 LCDR PEKOSKE: Lieutenant Commander Matthew Pecoske,
4 P-e-k-o-s-k-e, Coast Guard Judge Advocate and witness counsel to
5 Captain John Hollingsworth.

6 LT McPHILLIPS: Captain Hollingsworth, please tell us, what
7 is your current employment and position?

8 THE WITNESS: I'm chief operating officer for the Marine
9 Exchange of Alaska.

10 LT McPHILLIPS: What are your general responsibilities in
11 that job?

12 THE WITNESS: We have about 130 AIS receive and transmitting
13 sites located throughout the coastline of Alaska. I'm responsible
14 for the maintenance, installation, upkeep of all of those. Also,
15 I have responsibilities for a 24/7 operations center which
16 monitors (indiscernible) traffic as it comes through Alaska waters
17 bound for either the far east or west coast of Canada or the
18 United States. And we have a technical, IT department I'm in
19 charge of as well.

20 LT McPHILLIPS: Can you briefly tell us your relevant work
21 history?

22 THE WITNESS: Sure. Prior to this position I'm in now, I
23 spent my entire adult life in the Coast Guard. Enlisted in 1988,
24 went through Coast Guard basic training. I was a reserve during
25 my senior year in high school. I drilled at Station Mayport,

1 Florida. I applied for the Coast Guard Academy but was offered
2 Naval Academy Prep School for a year. I concluded that and then
3 received my spot at the Coast Guard Academy. Graduated the Coast
4 Guard Academy in 1994. Served on the Coast Guard cutter *Kushnet*
5 (ph.) for two years out of Eureka, California, prior to going to
6 naval flight training for the Coast Guard, graduated flight
7 school.

8 After I got my wings, my first assignment was in Puerto Rico.
9 I stayed there for four years as a duty standing H-65 helicopter
10 pilot. I transferred to Savannah, Georgia. I was there for five
11 years as a duty standing H-65 helicopter pilot, as well as
12 engineering officer. Advanced education at Purdue University. My
13 assignment was Coast Guard Headquarters at the Office of
14 Aeronautical Engineering. I was in charge of resources there.
15 From there I went to Kodiak, Alaska, to be the new aeronautical
16 engineering officer there. Also requalified as an H-65 helicopter
17 pilot for those three years.

18 From there, I transferred to Barbers Point in Hawaii. I was
19 the executive officer of the air station there. Also remained
20 qualified as a H-65 helicopter pilot. Another advanced education
21 tour after that at the Naval War College in Newport, Rhode Island.
22 That was for one year. From there, I transferred to Juneau and I
23 took a district office where I was the chief of incident
24 management. I retired from that job just last year.

25 LT McPHILLIPS: Thank you, Captain. Do you have any other

1 professional licenses or certificates related to your positions?

2 THE WITNESS: Commercial helicopter pilot and airplane pilot,
3 single engine. No other present certifications.

4 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
5 have follow up questions for you.

6 EXAMINATION OF JOHN HOLLINGSWORTH

7 BY CAPT CALLAGHAN:

8 Q. Good morning, Captain. Thank you for being here with us
9 today. So, all my questions are going to relate to the timeframe
10 up to the sinking of the *Scandies Rose* on the evening of December
11 31, 2019, and then the Search and Rescue efforts related to that
12 case.

13 Utilizing this virtual format, we have the ability to pull up
14 exhibits that will appear on your virtual desktop. If while
15 viewing an exhibit you would like to highlight something or zoom
16 in, our hearing recorder, Lieutenant McPhillips, can do so from
17 here.

18 I will ask, please avoid using acronyms that are unique to
19 the Coast Guard or the marine industry and try and use as much
20 plain language in your descriptions as possible.

21 Speaking of your previous job at D-17, can you please tell
22 the Board what your position was when you were assigned to the
23 Coast Guard 17th District staff in Juneau?

24 A. Sure. I was the chief of incident management, which means I
25 was responsible for Search and Rescue throughout the State of

1 Alaska. Also, for (indiscernible) response. And I also had
2 responsibility for the small boats throughout the district as
3 well.

4 Q. And what staff elements were you responsible for there in
5 addition to the -- so, for instance, command center staff. What
6 other staff elements are you responsible for in that job?

7 A. Sure. There's the GS-18 SAR specialists, information
8 specialists worked for me, as well as the command center chief,
9 lieutenant commander job that has responsibility for managing
10 oversight of the command center. The command center has about
11 right around 20 people that performed a 24/7/365 watch schedule.
12 I also had the district response advisory team, which is the
13 pollution response portion of that job, as well as one bosun who
14 is responsible for the small boats. So monitoring that.

15 Q. In that position, do you oversee the qualifications of all
16 the Search and Rescue mission coordinators assigned there to the
17 district staff?

18 A. Yeah. I was the lead Search and Rescue mission coordinator.
19 I signed off on the qualifications for all of the command center
20 folks. All SMCs was designated by the SAR coordinator, Admiral
21 Bell during my time, before him Admiral McCallister. So, the
22 district admiral was responsible for actually signing off on the
23 qualification for SMCs.

24 Q. Can you briefly describe the duties and responsibilities of
25 the Search and Rescue mission coordinator?

1 A. Yeah. We kind of have the overall responsibility for the
2 Search and Rescue cases that fall within that particular area of
3 responsibility. We're the direct representative for the Search
4 and Rescue coordinator, SC, Admiral Bell in this case. Just kind
5 of make sure that the command center staff, which has a commanding
6 duty officer and several other watch standers, operational watch
7 standers, and radio operators in the sector command centers. Just
8 make sure that the Search and Rescue cases are going as we planned
9 them. The overall planning responsibility falls to the, to the
10 SMC.

11 Q. Okay. And then, so one of the terms we heard yesterday is
12 the active search suspension authority. Can you talk to us about
13 that?

14 A. Sure. The active search suspension authority is designated
15 by the SAR coordinator as well. There are -- those are different
16 qualifications from the SMC. The ASSA, active search and
17 suspension authority, is a little bit more of a position of
18 responsibility than the SMC because they have the responsibility
19 of determining when to stop searching for whatever search object
20 you're looking for. I was also qualified as an active search
21 suspension authority during my time as (indiscernible) for the
22 district.

23 Q. Can you talk to us about the training that goes into
24 obtaining Search and Rescue mission coordinator and then the
25 active search and suspension authority?

1 A. Sure. The Coast Guard requires several formal courses to be
2 attended in Yorktown, whatever is SMC school. That's about a
3 week-long, I believe, as well as the Maritime Search Planning
4 course, and that's really teaching folks how to manipulate the
5 Search and Rescue optimal planning tool, or SAROPS, in the
6 performance of research planning for our SAR cases. Lot of OJT
7 like breaking (ph.) watches under the responsibility of a
8 currently qualified SMC, like I would be on several calls, just
9 kind of listening in to kind of get the lay of the land. I did
10 that for a number of weeks -- a number of months actually before I
11 was actually qualified as SMC after those formal courses were
12 completed as required.

13 Q. And then, kind of moving into the area covered by D-17 there.
14 Can you kind of talk about what makes the Coast Guard's Alaska
15 area of responsibility in the North Pacific Search and Rescue
16 region different than, say, that of Oregon and Washington coasts
17 or the California coast?

18 A. Yeah. So, the District 17 area of responsibility has three
19 separate SAR zones. One of them is for Sector Juneau, and that's
20 basically Southeast Alaska, Yakutat south to Dixon Entrance. The
21 Sector Anchorage area of responsibility is west of Yakutat along
22 Prince William Sound just South of Kodiak. And then everything
23 well south of Kodiak into the Bering Sea, the Arctic, is all the
24 responsibility for District 17 and JRCC, joint rescue coordination
25 center.

1 Whereas everywhere else in the United States that I know of,
2 the district is responsible for waters well outside of where the
3 sectors have responsibility for. The sectors have responsibility
4 all along the coastline of their particular area, but the district
5 goes beyond that, I believe, I want to say 50 miles, but I'm not
6 exactly sure of that. So, the District 17 command center has more
7 responsibility for day-to-day SAR than another district command
8 center would.

9 Q. Okay. And in terms of communications, is that very similar
10 or does that differ from that further south or down in the lower
11 48?

12 A. So, I don't have experience in another command center, but
13 what I know of the Rescue 21 capabilities in the lower 48 and
14 Hawaii is it's far more extensive than what we have available to
15 us in Alaska for our VHF FM high sites. Rescue 21 has some pretty
16 significant capabilities for direction findings, so if a call goes
17 out, then if not one, multiple towers will build a direction find
18 on that transmission location and basically identify it through
19 lines of bearing, whereas we don't have that capability in Alaska.

20 The entire coast of the United States, the lower 48 has
21 Rescue 21 coverage. Maybe small gaps, but in Alaska, it's not
22 that way. There's significant coverage gaps along the coast of
23 Alaska for VHF FM coverage. I want to say there's 19 percent of
24 the Alaska coastline is covered by VHF FM coverage.

25 Q. Do you happen to remember from your time there whether or not

1 the area around Sutwik Island happens to be one of those areas
2 with a gap in coverage or not?

3 A. Yeah, that does not have coverage. The furthest south
4 coverage between Cold Bay -- there's a high site on Cold Bay, and
5 there's also several sites on Kodiak Island, but none of the ones
6 that run on Kodiak Island would reach down to Sutwik Island.

7 Q. Okay, thank you. And then, specifically focusing on
8 aircraft, can you please describe some of the risk management
9 processes that are built into how the Coast Guard operates in
10 Alaska?

11 A. Sure. So, as far as -- are you asking for as far as aviation
12 goes or all --

13 Q. Yes.

14 A. Aviation, okay.

15 Q. Aviation, yes.

16 A. The Coast Guard recognizes that Alaska is a more dangerous
17 place to operate, especially in aviation, than other places in the
18 Coast Guard. For that reason, they send only aircraft commanders
19 to Alaska Air Station Sitka or Kodiak, with rare exceptions. If
20 you have significant aviation experience like from prior service,
21 if you transferred from the Army, they would evaluate that and
22 determine if they were willing to send a more experienced
23 non-aircraft commander to Alaska. But by and large, everybody
24 gets transferred to either Kodiak or Sitka as a pilot or as a
25 previously experienced aircraft commander.

1 When those pilots are transferred to Kodiak or Sitka, they
2 also go through another service of instruction to teach them how
3 to operate in Alaska because it's so different from everywhere
4 else. It focuses on weather, significantly weather, as well as
5 fuel planning, flight planning, because there's just not another
6 airport with fuel available to you everywhere you're looking,
7 basically. When I was serving in Georgia, for example, in
8 Savannah, you would pass many airports that you could get fuel
9 before you had to land for actually refueling because you were
10 getting low on fuel. Whereas in Alaska, it's -- you have to make
11 deliberative efforts to flight plan so you can make sure that you
12 have safe operating conditions for your aircraft.

13 Q. Okay. When the regional command center requests resources
14 from one of the air stations for a Search and Rescue case, can you
15 describe the steps from the request to the resources arriving on
16 scene and who is involved with those decisions?

17 A. Yes. The approval for any kind of aviation asset would go
18 through the district command center, and it would go to the
19 on-duty Search and Rescue mission coordinator, designated by me as
20 DRM. The DRM position for all districts is an aviation
21 experienced O-6, so a couple of the pre-requisites for the jobs
22 are you have to have some sort of aviation experience and
23 typically, that is for that area you're operating in.

24 So, for Alaska and District 17, it's normally a helicopter
25 pilot. There have been C-130 pilots as well, but it has to be an

1 aviator; it has to be an O-6. That's a prerequisite. So long
2 story for that, but the sector command centers, since the sectors
3 typically don't have any aviation experience, we want to have that
4 oversight just to make sure that the proper risk management
5 methods are being employed.

6 So, when the sector command centers determine that they need
7 then the aviation asset, they will ask the JRCC or the District 17
8 command center for that aviation asset for whatever reason they
9 need it for, and then the commanding duty officer would typically
10 call the SMC and let them know that that aviation asset's being
11 asked for. And then, they go through the process of determining
12 if it's warranted it or not, and that decision would be made by
13 the SMC, designated DRM.

14 Q. Okay. And then, as far as from the district down, at the air
15 station, how much communication are they involved with prior to
16 making that determination?

17 A. Once the SMC makes the decision, the air station is likely
18 already looped in. We like to give them as much of a heads-up as
19 possible when they're requested for whatever case they're going to
20 be employed on, so even before the SMC is asked for the aviation
21 asset, typically, the air station would be notified that that's a
22 possibility. So they would be able to start gathering information
23 for the case to make aircraft configuration and crew configuration
24 decisions before they actually get the go-ahead to launch. But
25 when the launch authority is given by -- or the aircraft

1 employment permission is given by the SMC, they would let the
2 sector command center know, and then they would direct the air
3 station to launch whichever asset they're authorized.

4 Q. Okay. And you mentioned O-6. For the record, O-6 in the
5 Coast Guard is a captain.

6 A. Yes.

7 Q. So, moving -- with regards to the air station in their -- I
8 guess in their ready crews, can you talk to us about what the
9 expectation is for an air station and how they're staffed to
10 respond?

11 A. Sure. Maybe I'll give an overview of the two different air
12 stations. Air Station Sitka has three H-60 helicopters, and
13 typically, each aircraft is assigned a certain number of people to
14 either operate or maintain it, and I believe it's -- it's either
15 two or three, or three or four pilots per aircraft. So, if you
16 have more aircraft, you're going to have more pilots to operate
17 it, more mechanics to maintain it.

18 So obviously Sitka's complement of three H-60s is
19 significantly lower than Kodiak's complement, which has six H-60s.
20 More people just to do the work and perform the missions. Each
21 air station has one Bravo-0, that means one Bravo-0 helicopter, H-
22 60, which means that they should be ready to proceed on a SAR case
23 within 30 minutes of notification of launch.

24 Kodiak also has C-130s and H-65 helicopters. The C-130s are
25 in a similar ready status. They have one B-0 C-130 all the time,

1 as well as one H-60 B-0 all the time. The H-65s in Kodiak are the
2 deployed assets. They deploy to the Bering Sea cutter to patrol
3 the Bering Sea for Search and Rescue, law enforcement. But
4 they're not in a ready status while not deployed in Kodiak. So
5 given launch authority, they should be able to proceed within 30
6 minutes of notification when on-station in Kodiak.

7 So, sometimes, the C-130 has the bad weather that rolls
8 through Kodiak, which either prevents them from taking off from
9 the airport or actually being pushed out of the hangar. There's
10 been instances where high winds have prevented the C-130s from
11 being able to be pushed out of the hanger. But, when the
12 forecasted winds are such, they'll preemptively launch a C-130 to
13 stand the ready from Joint Base Elmendorf-Richardson in Anchorage,
14 and then, they're given a two-hour requirement to proceed to
15 launch just because the place where they stay is further away from
16 the airport, they have to get some help from the Air Force to
17 launch the airplanes; just more significantly logistically
18 burdensome from when they were at home unit in Kodiak.

19 Q. Do you remember during the incident with the *Scandies Rose* if
20 that were the case for pre-positioning the C-130s?

21 A Yes, it was. There was one C-130 that was in Anchorage just
22 because of the weather that was rolling through during that
23 period.

24 Q. And, to kind of talk a little bit about some of the
25 challenges with meeting that Bravo-0 requirement, can you kind of

1 highlight what some of those challenges are?

2 A. Sure. So I mentioned before that there is significant
3 training that goes into becoming a qualified aircraft commander --
4 an Alaska qualified aircraft commander once you transfer into
5 Kodiak. That's just to kind of open your eyes as far as what
6 risks are present in that environment: mountainous terrain,
7 significantly more severe weather than you would see in other
8 regions of the United States, cold weather. The weather is bad
9 enough where they put us through survival training -- cold weather
10 survival training in the first year that you're there just so if
11 you happen to have to land somewhere because the airframe has a
12 maintenance issue, you'll be able to survive until help gets
13 there. I don't know of any other place in the United States that
14 requires that kind of training, so that's just to give you some
15 kind of insight as to how hazardous the conditions are there.

16 But, as far as the launch goes, when directed to launch,
17 wherever the crews are, berthing, if it's the middle of the night,
18 they'll go from the ready crew berthing and go to the hangar; the
19 mechanics will typically -- the flight mechanic and the rescue
20 (indiscernible) would typically get with the line crew, which is
21 on station to make sure the helicopter, the C-130 is ready to go
22 fly. They would get the aircraft ready while two pilots would
23 typically do some flight planning for weather depending on where
24 the location of the distress is. They would just see what kind of
25 route they needed to fly to avoid the mountainous terrain. They

1 look at the weather significantly for that just because sometimes
2 we can go over the top of the mountains and sometimes you can't.
3 Going over the top, if it's clear, significantly reduces the time
4 en route to fly there, but if you have to go around the mountains,
5 it induces more time, more flight time to get to the distressed
6 location. So we're looking into that.

7 If it's nighttime, they really have to do a deliberate risk
8 assessment. They have to look at factors like what's the
9 (indiscernible) elimination? Are my night-vision goggles going to
10 work real well? Is it snowing? Because that induces a little bit
11 of problems with the night-vision goggles in whiteout conditions.
12 So there's a whole bunch of things that goes through the minds of
13 the pilots before they get in the helicopters, C-130 to go fly.

14 Q. And so considering some of those challenges that are somewhat
15 unique to the area, has anything been done by the Coast Guard to
16 try and shorten the timeframe from notification to launch?

17 A. I don't know of anything the Coast Guard has done
18 deliberately to reduce that time. It really is a time constraint.
19 You can only push aircraft out of a hanger at a certain speed.
20 You can only go from one place to another to get weather to
21 facilitate a quick launch. I guess one big step forward is the
22 use of -- they're iPads. I forget what we called them, but
23 they're -- they have flight planning software on the iPads which
24 are connected via Wi-Fi to the air stations, so you can do some
25 weather planning on the iPad. You can go flying with that as

1 well, so you can get a better situational awareness picture of
2 where you are in space when you're flying than what the helicopter
3 typically gives you.

4 Q. And so kind of fast forwarding and moving towards the
5 incident itself with the *Scandies Rose*, can you talk to us about
6 what your role was in the incident?

7 A. Sure. I was the duty Search and Rescue mission coordinator
8 that night, which means if there's a SAR case for District 17 RAR,
9 then I would be making decisions.

10 Q. Did you maintain SAR mission coordinator throughout the case?

11 A. That case initially was taken by Sector Anchorage just due to
12 the location of it. Like I said earlier, the demarcation zone, if
13 you will, Sector Anchorage SAR zone to where the District 17 SAR
14 zone starts just south of Kodiak, it was pretty close to that
15 line. The commanding duty officer, when he called me to let me
16 know the case was going on, he said, yeah, it's in Sector
17 Anchorage's zone; it's pretty close to the D-17 zone, but Sector
18 Anchorage has got SMC on it. So, initially, it was Sector
19 Anchorage's case until we took it over a little bit later.

20 Q. Is that unique or does that happen often in AOR?

21 A. Well, it depends on where the case is. If it's clearly
22 inside one zone or the other, then that doesn't typically happen.
23 Other instances when it could happen is the complexity of the
24 case. Sector Anchorage has a complete staffed command center, as
25 does Sector Juneau. They're a little bit more junior; they're

1 petty officers or third and second class petty officers where the
2 District 17 command center is first class and chief petty
3 officers, as well as having a -- normally an officer as the CDO.
4 Their SMCs are very capable seasoned officers as well. Maybe not
5 quite as experienced as the District 17 SMCs.

6 District 17 SMCs, as well as myself, we had the GS-13 SAR
7 specialist. Typically, that's the one civilian that is an SMC, as
8 well as the O-6, and then others as necessary. So I think, during
9 that time, we had an O-5, my incident management assistant. He
10 was a qualified SMC, as well as the command center chief, I
11 believe, before he departed. So I guess that's just to say
12 there's -- there are times when District 17 will take over a case
13 from the SMC of the other sectors, but it's rare.

14 Q. Just to clarify, on the morning of the incident, do you
15 recall if the regional command center was staffed in compliance
16 with requirements for command centers?

17 A. As far as I know.

18 Q. And so, as SMC, how were you notified and briefed on the case
19 initially?

20 A. I think it was around 10 o'clock that night, the CDO called
21 me. I had just gone to bed for the evening. As soon as he said a
22 potential sinking case, I jumped out of bed, moved downstairs, and
23 logged onto my computer as I'm talking to him.

24 We have a situational awareness tool that the district
25 command center subscribes to that's actually through the Marine

1 Exchange of Alaska. It's called PACTRACS, and it's an AIS picture
2 of all the vessels that are emitting an AIS, automatic
3 identification signal, throughout the waters of Alaska. And so,
4 he told me that they had gotten the mayday call, what they thought
5 the position was from that scratchy HF radio transmission to
6 communications dispatch at Kodiak, and what the vessel name was.

7 So I went down, logged on my computer, and I saw that the
8 vessel had gone late, meaning that the signal from the AIS
9 transmitter was old. Typically, you get transmissions every
10 several minutes, but this had been about 20 minutes since the last
11 signal had been received. So, as I'm talking to the CDO,
12 commanding duty officer, I said, well, if this is Sector
13 Anchorage's case, make sure that they know they have an authorized
14 helicopter right now. There was no delay in that. And then I
15 kind of hung out and waited for his reply back, and that was a
16 little bit later on.

17 Q. At that point, just so we can clarify, so at that point that
18 you had got initial notification, at that point, you were not SMC
19 for the case? Is that correct?

20 A. Correct, I was SMC for the District 17 command center. The
21 SMC for this case was Sector Anchorage initially.

22 Q. Okay. Other than indicating that they had permission for an
23 aircraft, were there any other directions that you gave for them
24 to take specific action at the command center?

25 A. I don't recall at that time if I mentioned the C-130. It's

1 pretty important for anytime a helicopter goes a significant
2 distance that they have some sort of a cover. We call it a cover
3 because of the poor radio coverage we have in Alaska. We like to
4 send -- if it's a helicopter, they're typically operating low to
5 the water; therefore, their transmission range isn't very long and
6 kind of spotty communications with other methods as well. Like HF
7 from a helicopter is typically not as good as it would be from a
8 vessel. So we like to send a C-130 to kind of cover them, to take
9 the radio guard just to make sure everything's going okay, and if
10 something's not going okay, then the C-130 would be able to take
11 action, relay radio transmissions, things like that. Just makes
12 for a more smooth case, and it gives a certain comfort level for
13 the helicopter pilots. And I know that because I was one.

14 Q. And, from that point, can you take us through the rest --
15 kind of up -- you know, some of the rest of the morning, from when
16 you -- from the time you were notified, some of the -- kind of the
17 initial actions taken and then the follow-on brief that you may
18 have received, and then indicate any other communications you may
19 have had. Particularly, at some point, did you -- was it your
20 responsibility to brief it up as well?

21 A. Yeah. So, I don't remember how much time elapsed, but at
22 some point, it was determined that the case location was actually
23 in the District 17 AOR, and then I think Sector Anchorage wanted
24 to keep the case, but then it started to get a little bit more
25 complex. And there was no sector assigned assets that were going

1 to be prosecuting the case. It was too far south for the patrol
2 boats that are assigned to Anchorage, or any of the small boats,
3 for that matter, to be involved in the case. And we had the
4 Bering Sea cutter that was under the control of the District that
5 was just outside Unimak Pass, I believe.

6 At that point, the District decided and I think Sector
7 acknowledge that it was time to give the case up to the District.
8 And it was in our AOR anyway, so we took it over. At that point,
9 I got ready to go into work. I drove into work, and it was -- I
10 think it was around midnight. I know that, because as I'm driving
11 into work from my house, I see fireworks going off, and it was New
12 Year's Eve. So about midnight I showed up at the command center
13 after I had taken SMC just to make sure I had a good understanding
14 of the case and could make some decisions based upon information
15 in a timely manner.

16 Q. At the point that you got into the office, at that point, by
17 midnight, had any of the resources been launched and en route to
18 the scene?

19 A. So, when I had authorized the first helicopter, the first
20 H-60 to be launched through my CDO to the Sector Anchorage command
21 center, I think it launched about an hour and a half after that
22 launch notification happened. So I believe that was already
23 airborne en route by the time I got to the command center. I
24 think the C-130 was as well. I don't know when the C-130 launched
25 comparatively to the H-60, but I think the C-130 was also en route

1 to the scene, if not getting ready to launch.

2 Q. Once you got into the office, with one helo en route, can you
3 talk to us about what other resources were available to you or
4 being considered, and then any of the challenges that may have
5 been encountered with those resources at the time?

6 A. Yeah, the Coast Guard cutter *Mellon* was assigned to the
7 Bering Sea with their (indiscernible), so we knew that ahead of
8 time, always knowing where they are. So we directed them to
9 proceed to the scene even though it wasn't going to be an easy
10 journey for them to get there. It was going to be several,
11 several hours and some pretty snotty weather for them to even get
12 to the scene. So we directed the *Mellon* to proceed to that area.

13 We knew that the weather was really horrible. It was going
14 to be a delay for the C-130 to get there just because it was in
15 Anchorage and the ready crews would have to perform some pretty
16 significant risk management just due to the weather and nighttime
17 before they would be able to launch. There's no other resources
18 that were going to be able to get to scene, so we didn't even
19 consider a patrol boat out of Sector Anchorage's AOR or a small
20 boat from -- there's not one even within a day of that area
21 anyway, so it would have been useless.

22 We did look at the situational awareness picture and see what
23 other kind of boats were in the area using that AIS system,
24 PACTRACS, and I think there was one vessel just to the west that
25 was kind of tucked in. It looked like it was doing some weather

1 avoidance on its own. I believe they were contacted, and they
2 declined to assist just because of the environmental conditions
3 and the condition of that boat.

4 Q. Do you remember if that vessel had responded to initial
5 callouts via radio call or if there was other mechanism used to
6 contact them?

7 A. I think we ended up getting in touch with them from a
8 satellite phone, I believe. Like I said, the radio coverage for
9 VHF was non-existent in that area. They would have only been able
10 to hear the HF emergent marine information broadcast that was put
11 out by communication detachment Kodiak. I don't recall if they
12 answered that or not. I think we contacted them via SAT phone,
13 and they declined to assist.

14 Q. Okay. And as far as -- so talking about subsequent missions
15 and resource deployments, can you talk about the process, the
16 decision process and the timing of planning those subsequent
17 resource deployments for this case?

18 A. Yeah. It was going to be a challenge because it's about 190
19 miles away from Kodiak, so roughly two hours of flight time. And
20 an H-60 has about five hours worth of fuel, so two hours down, two
21 hours back, they got about an hour -- a little over an hour
22 probably on scene. So the helicopter search asset was going to be
23 significantly challenging to keep on scene. I mentioned earlier,
24 Kodiak has six H-60s assigned, but they have one helicopter crew
25 that's on recall or status to launch within 30 minutes. All the

1 other people and helicopters that are assigned to Kodiak are
2 assigned for other missions really.

3 So they try as hard as they can to muster up additional crews
4 as the case requires, but sometimes that's a challenge, because if
5 they're not identified in advance, then you don't know what you're
6 going to get. People might be out of town on leave or, you know,
7 out of cell phone coverage, could be out hiking, or -- you know,
8 there's just a litany of other reasons that would make it
9 challenging to recall additional crews. They were able to recall
10 a total of four -- I think a total of four aircrews flew on this
11 mission, so three recalled crews in addition to the ones that were
12 designated as the SAR standby.

13 The C-130s, similarly, there's five C-130s that are assigned
14 to Kodiak. They have longer legs, meaning they can stay on scene
15 for a longer time, but during this case, it was really challenging
16 for them to be any kind of a useful search asset just because of
17 low cloud ceilings and visibility, snow. I think they did break
18 through the clouds at one point to do a little bit of searching,
19 but by and large, they were looking at the radar and keeping a
20 good comms platform for the helicopters during their search
21 efforts.

22 Q. Were you aware of any mechanical or other specific challenges
23 for the resources that were being considered for this mission?

24 A. I think one of the helicopters, during the second or third
25 search, had to return to base a little early because of APU

1 failure; that's the component that provides a little bit more
2 power for auxiliary components, like heat, like blade de-icing,
3 like engine de-icing. So without that in those conditions, the
4 risk is elevated a little bit more, and I think the helicopter got
5 aircraft commander to determine that he was going to return with
6 that maintenance problem.

7 As far as the other constraints, I don't think there were
8 any. I think they had to fuel the helicopter a little bit more
9 just given the fact that it's so far away from Kodiak at the
10 on-scene distress location, so they put more fuel in the tanks
11 than -- they typically would not fully fuel the aircraft if there
12 was a case closer to Kodiak because you need that power reserve in
13 order to hover, and it takes less power if you have less weight on
14 board to hover than a fully max gross weighted helicopter. So
15 they had to put more fuel in the tanks, and that induced a little
16 bit of a delay on the initial launch.

17 Q. Earlier you had mentioned the use of the Coast Guard cutter
18 *Mellon* and routing them towards the scene. In terms of aircraft
19 and deployed aircraft, do you remember if there happened to be
20 deployed aircraft on board the *Mellon* at the time?

21 A. I believe there was, and that would be the H-65 -- it's
22 called an Alaska Patroller, ALPAT for short. Typically, those
23 helicopters are assigned to the Bering Sea cutter just to -- kind
24 of as a force multiplier for the cutter. I believe they were
25 sheltering -- the *Mellon* was sheltering in Beaver Inlet, which is

1 right around the corner from Dutch Harbor where they would go for
2 logistics. They typically do that to kind of get out of the
3 weather that rolls through during those periods of time in the
4 wintertime.

5 But there's no way that they could get within launch
6 parameters to launch the helicopter from the flight deck of the
7 *Mellon* given the conditions they were in, and especially
8 transiting to the scene. They were so far away, that helicopter
9 wouldn't have been useful anyway. It doesn't have the same
10 endurance as an H-60 does. Typically you get 2-1/2 hours max of
11 flight time out of an H-65, even less when it's deploying from a
12 cutter, because you can't carry as much fuel because you have to
13 be lighter in order to launch. But in those conditions, the pitch
14 and roll limitations that are assigned to the helicopter and the
15 cutter combination would've prevented that helicopter from
16 launching when it got close enough to even search.

17 Q. Okay. And then all those multiple resources are en route
18 once they've been assigned and deployed to the area. What kind of
19 work is being done in the command center from other staff or
20 yourself at that point?

21 A. So they'd be looking into additional search patterns for when
22 the current one is completed, gathering information during that
23 time. If they have on-scene conditions, they would update the
24 SAROPS, the computer program that we use to plan the search; they
25 would be doing that. Just any kind of evidence that was gathered

1 from the scene; if they located anything in the water, like
2 flotsam, a raft, they would be looking to deploy a self-locating
3 data marker buoy, which simulates drift for either a person in the
4 water or other objects in the water, and that's connected to a
5 satellite that gives the GPS location every now and then to show
6 what the drift pattern looks like. So I think there was one, or
7 maybe two of those were deployed during this case. I think one of
8 them failed, I think. It didn't provide any useful information,
9 so we had to deploy a different one. All of this information is
10 gathered and then inputted into the SAROPS tool to determine what
11 the next location or the search pattern is going to be.

12 Q. Do you remember what the planners were using as search
13 targets for their inputs during the initial phases?

14 A. Well, maybe during the initial phase, it would have been a
15 swamped, capsized vessel. But when we were pretty certain the
16 vessel did sink, then we shifted from that to persons in the water
17 and also rafts. I think those were our two search objects we
18 focused on.

19 Q. And then once the liferafts were located and the two
20 survivors were lifted, how does the plan change for extended
21 searches and development and planning?

22 A. Well, if we can talk to the survivors, that's the most
23 important piece of information we can get. I think we did shortly
24 after they landed back in Kodiak, we got a survivor debrief. We
25 like to do that just to have the most accurate information in

1 order for deploying subsequent searches. And with that
2 information, I think Mr. Lawler and Mr. Gribble had mentioned that
3 they both got into their survival suits and they were kind of
4 hanging out on the boat -- hanging, that was a bad word. But they
5 were grappling with the boat until they could no longer do that,
6 and they watched the boat sink down beneath them, and they didn't
7 see anybody else come out. So, from that point, when we knew that
8 they were rescued from a liferaft and the other liferaft was
9 empty, we shifted to persons in the water searches for the
10 following -- for subsequent searches.

11 Q. Can you talk to us about what's considered and how the Coast
12 Guard proceeds when the searches don't reveal anything? So, when
13 they're up and the search pattern doesn't reveal anything, how the
14 Coast Guard proceeds from that point?

15 A. Well, every search has got to end, right? You can't keep
16 searching forever because there's just not infinite resources out
17 there. Plus, there's a certain amount of time that you would
18 expect somebody who's missing to still be save-able. We have
19 tools that are available to us that tell will us that, and
20 survivability time is one of them. So you kind of plan your
21 search for beyond what you would expect somebody to survive in the
22 water because there's factors that go into being able to survive a
23 little bit longer if their (indiscernible). So you're kind of --
24 you're in it for the time period that you expect to find somebody
25 that is still alive. In this case, I think it was 13 hours or so,

1 a little bit more than that, that there would be somebody expected
2 to be able to survive in that environment. We planned it out -- I
3 think we ended up searching 19 hours or something like that.

4 But every search pattern subsequent to the one that you just
5 completed, you've got a bigger field to cover because items in the
6 water tend to dissipate from their location, especially with some
7 of the conditions that were present that night with the high winds
8 and heavy seas, that tends to disperse search objects in the
9 water. So you're going from a small search area, relatively, when
10 it first happens, to a very, very large search area over time. So
11 you've got to cover more water for the subsequent searches than
12 the previous.

13 And if you can get information, like if the survivors said
14 there was a specific -- if they told us there was five liferafts,
15 we would've kept searching for the additional three that we didn't
16 find. If there was an EPIRB in the water, that would have been
17 great information to help us nail down our search pattern. But I
18 don't think that EPIRB was ever located. It didn't activate, so
19 we didn't have that valuable piece of information available to us.

20 Q. With this case, do you recall when the families had been
21 contacted by the Coast Guard or what that process normally is for
22 the Coast Guard to reach out to families?

23 A. That would -- one of the main objectives coming in the
24 command center early was to take that burden off of the guys that
25 were actually (indiscernible) the search, the CDO and OUs (ph.).

1 I think, after we had recovered the two survivors, I had -- I
2 can't remember if it was before or after, we got in touch with the
3 vessel owner, and I did all the next of kin interactions, whether
4 it be for the two survivors or the five that remained unlocated.

5 I got the initial list from the fishing company. I think it
6 was Gelia Cooper. I think, when I initially called her, she was
7 camping or something, so she didn't have any of that information
8 available to her, so she made her way to the office or wherever
9 she had her records. And then she gave me -- she actually gave me
10 the forms the crewmembers are required to fill out for next of kin
11 or emergency contact information. And so, from that, we had names
12 and we had phone numbers for the missing crew of who they wanted
13 us to contact in case of an emergency. That's what we used as a
14 basis for a next of kin notifications.

15 After the two survivors were located and we had that next of
16 kin information available to us, and before any press releases
17 with any kind of specific information, I had -- it was very
18 important for me to call all of the next of kin just to let them
19 know what's happening. I did that early on in the case, and then
20 several times during the case, I would provide updates via
21 telephone for all of them.

22 Q. As the case progressed and had more media interest, more
23 family and friends becoming involved, is there a way the Coast
24 Guard managed that?

25 A. They have press releases, you know, public affairs guidance

1 on that. Typically, you don't want anything in the press to
2 surprise any of the people that are involved in the case, so
3 that's why we say we withheld information from the press until we
4 could make positive contact with all of the next of kin of the
5 crew, the five -- the seven crew, actually, because I talked to
6 next of kin for the two survivors as well. I would talk to them
7 personally before there was anything that was going out to --
8 being released to the general public via press release.

9 Q. Can you walk us through the process that the Coast Guard
10 used, particularly in this case, to prepare for that suspension of
11 search efforts towards the end?

12 A. Sure. So, after that initial search, we found the two
13 survivors, and they gave us information in the case that they
14 didn't see anybody else leave the boat, we knew we kind of had a
15 challenge in front of us of for finding any of the remaining five
16 people. We do the PSDA model, primary search decision aid, which
17 is embedded within the Coast Guard's SAROPS program. Basically
18 that tells you what the survivability time is and also -- I forgot
19 the term for it, but it's the ability for someone to help with in
20 their own rescue. Those numbers were indicating survivability
21 time around 13 hours or so, so we knew we had 13 hours from the
22 time we confirmed that the *Scandies Rose* went down to find
23 anybody. Those 13 hours came pretty quick, and we ended up -- I
24 think we went six hours beyond that, something like that. But all
25 of that information was fed to the SAR coordinator.

1 For active search suspension authority for a missing person,
2 we know a missing person -- a person in the water, that is not
3 delegated to an SMC with ASSA authority; that goes right from
4 Admiral Bell who is the SAR coordinator for District 17. He makes
5 those decisions for missing persons, nobody else. So, early on in
6 the case, I provided him -- well, several briefs throughout the
7 case, just to kind of keep him updated on significant happenings,
8 significant search efforts, and then also just kind of keeping him
9 updated as far as what we're finding, the timelines for the PSDA
10 model, the weather on scene, what the search assets are
11 considering, next of kin interactions, things like that. I would
12 let him know that throughout the case.

13 And when it was getting close, past the PSDA time, about
14 13-1/2 hours or so, we had to start letting him know this might be
15 fruitless at this point to find anybody else in the water. Given
16 the hazardous conditions for flying, for the folks that are
17 actually looking for the people, it might be something to consider
18 sooner than later. So I think we briefed him -- one of the final
19 briefs before the active search suspension brief was, hey, if we
20 don't find anything before -- I think sunset was the magic time,
21 then we would like to ask for you to suspend the search. And
22 that's kind of how it went.

23 I had to talk to the next of kin, all the next of kin as well
24 just to let them know that was the plan as well, so they would not
25 -- they would hear from me that we were going to suspend the

1 search before we would actually suspend the search, and we would
2 take any input that they had.

3 Q. Do family members normally play a role in helping to
4 determine or coming to that decision for the suspension? Is there
5 a role the family members play?

6 A. Well, part of my responsibility as SMC is to communicate with
7 them effectively and often and kind of have me be their sounding
8 board. Typically, it's not a pleasant experience to tell you the
9 truth. It is very difficult to call somebody on the phone, you
10 can't even have a one-on-one conversation, just like we are right
11 now even. This Zoom wasn't alive back a year-and-a-half ago that
12 I can remember. Everybody telephonically, you don't know what
13 their emotions are. If you can see somebody and sit on the couch
14 with them and tell them the bad news that you're telling them in
15 person, I think it's much better for that person to hear than on
16 the phone. But I was restricted by a telephone conversation.

17 They would let me know things, like he's a fighter or maybe
18 he's got a heart condition, or something like that. I don't
19 remember any of those kind of factors weighing into this. But if
20 the next of kind could give me information that would lead me to
21 believe that maybe they did beat the odds or maybe they can
22 survive past whatever the PSDA models say, then we would certainly
23 take that into account. If there's more information, then we can
24 even reopen the case after we suspend it. But there was none of
25 those factors that weighed into this case.

1 Q. Once this case was complete, suspension was issued, do you
2 recall at any point if there was a case review that was called
3 for?

4 A. Yes, (indiscernible) asked for a case review, and I think the
5 Deputy Sector commander for Sector Juneau completed that shortly
6 after -- a couple months after the suspension.

7 Q. Do you recall if there were any recommendations from that
8 case review, particularly any that may have been acted on since?

9 A. Well, I think Commander (Indiscernible) recommendations were
10 for the Coast Guard to take a look at the assets that are assigned
11 to District 17's AOR, including Air Station Kodiak's helicopter
12 complement. I think he recommended that all the command centers
13 review his case study for lessons learned, kind of top to bottom
14 review of the whole case, which (indiscernible), everybody should
15 hot wash the case, especially if it is as complex as the *Scandies*
16 *Rose* case was. I don't remember any other recommendations he gave
17 beyond that.

18 CAPT CALLAGHAN: Okay. Well, sir, I really appreciate your
19 time this morning. At this point, that concludes the questions I
20 had prepared for you. I'm going to now turn it over to my
21 colleagues at the National Transportation Safety Board to see if
22 they have any questions for you.

23 THE WITNESS: Okay.

24 CAPT CALLAGHAN: Mr. Barnum?

25 MR. BARNUM: Thank you, Mr. Hollingsworth. I really

1 appreciate your testimony and, obviously, the work you did on this
2 particular accident case and your team there, so thank you. I
3 have no questions. I believe my colleague does.

4 MR. SUFFERN: Yeah, thank you.

5 BY MR. SUFFERN:

6 Q. Good morning, Mr. Hollingsworth. I appreciate your time, as
7 my colleague Bart mentioned. I do have a couple of quick
8 questions regarding the weather information that you mentioned
9 that was being able to be viewed on the iPads or electronic flight
10 bags, EFBs. Do you know what specific application -- weather
11 applications those are?

12 A. I know what the flight (indiscernible) looks like, but I
13 can't come up with a name for some reason. It's FlightAware --
14 no, that's a flight tracking software. I can't remember. It's
15 Coast Guard wide; it's mandated to be used by every pilot. It's
16 installed on the EFBs, and thanks for reminding me of that. But
17 it's pretty powerful. It's used in the civilian aviation industry
18 as well. It's pretty extensive. Depending on if -- if it's got a
19 satellite linked, then you can get real time weather on it. I
20 don't know that the Coast Guard has gone that far yet. It's been
21 a little while since I've been in the cockpit to have an EFB
22 assigned to me, but I think they were getting to that point. It
23 provides a pretty robust flight planning suite, especially in
24 airplanes and helicopters that don't have such a good situational
25 awareness tool available to them. Like the H-60 had -- the Tango

1 model had a pretty good suite of situational awareness tools,
2 moving maps, things like that that are kind of industry standard
3 in the civilian aviation world.

4 Q. Would that application be ForeFlight?

5 A. Yep, that's it.

6 Q. Okay, thank you. You were just mentioning, so once they take
7 off, they don't have any updated weather information via that
8 application?

9 A. I can't recall if they did at that time or not. I think the
10 Coast Guard is moving in that direction via satellite antennae
11 they they install in the actual aircraft to be able to receive
12 that information from satellite providers, but I don't recall if
13 they had it at that point or not.

14 Q. And then, as far as what are other ways they can -- I mean,
15 obviously, the weather is changing all the time. What other ways
16 while en route or on the way back do pilots receive updated
17 weather information?

18 A. Well, if they have an FAA facility that's within range of
19 radio signal, they can call for updates. The C-130 flying
20 overhead is a very important information piece for a helicopter
21 that's flying a little bit lower, because they have far range --
22 further range for their radio signals. They can get a link back
23 to the operations duty officer's desk who is sitting in front of
24 the computer. They can help with that area. There's not a whole
25 lot of weather (indiscernible) available actually throughout the

1 zone south of Kodiak Islands. It's basically NOAA, National
2 Weather Service, and giving it their best guess based upon the
3 information that they have. Nothing knocking against them, but
4 they have -- it's very difficult to forecast weather in Alaska.

5 Q. As far as the weather information that you wish you have, is
6 there something that you wish that was available there that is not
7 available at this point?

8 A. Part of my job here actually is we have not only the AIS
9 receivers and transmitters, but we're also putting up weather
10 stations throughout coastal Alaska. I think we have about 57 of
11 them now. They will broadcast whatever weather is on that site
12 through the AIS transmitters. So, if you have an AIS system on
13 your boat, you can receive that weather, and we're expanding that
14 capability. So NOAA has several of those, FAA has several of
15 those. FAA has weather cams as well, which are commonly used in
16 the aviation community to determine if you're going to hazard into
17 that weather. You know, it's -- I think it's getting better.
18 From the time that I was first stationed at Kodiak to now, I think
19 there's more available resources to look at weather patterns now
20 than there was even ten years ago. But you can never have too
21 much information, that's for sure. Just getting to the point
22 where it's ubiquitous would be -- maybe never, maybe never going
23 to get there.

24 Q. Circling back, what you mentioned earlier as far as if
25 they're within range of an FAA facility, for that you were talking

1 about Alaska Flight Service?

2 A. Yeah, that sort of station, yes.

3 Q. And then, one last question as it pertains to the risk
4 assessment and the weather conditions that are reviewed at that
5 particular point, can you kind of step me through what weather is
6 reviewed for said risk assessment and is it kind of color coded or
7 scored based on IFR, VFR, snow versus rain? Could you step me
8 through that?

9 A. Yeah, they -- my knowledge of how they're doing it now may be
10 dated, but they would have the GAR score, green, amber, red score.
11 Not only the weather, but crew fatigue would play into it. The
12 weather is a major factor in determining what the risk is for that
13 -- whatever particular mission. The complexity of the mission is
14 another one. So the weather, I mean, they would look at ceiling
15 and visibility certainly, they'd look at icing level, freezing
16 level. They would look at if there is -- what is reducing the
17 visibility? Is it snow or volcanic ash? Is it just clouds, fog,
18 thinks like that?

19 And you have to pass a certain threshold before you can be
20 allowed to launch. The commanding officer, at some point -- or
21 the operations officer has to weigh in, if the weather is bad
22 enough, to authorize a launch, unless it's acceptable by what the
23 training standards are. So I'd say probably the major factor in
24 determining the -- whatever the risk is for that mission is the
25 weather.

1 MR. SUFFERN: Okay. Thank you very much for your time, sir.
2 That's all the questions I have.

3 CAPT CALLAGHAN: Thank you.

4 At this time, sir, I'm going to pass it to counsel
5 representing the two survivors, Mr. Stacey.

6 MR. STACEY: Thank you, Captain Callaghan.

7 Good morning, Captain Hollingsworth. Can you hear me okay,
8 sir?

9 THE WITNESS: Yes, sir, good morning.

10 MR. STACEY: Perfect. I'm not sure if you had a chance to
11 watch the testimony of Mr. John Lawler or Mr. Dean Gribble, but I
12 want to echo their thanks to you and your team. John talked about
13 how hearing the helicopter was one of the best sounds he's heard
14 in his entire life, and so I want to pass along their thanks to
15 you and your entire team for getting them out of the water and
16 getting them safe. So thank you very much, sir.

17 THE WITNESS: You're welcome. I did watch Mr. Lawler's
18 testimony, and it was heartbreaking, to tell you the truth. So I
19 appreciate his thoughts as well.

20 MR. STACEY: Perfect.

21 Captain Callaghan, I don't have any questions.

22 CAPT CALLAGHAN: Thank you, Mr. Stacey.

23 And now, to counsel representing the vessel owners,
24 Mr. Barcott.

25 MR. BARCOTT: Good morning, Captain Hollingsworth. Can you

1 hear me all right?

2 THE WITNESS: Good morning. I can hear you.

3 MR. BARCOTT: I just want to, on behalf of *Scandies Rose*,
4 echo what Mr. Stacey said. The work you did in support of this
5 mission was extraordinary, saved two people. And thank you for
6 your work generally in support of the Alaska fishing industry,
7 both with the Coast Guard and now with the Exchange, so thank you.

8 I don't have any questions, Captain.

9 THE WITNESS: Thank you.

10 CAPT CALLAGHAN: Thank you, Mr. Barcott.

11 Captain Hollingsworth, we have a couple follow-on questions
12 from the Coast Guard. First, from Mr. Keith Fawcett.

13 BY MR. FAWCETT:

14 Q. Good morning, Captain. My name is Keith Fawcett. If you
15 could, for the public, just briefly explain what a self-locating
16 data marker is.

17 A. Sure. When I first started flying helicopters, we had this
18 data marker buoy, and it's -- it looks like a little missile.
19 It's about yea long and it's orange, it's got fins in the back and
20 it's got a pointy end. It's got inside of it a radio transmitter
21 and an antenna that attaches to the tail end. The fins part of it
22 is like Styrofoam type of a material that will float. So, in the
23 water, the fins float up and the antenna goes up.

24 It emits a radio signal, and it's on a certain frequency that
25 an aircraft can direction find. It doesn't emit a GPS location.

1 It's simply just a radio beacon. So you put it in the water early
2 in the case, and then a certain time elapses, you'll find it
3 again, and you hone in on it by that signal it's emitting. And
4 then, when you're right on top of it, you mark the location. You
5 mark the location where you put it in, you mark the location where
6 you found it at a certain time later, and then you can determine
7 drift direction and speed from that information.

8 It is a pretty time consuming and onerous method of
9 determining drifts. So the Coast Guard knew that, and we had
10 technology available to us, so they employed this thing called a
11 SLDMB, or a self-locating data marker buoy. It's a little larger
12 than the data marker buoy was, but it also more closely models
13 drift. It has fins that deploy once it hits the water that models
14 a person in the water. So, once it's submerged, it has like a
15 fabric fin type of situation where it expands when it's in the
16 water and it drifts along with the water.

17 Anyway, it's got antenna as well, but it also has embedded
18 GPS inside of it, so the signal it emits is picked up by
19 satellites, and that information is fed into the Search and Rescue
20 optimal planning system that the Coast Guard uses to plan for
21 searches. It takes the searching for the data marker buoy out of
22 it. You deploy it in the water, and it's supposed to start
23 transmitting within a few minutes, and then it will be evident in
24 the command center that it is transmitting, and then you get
25 updates throughout its lifetime, which can be days, I think. And

1 you can use that information to update your planning software.

2 Q. So, in your testimony, you said one of the two marker buoys
3 that were deployed failed, is that correct?

4 A. I think that was the case. They have a suspect track record
5 for deploying, and that can be for many reasons. If you're
6 throwing it out of a C-130 or going 200 knots, when it hits the
7 water, sometimes it doesn't survive that initial entry. Other
8 things like -- I don't know, it's just -- it's a violent entry
9 into the water no matter how fast you're going deploying that
10 thing. Sometimes they don't survive and sometimes they do. We
11 typically plan for that though. The C-130s will fly with two if
12 not more of those, just planning for the eventuality. Helicopters
13 -- I think the H-60 flies around with one if not two, just knowing
14 that they have a suspect rate of survival.

15 Q. So, in 2015, the steamship *El Faro* sank with the loss of 33
16 sailors, and, at the end of the Marine Board, we recommended that
17 the marker buoys be upgraded to improve their reliability. Do you
18 have any idea when the last time these marker buoys were upgraded
19 to improve their reliability?

20 A. I know that they were at some point. The initial first
21 models were horrible. They had failure rates that were just poor.
22 And I know they have upgraded them, but I don't know when the last
23 time they have.

24 MR. FAWCETT: Okay, thank you, Captain. We'll follow up
25 later this afternoon. We have the SAR program manager from

1 headquarters, and he might have that information. Thank you, sir.

2 THE WITNESS: You're welcome.

3 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

4 Commander Denny?

5 CDR DENNY: Thanks, Captain.

6 Good morning, Captain. Thank you for speaking with us today.

7 I just have some questions based on your earlier testimony when
8 you described, you know, some of the challenges that Search and
9 Rescue assets could have. Is there anything that you think could
10 be done to improve the infrastructure at either Anchorage or
11 Kodiak to improve the response time, the launch time in adverse
12 weather so that the assets could more closely meet the time
13 standards for B-0, which was 30 minutes I believe you said?

14 THE WITNESS: Well, that air station was handed down to us
15 from the Navy back in the end of World War II, and both of the
16 hangers, I think, have been constructed since then by the Coast
17 Guard. One of them was handed down to us by the Navy. The
18 airport itself, the runways were legacy, and they have three
19 runways that they can use, but sometimes due to the length of some
20 runways and the direction of the winds, there's nothing you can
21 do. Maybe you can ask Mother Nature to cooperate with you. I
22 just don't think that there's anything that we could build that
23 would help improve that response posture, no.

24 CDR DENNY: Okay, thank you, sir. That's all my questions.

25 CAPT CALLAGHAN: Thank you very much, Captain Hollingsworth.

1 So, without any more questions, I do -- would like -- would be
2 interested, from your perspective and recognizing that you may or
3 may not have been following since the beginning of the hearing,
4 but particularly with relation to the Coast Guard activities that
5 we've focused on so far, is there anything that we should be
6 considering as part of this hearing that we haven't yet or that we
7 haven't discussed this morning?

8 THE WITNESS: I think communications in Alaska is
9 challenging, and I think there's steps that could be taken to
10 improve that. We're focused on VHF FM radio transmissions, and I
11 think that's good, but there are other methods out there to
12 communicate with both mariners and aviation assets. I think
13 ADS-B, which is a monitoring aircraft, that's a good technology
14 going forward. I think, you know, in my current job, I see the
15 value of the automatic identification system. That's developing
16 over time as well. (Indiscernible) the transmission function of
17 that technology, that's going to be a very large step forward in
18 getting mariners situational awareness of weather, of any number
19 of things.

20 I mean, there's legacy Notice to Airmen and Notice to
21 Mariners that are published, and it's digital now, but it's kind
22 of a yesterday's technology. There's technology out there to help
23 improve situational awareness and safety, but I think it's -- some
24 of it can be expensive, but I don't know if you can place a value
25 on what it provides, especially looking back at the *Scandies Rose*

1 case. In Alaska, the communication is just not where it should
2 be, I believe.

3 CAPT CALLAGHAN: Thank you for that. And, sir, so in
4 closing, I do want to take the opportunity on behalf of the Board
5 and on behalf of the Coast Guard, not only thank you for your
6 service in this case and the efforts you and your team pursued to
7 do the best that we could, but for your active duty service and
8 your continued service in the maritime community, as mentioned
9 before, in your current role. Thank you for that and, certainly,
10 thank you for your time and testimony this morning.

11 THE WITNESS: You're welcome.

12 CAPT CALLAGHAN: At this point, you're now released as a
13 witness at this formal hearing. Thank you again for your
14 testimony and cooperation. If I determine this Board needs
15 additional information from you, we will contact you through
16 counsel. If you have any questions about this investigation, you
17 may contact the investigation recorder, Lieutenant Ian McPhillips.

18 Thank you again, sir.

19 THE WITNESS: You're welcome. Thank you.

20 (Witness excused.)

21 CAPT CALLAGHAN: The time is now 0934. Our next witness is
22 currently scheduled for 1030. If we are able to begin sooner, we
23 will update the time displayed on livestream. Until then, this
24 hearing will now go into recess.

25 (Off the record at 9:34 a.m.)

1 (On the record at 10:00 a.m.)

2 CAPT CALLAGHAN: The time is now 1000. This hearing's now
3 back in session. We will now hear from Lieutenant Chris Clark.

4 Lieutenant Clark, Lieutenant McPhillips will now administer
5 the oath and ask you some preliminary questions.

6 LT McPHILLIPS: Please stand and raise your right hand.

7 (Whereupon,

8 CHRISTOPHER CLARK

9 was called as a witness and, after being first duly sworn, was
10 examined and testified as follows:)

11 LT McPHILLIPS: Please be seated. Please state your full
12 name and spell your last name.

13 THE WITNESS: Christopher Clark, C-l-a-r-k.

14 LT McPHILLIPS: Please identify counsel or representative, if
15 present.

16 THE WITNESS: It's Lieutenant Commander Matthew Pecoske.

17 LT McPHILLIPS: Counsel, please state and spell your last
18 name, as well as your firm or company relationship.

19 LCDR PEKOSKE: Lieutenant Commander Matthew Pecoske,
20 P-e-k-o-s-k-e, Coast Guard Judge Advocate and witness counsel to
21 Lieutenant Chris Clark.

22 LT McPHILLIPS: Thank you, sir.

23 Lieutenant Clark, please tell us, what is your current
24 employment and position?

25 THE WITNESS: I'm currently a MH-60 pilot at Kodiak, Alaska.

1 LT McPHILLIPS: What are your general responsibilities in
2 that job?

3 THE WITNESS: Well, I'm an Alaska aircraft commander, so I'm
4 basically -- I fly the missions that Kodiak has for H-60 pilots.
5 And I'm a PIC, so I can command -- I'll be the pilot in command on
6 SAR missions and other various missions that we do here.

7 LT McPHILLIPS: Can you briefly tell us your relevant work
8 history?

9 THE WITNESS: So I -- in 2005, I applied to the Academy,
10 didn't get in, went to a prep school for the Academy at Marion
11 Military Institute, then went to the Academy after that.
12 Graduated in 2010 where I got stationed on Coast Guard cutter
13 *Dependable* out of Cape May for about a year and a half until I got
14 -- went to Naval Flight School in Pensacola for about two years.
15 January 2014, I got to Air Station Elizabeth City for my first air
16 station. Did four and a half years there, and then I got
17 stationed in Kodiak, Alaska, in 2018 until present.

18 LT McPHILLIPS: Do you hold any professional licenses or
19 certificates related to your position? Please explain if so.

20 THE WITNESS: I am a -- well, I'm a Alaska aircraft commander
21 and then outside, I've got a commercial pilot and airline
22 transport pilot, and I think that's about it.

23 LT McPHILLIPS: Thank you, Lieutenant. Captain Callaghan
24 will have some follow-up questions for you.

25 THE WITNESS: All right.

1 CAPT CALLAGHAN: Okay. Good morning, Lieutenant Clark. At
2 this time, I'm going to pass you over to Lieutenant Commander
3 Comerford for a couple of questions.

4 Lieutenant Commander Comerford?

5 EXAMINATION OF CHRISTOPHER CLARK

6 BY LCDR COMERFORD:

7 Q. Good morning, Mr. Clark. Can you hear me pretty well?

8 A. I hear you well.

9 Q. All right. So this morning, all my questions are going to be
10 related to the Search and Rescue operation for the *Scandies Rose*
11 New Year's Eve and Day. First off, thank you for being on the
12 line with us today and attending this hearing virtually.

13 A. You're welcome.

14 Q. If at any point we ask any question that you don't understand
15 or if you have problems hearing because of technological issues,
16 please don't hesitate to say so. I will repeat or rephrase the
17 question.

18 A. All right.

19 Q. All right. Our time here this morning is relatively short,
20 but if you need a break, please let us know.

21 A. All right.

22 Q. Using the Zoom platform, we do have the ability to share
23 exhibits with you virtually. The recorder, Lieutenant McPhillips,
24 will put any necessary exhibits up on your virtual desktop. If at
25 any point you need to point something out on an exhibit, do so

1 verbally to the best of your ability, and Lieutenant McPhillips
2 may highlight the described area for the benefit of the Board and
3 the livestream audience. If he does so and the area he indicates
4 is a little off or needs to be adjusted, please let us know. If
5 any of our exhibits are used, please take time to refresh your
6 memory or acquaint yourself with the information as we bring it
7 up.

8 First off, Lieutenant Clark, any questions?

9 A. Not at this time.

10 Q. All right. Okay. So first off, were you a pilot for the
11 airframe that rescued the crew and survivors of the *Scandies Rose*?

12 A. Yes.

13 Q. Okay. So in a minute, I'm going to ask you to share your
14 story of this event. I'll ask you to do your best to avoid using
15 acronyms and encourage that you use as much plain language as
16 possible for the benefit of the public.

17 I understand that we're a little bit limited on time, but in
18 telling your story, I would really ask you to describe or comment
19 on some of the following things: first, weather en route, weather
20 on scene, and weather during the return trip. Being eyes on
21 scene, you have a lot of good perspective that we can gain. I
22 would love to hear about the quality of communications throughout
23 the Search and Rescue effort, your on-scene observations, the
24 rescue operation itself, the challenges you faced, and any other
25 information that you think is pertinent to this Board. So, when

1 you're ready, please start from taking off in the air from Kodiak
2 and share your story.

3 A. Okay. So yeah, once we, you know, once we got the final
4 launch approval, we ended up -- I'm assuming straight from the
5 launch, you said?

6 Q. (Non-verbal response.)

7 A. Okay. Yeah, so we departed Kodiak. After doing a lot of
8 planning, we knew we didn't have a lot of time on scene, so we had
9 to kind of put a lot of time and thought into how we were going to
10 get there. So we chose to go to the north side of the island
11 where we took the Shelikof Strait basically to the on-scene
12 position.

13 We were anticipating bad weather, but I think it ended up
14 being a lot worse than what we thought right off the bat. Once we
15 got to the other side of the island we immediately got into about
16 300-foot ceilings and a half a mile to no visibility where we had
17 to fly the aircraft between islands to get to the Shelikof Strait
18 where -- with the headwinds and the winds that are with the
19 terrain causes severe turbulence. So I think this was the most
20 challenging flight of my career just getting out there.

21 We were hitting multiple downdrafts and the turbulent air,
22 took both pilots at times to keep the aircraft basically flying.
23 We try to fly our max specific range. That is the airspeed that
24 gets us the most distance for unit of fuel. En route, at times,
25 due to the severe turbulence, we had to slow up a couple of times

1 just because it was too severe that we were having trouble keeping
2 control of the aircrafts.

3 And then, en route, we basically -- it felt like we were on
4 our own a lot due to the being low, and that side of the island
5 with comms, there was times where we could just barely get a guard
6 out to give our position. We were using channel -- VHF channel
7 16. Even that was hard to get in contact with anybody. So we
8 were kind of on our own trying to come up with a plan for once we
9 got on scene.

10 We had the search action plan, so we knew we had a search box
11 that we had already programmed in and knew that we were not going
12 to be able to complete that search due to our fuel. So we were
13 kind of coming up with a plan as well as to, once we got on scene,
14 how we were going to optimize our time. And I think we were going
15 to try to cover that box as much we could based on basically what
16 we had, and we were probably going to have to shorten the legs or
17 maybe increase the track spacing just so we can cover more of that
18 box.

19 We were kind of thinking -- like plan how we were going to do
20 that, and we started discussing, you know, like our plans of if we
21 found people, how -- we were kind of talking about hoisting and
22 how we would do it with the weather. And so, once we got on
23 scene, it was -- I mean, the entire way out there, we were
24 probably at 200 feet because that was -- gave us at least where we
25 could see the water below us. It was blowing snow, turbulent the

1 whole way, so we were on instruments inside.

2 Again, usually I was in the left seat, which is just kind of
3 a common practice for the Alaska aircraft commander PIC so that
4 they can manage the overall flight where the right seat pilot does
5 the flying. And then, so I was doing a lot fuel planning, route
6 planning, kind of coming up with like what we were going to do
7 once we got there and how we were going to get back and using
8 basically the fuel, like because it -- on the -- or in the
9 helicopter, we have a computer that will -- it's pretty accurate
10 with what you -- with what -- the winds you plug into it and the
11 route and your planned air speed. It'll -- it's pretty accurate
12 with like kind of giving you an idea of where your fuel will be in
13 the future. So you can plug in multiple routes and kind of see
14 what is going to give you the best fuel options.

15 So once we got on scene, it was like the weather miraculously
16 opened up to about two miles, and we were flying towards the box,
17 and we were under night-vision goggles the entire time, which is
18 probably the only way we spotted the -- what looked like a
19 flashing light at the time. It was actually the rafts going above
20 and below the waves. So we flew towards that light, figured that
21 was our best option at the time, and as we were getting closer, we
22 were able to confirm that it was a raft, so we immediately went
23 into rescue phase. We started going through our checklists
24 quickly, and we made our approach to that raft.

25 And so we -- in a 60-foot hover, we were able to center out

1 our VSI, which is a vertical speed indicator, so it just basically
2 tells you how fast you're climbing or descending, and you can use
3 your radar altimeter, which shows the distance to the surface
4 below you. And we were getting excursions of 30-plus feet, which
5 is why we knew the seas were at least 30 feet. And then just with
6 the turbulence and the wind, it -- like my duties as the PIC in
7 the left seat where I'm managing the flight went to all safety
8 pilot, so I was on the controls with the other pilot as we were
9 trying to maintain a hover. With the blowing snow, we had to
10 secure the lights, so we couldn't -- so we could at least try to
11 maintain somewhat of a stable hover over the raft.

12 So we went through our checklist, and we kind of came up with
13 a plan of how we were going to use the rescue swimmer, but we were
14 going to keep him on the hook just because of fear of being able
15 to get him back due to the seas below and just not being able to
16 see. So we chose to do that, sent the rescue swimmer down, and as
17 he was down, he was able to signal up to the flight mechanic who
18 was operating the hoists that there was nobody in the raft. So I
19 know we felt a little deflated at the time.

20 And as we brought the swimmer up, the pilot in the right seat
21 who was flying happened to see under his night-vision goggles a
22 waving light, and it was definitely not like the normal blinking
23 light. It was a side-to-side, so we knew it was somebody trying
24 to signal us. So we quickly got the rescue swimmer back up into
25 the helicopter, and we kind of like had the flight mechanic, you

1 know, brief the swimmer on what we were doing, what we saw. And
2 at that time, the -- even the flight mechanic was saying that he
3 had to de-ice the rescue swimmer. It was so cold that the rescue
4 swimmer, just from going out the door and coming back up, was
5 covered in ice. So he had to help chip the ice off him, brush it
6 off, and clear his mask so that he could see.

7 And then at that point, we quickly kind of hovered over to
8 the next raft where we could see the flashlight, you know, and
9 then two people on board waving at us, signaling us, and we
10 immediately sent the swimmer down with the exact same plan. And,
11 I mean, it was probably the hardest hoisting I've ever had to do
12 with the other pilot flying, and there was times where, I mean, a
13 wave would hit, and all of a sudden, the raft would be out the
14 left side of the helicopter, and we we're having to, you know,
15 work together to kind of keep a steady hover over this raft. And
16 somehow, we got the swimmer to the raft, and he was able to hook
17 the survivor to himself and then bring him up.

18 And at one point, the flight mechanic, I had to operate the
19 hoist to the left seat because we have that option on our cyclic,
20 which is the seat that we control the helicopter with, and I was
21 having to operate because his fingers were going numb and he was
22 losing dexterity with operating that hoist hook. So we were kind
23 of coordinating with that, and we were able to send the swimmer
24 back down after de-icing him again and grabbing the second
25 survivor.

1 And once we got them in the helicopter, at that point, my
2 biggest concern was where's -- you know, like I wanted to get
3 information on where the rest of the crew was. And so I had
4 him -- I had the flight mechanic, as soon as he was able to talk
5 to them and yell at them, I was able to get the word that the --
6 they were the only ones that got their survival suits on and that
7 they were the only ones that basically made it off the ship as it
8 was overturning.

9 And so, at that point, we were -- we had very limited time on
10 scene, and with that information, we didn't have time to really
11 conduct a search. And I did a quick calculation, we had two fuel
12 options: it was Sand Point, which was a shorter distance, but we
13 would've had to have fought a headwind to get there, and based on
14 the calculations of that and then plugging in Kodiak, we
15 determined it was the same amount of time to get back to Kodiak
16 with the -- what we -- since we had a headwind coming out, we knew
17 we'd have a tailwind going back. So we chose with the known fuel
18 there that we had there and the higher level of care, we just made
19 a quick decision to go back to Kodiak to bring the survivors back.

20 And one thing I forgot to mention is, once we began hoisting
21 -- so, again, I was on the controls -- we heard the C-130 show up,
22 which is probably one of the best feelings, you know, that night
23 for us because we could finally have a comms platform that we can
24 get information back from home plate. And we utilized them as
25 well to confirm that we -- the weather back in Kodiak was good

1 still. It was super windy, but the visibility was much better,
2 kind of -- it was like a pocket of good visibility around the
3 airfield in Kodiak. So we -- that also went into the decision to
4 go back to Kodiak. And I think, if I remember correctly, it was
5 about 40 minutes to get back to Kodiak. We were not able to use
6 heat because of the limited fuel. In order to turn the heater on,
7 we would have to turn our APU on, and that would have burned more
8 gas and, I mean, due to how far away we were from any refuel
9 places, we elected to keep that off.

10 And then we got back to Kodiak, and once we landed, I was
11 able -- once you get like within 20 miles of the airfield, you can
12 talk to the operational duty officer on one of the radios, you're
13 in range to do that, and he basically told us that the district
14 wanted to talk to the survivors. So once we shut the helicopter
15 down, they were already in the ambulance, and I brought my
16 personal cell phone to the survivors, and they were able to kind
17 of talk to district and give them the -- answer their questions.

18 Q. Thanks, Mr. Clark. That was great. Couple of follow-up
19 questions just so I can make sure I am clear on a couple of
20 things. When you came on scene and you saw the first raft, you
21 said that you thought it was a light, but it was the raft bobbing
22 or being hidden and reshowed from the waves. Was there any actual
23 lights illuminated on that liferaft or was it the retro? What
24 were you actually see -- can you clarify what you were seeing?

25 A. I can't clarify whether it was -- I mean, it appeared to have

1 been a light that was on top of the raft, and it looked like, from
2 a distance, like it was blinking -- like a blinking light just
3 because of it going above and below the waves.

4 Q. And for the other raft, it looked like someone signaling with
5 a light when you saw the second raft? Is that what you said?

6 A. Correct.

7 Q. And this is incredible. You said the rescue swimmer, you had
8 to de-ice after every hoist. How does that work? How do you get
9 -- what's he wearing and what do you have to do to de-ice the
10 swimmer?

11 A. So I would actually have to talk to the flight mechanic, but
12 he said he -- I think brushing the ice off of him and mainly his
13 mask was iced up. So I assume they wiped the ice off of that as
14 well so that he can see.

15 Q. And then, when you were on scene with the second raft, you
16 said that the raft was kicked over to the left side. Just for
17 clarity, why is that important?

18 A. It's just kind of to illustrate kind of like the challenges
19 that we faced trying to hoist them. Like normally, you'll keep
20 them out the right side because the pilot flying is in the right
21 seat, so you want to keep visual with them. But when the waves
22 hit, like that's, I mean, just kind of like illustrate how severe
23 the waves were. It would push the raft completely underneath the
24 helicopter to where we were having to use extra effort to keep
25 them in sight and stay kind of over top of them.

1 Q. And you said that the plan was to keep the swimmer on the
2 hoist. Did that stay the case throughout the operation?

3 A. It did.

4 Q. So you were actually having problems keeping sight of the
5 swimmer as he's getting pushed around in the waves for the --

6 A. For the --

7 Q. -- (indiscernible) right-side cockpit?

8 A. For the pilot, correct. The flight mechanic has the option
9 -- he's probably laid out on the deck of the helicopter with his
10 head poked out, looking at him underneath the helicopter. So he's
11 kind of painting a picture to us, and he's conning us the whole
12 time, kind of telling us where they are, and we're following his
13 conn for a lot of it.

14 Q. And then, you also said that you had to elect to not run the
15 heaters, and you had mentioned that the co-pilot's hands were
16 going numb. Could you describe how it felt in the helicopter for
17 the return journey? Was it cold? What -- kind of go lay a little
18 bit of that picture for me, please.

19 A. Yeah, I mean, it was -- I mean, I'm a very hot natured
20 person, and I don't think I've ever felt cold in the aircraft, and
21 I just remember I was freezing up front. And I know the guys in
22 the back always hate when we complaint because it's always so much
23 colder in the back for them, but even the deck of the -- there was
24 a -- when we were pulling the survivors in with the swimmer, the
25 flight mechanic even made a comment about how he was slipping on

1 the deck because of the ice on the deck of the helicopter in the
2 back. So the -- I can't tell you what the temperature was, but it
3 was colder than I've ever felt in a helicopter.

4 Q. Now, you also mentioned hearing the C-130 and the relief you
5 felt. When you said hear, was that them coming in on radio guard
6 or hearing their engine or -- please clarify that, please?

7 A. Yeah, they -- when they called out to us on the radio, it was
8 crystal clear because they were overhead. I couldn't see them
9 because of the weather, but just knowing they were on scene with
10 us and that we finally had a way of communicating kind of -- that
11 we were on scene -- I don't think -- that was the first time that
12 we were able to communicate that we were on scene with survivors
13 and hoisting so that we can kind of update back at home plate and
14 SMC and everything.

15 Q. Other than the relief you felt, how was that communication
16 going? Was it smooth communications or were there any issues with
17 the communications once you've established the communications with
18 the C-130?

19 A. Nope, at that point, everything was smooth. All we had was
20 communications with the C-130, so they were relaying everything we
21 had to say. And then when -- and it was nice because they could
22 -- a lot of times, radio communications will come in, you know,
23 with whoever has your guard or SMC, and they don't understand kind
24 of where you are in the phase of the flight. So if you're
25 hoisting somebody, I'm not going to talk -- you know, update them

1 because I'm in the middle of hoisting, so I'm backing up the other
2 pilot, so there's a lot of (indiscernible). But the C-130's
3 overhead, so they kind of knew like kind of what phase of flight
4 we were in, so it was -- it made things a lot smoother knowing
5 when we can talk to them and pass information.

6 Q. When you mentioned 20 minutes out of Kodiak, you made contact
7 with the operations duty officer, I think that's what you referred
8 to the person as. Between leaving the scene with the survivors
9 and the 20-minute communication for the operations duty officer,
10 were there any other communication issues on the return flight?

11 A. Not that I recall. We were able to talk to the C-130 prior
12 to leaving. They stayed on scene, and we had -- I can't remember
13 the exact timeframe, but because of the tailwind, we had a lot
14 shorter of a flight back, so it didn't seem like we -- it might
15 have been -- it's hard to recall exactly how the comms went. But
16 I think we had decent comms with the C-130 for a little bit, and
17 then once we got out of range with them, it wasn't long until we
18 were able to talk to the operations duty officer.

19 Q. And this might be hard to remember, but do you recall how
20 much fuel you had left when you landed in Kodiak, whether it's in
21 minutes or some other measurement?

22 A. I want to say we had about 30 to 45 minutes of fuel left once
23 we landed.

24 Q. I'm just -- forgive me while I'm reviewing my notes here to
25 see if I have other questions. Okay. Thank you, that was the

1 follow-up questions from your story. I have some general
2 questions about Air Station Kodiak and some of your
3 responsibilities. We may come back to other questions as they
4 come up about that event, but I just want to get some questions
5 understood for Air Station Kodiak and your jobs there.

6 A. Okay.

7 Q. Now, we'll start with the operations duty officer. Could you
8 explain what the operations duty officer is and what they're
9 responsible for?

10 A. So the operations duty officer, they stand 24-hour watches as
11 well as kind of like -- they come on same time the pilots do, and
12 they basically man the desk in the operations center. They are
13 the representative of the operations officer, so they -- they're
14 the ones that take the calls from basically anything related to
15 operations. So when a SAR case comes in from District or Sector,
16 they'll call the operations duty officer, and then they make the
17 decisions on, you know, whether to launch right away, or they kind
18 of -- we have pilots, so it's all pilots that stand the operations
19 duty officers, so they kind of have an idea of what's being asked
20 of the aircrews.

21 And so they're kind of like the middleman between the Sector,
22 D-17, and the aircrews. And then they brief the -- they keep the
23 operations officer informed of everything that's going on and --
24 yeah, I mean, they stand 24-hour watch, so they sleep there at the
25 Air Station and have a phone, pagers. They're in charge of

1 setting off the pagers when we're launching crews.

2 Q. Then can you briefly describe the assets, crews at Air
3 Station Kodiak? How many aircrews? How many assets? And kind of
4 give us a perspective of that, please?

5 A. Yeah, so at any given point, we have one SAR aircrew standing
6 a B-0 watch for the H-60 and then one B-0 C-130 aircrew at all
7 times. And then we have -- I don't know the exact number of
8 pilots we have; it's a lot here. And then we have other missions,
9 so we have a full flight schedule every day, except for on the
10 weekends, which is usually just the duty crews. And so we have
11 various like LE missions that are being conducted by those pilots.

12 Q. Have there been challenges? You mentioned the flight crew.
13 Have there been challenges meeting --

14 A. I think you're -- I'm not hearing your audio anymore.

15 Q. Thanks. Have there been challenges meeting the ready crew
16 status requirements for the flight crews at Kodiak?

17 A. In terms of -- can you elaborate on that?

18 Q. Yeah. For resource availability and the Bravo-0 status
19 flight crews, in your experience, have there been issues being --
20 meeting the requirements for readiness status?

21 A. So for B-0 aircrews, like having people available?

22 Q. Yes.

23 A. No, I mean, I would say we always have crews available. I
24 mean, we have designated crews that are scheduled, and I don't
25 have any recollection of not being able to staff a ready crew.

1 Q. And just in general, are there barriers that exist that, you
2 know, may make it a little bit longer than normal to launch or get
3 on scene for Kodiak?

4 A. Yeah, I would say Kodiak -- I've only known one other air
5 station, and I think Kodiak -- it's such a huge air station, and
6 we're so spread out. I don't know if you've ever been to Kodiak
7 or if anybody knows this area. Like we have the operations center
8 which is in the C-130 hangar and then we have a huge ramp that's
9 probably about 300 yards to get to the 60 hangar, and then the
10 ready crew berthing, it's actually a long walk, so most crews will
11 drive to whichever airframe. So I can speak for the 60s. If you
12 get launched, it takes getting in your vehicle and driving to the
13 60 hangar a lot of the times. You could walk, but with the
14 weather sometimes and it being icy, it'll take a little bit
15 longer.

16 And then also, just in general, with the -- with our AOR and
17 as large as it is and -- like when I was in Elizabeth City, we
18 would -- when we got launched, we felt pretty comfortable
19 launching quicker without doing as much planning. We still, I
20 mean, obviously did planning, but there's always fuel stops.
21 Here, the fuel stops are few, far and beyond, and it's -- you got
22 to do a lot of extra planning. And the weather, there's not -- I
23 mean, there's a lot of like your route that you're not going to
24 have good weather coverage. So there's a lot of extra planning
25 that goes into basically like -- especially a complex case like

1 this, the amount of planning.

2 Fuel, we take -- we have a standard load of gas that we have
3 for our 60s, and any time the SAR case is basically off-island is
4 kind of what I use, we have to add fuel, which takes time, to the
5 aircraft to give us longer endurance. And I mean, yeah, it's just
6 the planning.

7 Q. And could you talk about that evening from the same
8 perspective? Were there -- like how were you notified? Were
9 there challenges that evening on getting ready -- getting that
10 helicopter ready to go? Could you speak to that time leading up
11 to takeoff?

12 A. Yep. So I had actually -- I don't remember the exact time,
13 but I'd actually just fallen asleep when the pager had gone off,
14 so -- and it was pretty icy cold here, so I think I drove to the
15 hangar with my head out the window just to get there quicker. And
16 then, yeah, once we found out -- we got the initial word that it
17 was -- it sounded like there was a sketchy mayday call -- or a
18 scratchy like mayday call that was heard over the radio, and that
19 was kind of the information we were given, so -- and we got the
20 position that was given, so -- and I had heard that our operations
21 officer was having a risk management discussion with SMC at the
22 time.

23 So we got there, and we got dressed out, and I know I sat
24 down with the other pilot and crew, and we spent a good amount of
25 time planning with the weather, because we knew -- I mean, this

1 was one of those SAR cases where we knew this was going to be a
2 very risky case to go out on, so we wanted to make sure we had the
3 best possible plan for getting out there. And just with the
4 location of where this happened, it was about 170 miles away, and
5 the fuel options that we had, we basically knew that we were not
6 going to have a lot of time on scene.

7 So we were trying to come up with a good route based on -- we
8 used the Windy app, ForeFlight, which is a program on our
9 electronic flight bag, which is an iPad that we use for flight
10 planning multiple routes to try to give us the most time on scene.
11 And so we kind of spent some time coming up with that and then
12 doing a good, you know, risk management discussion with the crew.
13 And then we determined we needed to add fuel to the aircraft, so
14 we ended up basically holding -- or adding the maximum amount of
15 fuel that we can carry with the weight that we had, and with that,
16 I mean, that time adds up.

17 And then, once we get in the aircraft, with this weather that
18 we're flying through, we had to do multiple checks in the aircraft
19 with our blade de-ice/anti-ice equipment, which adds a little bit
20 of time. And then just with the location of where the helicopter
21 ramp is, when the weather's bad, a lot of times we'll taxi out to
22 the main runways, which is a little bit of a haul to get out to
23 the runways to depart. And after that -- yeah, I think that was
24 pretty much the timeline.

25 Q. Now, you mentioned the Windy app and ForeFlight. Could you

1 talk a little bit about those? How do you use those two
2 applications? Where are you extracting that information from?

3 A. So Windy, I just have the app on my phone. It is a program
4 that gives the forecast -- like the current winds, and then you
5 can kind of move the slide bar in time to kind of see what the app
6 is forecasting for the winds to do, and it's just a visual
7 representation of the winds with the State of Alaska, and you can
8 zoom in, and you can, you can like pinpoint any point on the map,
9 and it'll show you what the wind speed is at that time or --
10 obviously, in the present, it's more accurate, and then as you go
11 on, you can kind of see what they're forecasting. So we use that
12 to kind of come up with our best route, knowing like with distance
13 and then kind of balancing that with the anticipated headwind.

14 Q. And for ForeFlight, is that provided in your cockpit
15 computers or is that on an iPad or how is that given to you?

16 A. Yeah, so ForeFlight, it's on our iPad. It's an application.
17 You can go into it and plug in like what airspeed you plan on
18 flying and then what your fuel burn is going to be. So we use --
19 what we use our -- that's kind of what -- like we try to be
20 conservative, so we use a little bit higher of a fuel burn,
21 especially if you plan on hovering, because the aircraft will burn
22 more fuel in a hover. And then, so we use that information. It
23 also uses wind in the ForeFlight, but it's at -- not at the
24 surface wind, so that's why we use Windy to kind of get a better
25 representation what the winds are going to be and kind of compare

1 that with the route that we plug into ForeFlight to kind of come
2 up with a timeline of -- it gives you a pretty accurate timeline
3 and fuel burn for planning.

4 Q. Do you recall about where the winds are listed for
5 ForeFlight? Is it a thousand feet? 10,000 feet or --

6 A. Yeah, it starts at (indiscernible) feet.

7 Q. (Indiscernible)?

8 A. It starts at a thousand feet.

9 Q. And you were, you said, down to like 200 feet and less for
10 most of the Search and Rescue?

11 A. Correct, which is why we used the Windy app to help verify
12 the surface winds.

13 Q. This might be a more difficult question or number, but from
14 doing the advancements and pinpoints on Windy app, were there --
15 do you recall if it kind of aligned with what you saw on scene or
16 were there still surprises when you were on scene for the on-scene
17 conditions?

18 A. It aligned with it for the most part. I think the winds were
19 a little bit strong on scene than what we were seeing, but for the
20 most part, it was pretty accurate.

21 Q. And then you also mentioned risk management. Can you talk a
22 little about risk management per the aviation -- well, let's say
23 risk management that you had to go through for this Search and
24 Rescue case?

25 A. Sure. So I mean, as the PIC, we go through a pretty -- we go

1 through a ORM discussion, part of every flight, especially on this
2 flight. So we weigh risk versus gain. So we knew going into this
3 that this was going to be a very high-risk mission to do due to
4 the like weather, time -- like middle of the night. We were
5 basically flying through the night.

6 And then the gain is what -- I mean, obviously risk versus
7 gain, so we need to know what the gain is. And so there was a lot
8 of discussion as to like what was the gain, and I know at that
9 point, we were trying to get in contact with, you know, the ODO
10 and where they were having the discussion, which comes from Sector
11 and District, whoever's running the case, we get the gain from
12 them kind of what the case is.

13 And so that's where we -- we go through the risk versus gain,
14 balancing those two pieces of information, and obviously the gain
15 was high as well, which is why we ended up taking off and going
16 and completing this mission.

17 Q. I'm going to go a little bit into the coordination with
18 Sector and District and other land-based assets, but the first
19 follow-up question is related to communications with District.
20 You said you used your cell phone so the survivors could talk to
21 District. Is that typical for Kodiak, having to use your personal
22 resources to complete communication calls for the District or
23 other assets locally?

24 A. This is the first time I've ever had to do it. They just
25 wanted to talk to the survivors, and the easiest way to do that is

1 I had District 17's command center on my cell phone, so I called
2 them and handed my phone to the survivors in the ambulance.
3 That's the only time I've ever had to do that though.

4 Q. So you landed the helicopter. Was it at Air Station Kodiak
5 or was it a private -- alternative helipad?

6 A. It was at Air Station Kodiak.

7 Q. All right. Now, coming back to District/Sector, how -- what
8 kind of -- how does the Air Station fit with Search and Rescue and
9 when Sector's involved and District's involved? (Indiscernible) a
10 very broad basis, describe that interaction please.

11 A. So the -- like us -- I mean, the SAR crews, we get directed
12 to launch by whoever SMC is. We get approval through -- D-17
13 controls our helicopter assets, so they give the -- I think all
14 requests for helicopters have to go through D-17, and then once
15 they deem that they want to request the helicopter, that goes
16 through our operational duty officer, and they're directing us to
17 launch. And then, at that point, we get all the information that
18 we can, and then we come up with a plan to launch, basically.

19 Q. And just so I don't forget to ask, was this the only flight
20 Search and Rescue pattern you flew for this case?

21 A. This was, yes.

22 Q. And as for communication coming from the command centers or
23 sectors, did you have adequate information for your Search and
24 Rescue pattern?

25 A. I honestly don't remember how I got the search pattern. A

1 lot of times the ODO will get it ahead of time and can pass it to
2 us. I don't remember if we got it that way or -- I mean,
3 oftentimes, we will take off and get it in the air. I don't
4 remember how we got it that night.

5 Q. And during this Search and Rescue case, there were long
6 periods of time, specifically three, where there was no Coast
7 Guard asset on scene searching. You've alluded to some issue --
8 some difficulties Air Station Kodiak has, but could you speak on
9 this case a little bit about those gaps and why these happen?

10 A. I -- honestly, once I got done with that first flight, I
11 wasn't really part of that decision process. But, I mean, we have
12 one duty crew that is -- one duty crew that is assigned for that
13 day. So if you're not assigned for duty, you're not really in a
14 ready status. I have been called multiple times off duty to come
15 in when another crew bags out or they need another crew for a
16 case, and I don't -- I think that's just common practice.

17 And I think the gap came mainly more from like the distance
18 from Kodiak and, I mean, it was like perfectly at our -- kind of
19 like our max range for getting on scene and with minimal searching
20 to where you have to depart again. So I think because you had
21 minimal time on scene to search, it was a lot harder to have a
22 continuous coverage to do that

23 Q. All right. And these are my last few questions. Lieutenant
24 McPhillips, could you pull up Exhibit 78, Page 1? While he's
25 bringing it up, Mr. Clark, this is the case review for the search

1 coverage for the *Scandies Rose*. It is written for District 17.

2 My question to you, is this the -- have you seen this before?

3 A. I have not.

4 Q. When -- after the case -- and, Lieutenant McPhillips, you can
5 put it down. In general, do you do a post-mission debrief at the
6 air station for Search and Rescue cases?

7 A. For certain cases, we will. As an aircrew, after every
8 flight, we'll do kind of a debrief. But I would do -- I was
9 talked to in a case review, I was questioned, I can't remember by
10 who, but I was a part of this.

11 Q. Okay. That's good. And did you have any other debriefs or
12 hot washes with either Air Station Kodiak or the command center or
13 District?

14 A. I remember I was -- it was a while ago. I don't remember
15 exactly with who, but I know I've talked about it with like our
16 operations officer afterwards, and I think that's about it.

17 Q. Thank you for your time this morning.

18 LCDR COMERFORD: Captain Callaghan, that's all the questions
19 I have.

20 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.
21 Lieutenant Clark, I'm now going to pass to our colleagues
22 here at the National Transportation Safety Board.

23 Mr. Barnum?

24 MR BARNUM: Thank you, Captain. And thank you, Lieutenant
25 Clark, for speaking to us today and recanting that very heroic

1 event there. So I want to thank you for your efforts and also the
2 testimony. I have no questions for you, sir. I believe my
3 colleague does.

4 THE WITNESS: All right.

5 MR. SUFFERN: Thank you, Mr. Barnum.

6 BY MR SUFFERN:

7 Q. Good morning, Lieutenant Clark. I just have a few follow-up
8 questions there regarding the flight, and appreciate your time
9 today and a very descriptive, detailed of the flight there. On
10 the flight out, you mentioned that -- or during the hoist phase,
11 you mentioned that you had some deck icing. At any point during
12 the flight, do you recall seeing any icing on the airframe or the
13 windshield or windscreen or anything like that?

14 A. Yeah, once we landed and we got out, I did notice like our
15 fuel tanks had a pretty thick chunk of ice on the front of them,
16 but that was about what -- it from what I remember.

17 Q. Okay. And using the night-vision goggles, did the snow
18 inhibit your forward visibility at all since it was blowing
19 around? Did that create any issues?

20 A. Yeah, it's very disorienting at night, so we secured all of
21 our lights just because of the light reflecting off the snow
22 coming in just gives kind of like that Star Wars effect, which is
23 very disorienting as a pilot. So I know most of the night, we
24 were inside on instruments kind of hawking at altitude and
25 airspeed, and then also we had our radar kind of gives us a good

1 idea of what's ahead of us on our flight path, and we match that
2 up with the charts that we have to make sure we're -- everything's
3 matching so we know where we are.

4 Q. Okay. And just to follow up on your pre-flight weather
5 sources, you mentioned using the Windy app and then the
6 ForeFlight. Are there any other applications or websites that you
7 use during your pre-flight?

8 A. So we have a weather brief every day. We have a -- where we
9 get the imagery of like forecasted icing, forecasted turbulence,
10 we get those charts. And other than that -- I mean, there's not a
11 lot. In the daytime, I think our most valuable weather reporting
12 source are the FAA weather cameras, but at night, they're pretty
13 useless for obvious reasons.

14 MR SUFFERN: Okay. That's all the questions I had,
15 Lieutenant. I appreciate your time today. Thank you.

16 THE WITNESS: Okay.

17 CAPT CALLAGHAN: Now, Lieutenant, I'm going to pass you our
18 parties in interest, counsel representing the survivors.

19 Mr. Stacey?

20 BY MR STACEY:

21 Q. Good morning, Lieutenant. Can you hear me all right?

22 A. Yes, sir.

23 Q. Perfect. Well, I want to echo the Board's thanks to you for
24 your work. My name is Nigel Stacey. I represent Mr. Gribble and
25 Mr. Lawler in this. So first I want to send my thanks, their

1 thanks, and their family's thanks to you for the work that you did
2 in rescuing the two of them. You know, because of you guys,
3 they're with us today, and so I want to make sure to thank you and
4 your team for that.

5 I have just a very brief couple of questions for you. We've
6 heard testimony during these hearings that Mr. Gribble and
7 Mr. Lawler were out at sea for over four hours before you were
8 able to rescue them. In your experience, is it common to be able
9 find rescuers in the kind of weather you saw after four hours of a
10 mayday call?

11 A. I -- this is a kind of unique case to me. I think the fact
12 that they were in a raft and were able to signal us, which was
13 huge, I think -- and the fact that the visibility did kind of open
14 up to a couple miles at that point helped with the case. But
15 other than that, I think that's all I really can elaborate on.

16 Q. Certainly so. Can you discuss just the icing conditions that
17 were, you know, prevalent at that time? Would there be anything
18 either in the chopper for you or in liferafts that you would like
19 to see that would help make your job easier in securing
20 individuals? You discussed the light, which was a good way for
21 you to be able to find the raft. Can you think of anything else
22 that could help in assist your searches?

23 A. Nothing off of the top of my head for that.

24 Q. Okay. When you were able to bring Mr. Lawler and Mr. Gribble
25 into the helo, were you able to speak with them right when they

1 got onto the chopper?

2 A. I was not up front, but our flight mechanic, the hoist
3 operator, he was able to -- I mean, obviously, it's super loud,
4 and he was able to yell at them and kind of communicate that way.

5 Q. Okay. Could you be able to describe what their condition was
6 like when they were brought up into the helicopter, sir?

7 A. I cannot from being up front.

8 Q. Okay. Thank you very much again. Thank you for your work.

9 MR. STACEY: Captain Callaghan, those are all the questions I
10 have.

11 CAPT CALLAGHAN: Thank you, Mr. Stacey.

12 Now to counsel representing the vessel owners, Mr. Barcott.

13 MR. BARCOTT: Lieutenant, this is Mike Barcott. I represent
14 *Scandies Rose*. Can you hear me all right?

15 THE WITNESS: Yes, sir.

16 MR. BARCOTT: Okay. So first of all, on behalf of *Scandies*
17 *Rose*, we want to thank you for your extraordinary and heroic work
18 that evening. Please pass that along to your whole team.

19 THE WITNESS: Yes, sir.

20 MR. BARCOTT: And on behalf of the fishing industry, I will
21 say, it's a big ocean out there, and it makes people feel a little
22 more secure knowing people like you are around. So thank you very
23 much. That's all I have.

24 THE WITNESS: Thank you.

25 CAPT CALLAGHAN: Thank you, Mr. Barcott.

1 Lieutenant, I got a couple of quick follow-up questions.

2 Commander Denny?

3 CDR DENNY: Thanks, Captain.

4 BY CDR DENNY:

5 Q. Lieutenant, good morning. I did have a few questions from
6 you.

7 A. Sure.

8 Q. Sorry, I'm having some technical difficulties. Give me one
9 sec. Okay, we're back. Okay. So here were some of my questions.
10 You talked about flight planning quite a bit. Do you use the
11 Alaska Marine Exchange AIS-based weather information when you do
12 your flight planning?

13 A. I don't think I've ever heard of that before. It might be
14 something that I use, I just never heard of it being called that.

15 Q. Okay. No worries. Also, how long have you been stationed
16 here at Air Station Kodiak?

17 A. Coming up on three years.

18 Q. So were you aware of the VHF HF comms gaps, communication
19 gaps that you mentioned through your testimony, you -- were you
20 aware of those large stretches of gaps prior to this flight?

21 A. I was. I had knowledge that that was not a good area for
22 communications.

23 Q. At one point during the testimony, you talked about when the
24 survivors boarded the helicopter after they were hoisted, that you
25 guys got information that said that they were the only ones that

1 they had -- they communicated they were the only ones that got off
2 the boat. Could they be sure of that information?

3 A. I mean, I don't know what they could be sure of. I --
4 obviously, I knew that there were people missing, and I wanted to
5 know kind of what the chances were that they were still right
6 there in our vicinity so that we can do a quick search with the
7 limited fuel that we had left. And yeah, based on what they said,
8 they said that they were the only ones that got survival suits on.
9 I think they said maybe one other person might have had a survival
10 suit on but that they were the only ones that got out of the
11 wheelhouse as it was overturning. And so, with that knowledge, we
12 just used that knowledge to kind of go from there.

13 Q. Okay. And in a later part of your testimony, you said that
14 when you were doing pre-flight, you guys assessed the
15 circumstances and that you had a standard load of fuel on the 60,
16 and when you were assessing, you then had to add more fuel, which
17 takes time because there's a process for that. And you said that
18 you maxed out the fuel that the helicopter could carry. If you
19 had not taken that time to add fuel, would you have been able to
20 take the helicopter out, reach the location, and make it back
21 safely?

22 A. No, absolutely not.

23 Q. Thanks, Lieutenant.

24 CDR DENNY: Captain, that's all I have.

25 CAPT CALLAGHAN: Thanks, Commander.

1 BY CAPT CALLAGHAN:

2 Q. Lieutenant, I just have one thing. I'd like to pull up a few
3 photos just for the public's sake and some reference points. And
4 so not particularly the view that you may have, but I wanted to
5 see if this compares to what you saw. These are pictures from the
6 C-130s on the airfield. So, Lieutenant McPhillips, can you pull
7 those up for us? So it's -- as you -- tell me when you have those
8 up in front of you.

9 A. I can see them.

10 Q. So is this a good representation of what the airfield looked
11 like that evening when you took off?

12 A. It is. That's in -- that's (audio skip) in Anchorage. It
13 did not (audio skip) Kodiak.

14 Q. In comparison to this, what kind of conditions were you
15 seeing on the airfield in Kodiak?

16 A. So in Kodiak, it was actually -- the visibility was actually
17 -- it was probably the -- there was a pocket around the airfield
18 in Kodiak of good visibility. It was very windy and turbulent,
19 but visibility wise, it was actually pretty decent right there at
20 the airfield.

21 Q. Excellent.

22 CAPT CALLAGHAN: Lieutenant McPhillips, you can pull that
23 down, please.

24 Lieutenant, I really want to thank you for your time today.
25 You know, I think, as everyone mentioned and your testimony

1 highlights, the conditions that day certainly presented more than
2 its share of challenges for you and the crew and the subsequent
3 flight crews to get out there and perform your mission. And so I
4 want to thank you for what you do, for the efforts by you and the
5 crew that evening in getting out there and picking up the two
6 survivors, and in general, what you do every day.

7 And so while you've made testimony that some of those were
8 conditions that you hadn't seen before or flown in, you did it
9 nonetheless, and you went out and picked up some survivors. And I
10 think the nation's grateful for what you do, so I want to take the
11 opportunity to thank you. Thank you for your -- taking the time
12 to go through your testimony today.

13 THE WITNESS: Thanks, Captain.

14 CAPT CALLAGHAN: So at this time, you're now released as a
15 witness at this formal hearing. Thank you for your testimony and
16 cooperation. If I do determine that the Board needs additional
17 information from you, we'll contact you through counsel. If you
18 have any questions about the investigation, you may contact the
19 investigation recorder, Lieutenant McPhillips.

20 Thanks again, Lieutenant Clark.

21 THE WITNESS: Thanks, Captain.

22 (Witness excused.)

23 CAPT CALLAGHAN: The time is now 1058 a.m. Our next witness
24 is scheduled for 1130 a.m. If we are able to begin sooner, we'll
25 update the time displayed on livestream. We will now go into

1 recess.

2 (Off the record at 10:58 a.m.)

3 (On the record at 11:15 a.m.)

4 CAPT CALLAGHAN: The time is 1115. This hearing is now back
5 in session. We will now hear from Captain Jonathan Musman.

6 Captain Musman, Lieutenant McPhillips will now administer the
7 oath and ask a few preliminary questions.

8 LT McPHILLIPS: All right. Good morning, Captain. Please
9 stand and raise your right hand.

10 (Whereupon,

11 JONATHAN E. MUSMAN

12 was called as a witness and, after being first duly sworn, was
13 examined and testified as follows:)

14 LT McPHILLIPS: Thank you, please be seated. Please state
15 your full name and spell your last name.

16 THE WITNESS: Captain Jonathan Edward Musman. Last name
17 spelled M-u-s-m-a-n.

18 LT McPHILLIPS: Please identify counsel or representative, if
19 present.

20 THE WITNESS: I mean, Lieutenant Commander Pekoske, but he's
21 not -- he's online, but I'm by myself at my house.

22 LT McPHILLIPS: Thank you, Captain.

23 Counsel, please state and spell your last name, as well as
24 your firm or company relationship.

25 LCDR PEKOSKE: Lieutenant Commander Matthew Pekoske,

1 P-e-k-o-s-k-e, U.S. Coast Guard Judge Advocate, witness counsel to
2 Captain Jonathan Musman.

3 LT McPHILLIPS: Captain Musman, please tell us, what is your
4 current employment and position?

5 THE WITNESS: I am on terminal leave with the U.S. Coast
6 Guard. I left the *Mellon* on Friday.

7 LT McPHILLIPS: Aboard the *Mellon*, what were your general
8 responsibilities in that position?

9 THE WITNESS: Commanding officer.

10 LT McPHILLIPS: Can you briefly tell us your relevant work
11 history?

12 THE WITNESS: I've been a cutterman for the last 24-plus
13 years, stationed on six cutters, starting with the *Steadfast* in
14 '96 to '98; *Anacapa* from '98 to 2000; the *Aspen* from '05 to '07;
15 the *Hickory* in Homer, Alaska, which is probably the most relevant
16 to this testimony, from '09 to '12; and then on the *Bertholf* from
17 '12 to '14; and as a commanding officer of Coast Guard cutter
18 *Mellon* from 2019 until last Friday.

19 LT McPHILLIPS: What is your education related to your
20 position?

21 THE WITNESS: I went to the U.S. Coast Guard Academy from
22 1992 to 1996, and I hold a 100-ton license.

23 LT McPHILLIPS: Captain, do you hold any other professional
24 licenses or certificates related to your position?

25 THE WITNESS: I'm a licensed professional engineer in the

1 State of Alaska as a civil engineer, but I don't know how much
2 that relates to this testimony.

3 LT McPHILLIPS: Thank you, Captain. Captain Callaghan will
4 now have follow-up questions for you.

5 CAPT CALLAGHAN: Good morning, Captain, and thank you for
6 joining us this morning. At this time, I'm going to turn it over
7 to Mr. Keith Fawcett.

8 Mr. Fawcett?

9 MR. FAWCETT: Thank you, Captain.

10 EXAMINATION OF JONATHAN E. MUSMAN

11 BY MR. FAWCETT:

12 Q. Good morning, Captain Musman. How are you today?

13 A. Good.

14 Q. Listen, what we're going to do is we're going to limit our
15 questions to the timeframe leading up to the accident, and then
16 after and during the Search and Rescue activities. We're going to
17 use exhibits, which we will pull up on the screen, and we will
18 give you plenty of time to look at them. And if you want us to
19 move around in the exhibit to show us some detail or zoom in, if
20 you'll tell us, the recorder, Lieutenant McPhillips, will do that
21 for us. Are you ready to go?

22 A. I am.

23 Q. Okay. So, Lieutenant McPhillips, if you could please pull up
24 Coast Guard Exhibit 76, which is a Search and Rescue presentation,
25 and if you would go to page 5. Yeah, there you go. And shift

1 into the bottom left corner, and zoom in on the Coast Guard cutter
2 *Mellon*, if you would, sir. Okay. Fill the screen a little bit
3 more. That's good.

4 So, Captain Musman, using this image of the ship, could you
5 talk a little bit in general about the missions that the cutter
6 *Mellon* performed in the Alaskan Maritime Region?

7 A. So *Mellon* has a long history, decommissioned in September of
8 this year after 52 years of service, and we have -- my time on
9 board, my first deployment was working for District 17 doing North
10 Pacific guard, where we did fisheries law enforcement on foreign
11 nations. We left Seattle, stopped in Dutch, and then worked our
12 way across the North Pacific all the way over to Japan. We did
13 somewhere over 40 boardings during the course of that.

14 And then the next two deployments that we did, including the
15 one where this case happened, were both Alaska patrols during my
16 time, and we typically go up for about 90-day trip, sometimes less
17 in the winter because of crew endurance issues, but we'll stage
18 out of Dutch Harbor and do law enforcement when it's possible, and
19 the rest of the time, we're typically on Search and Rescue
20 standby, waiting for the call, trying to be at the highest level
21 of readiness we can be at.

22 Q. So you've don't a great job avoiding acronyms, and we
23 appreciate that for the benefit of the public. So looking at the
24 *Mellon* here in this image, could you talk about her capabilities
25 for Search and Rescue in a case such as this *Scandies Rose*?

1 A. Yes. We, we have a sprint, we can -- we normally cruise on
2 one engine or two engines, and we'll get pretty good fuel
3 efficiency to be on scene for a long time. But we can come up on
4 one of our main gas turbines and do about, just over 20 knots, and
5 then for twice the fuel burn, we can go about 24 knots, 25 knots,
6 on both main gas turbines. The big risk with that is with the age
7 of the ship, our steering gear is the weakest link when it comes
8 to that with the amount of thrust being put on the steering gear.

9 Other than that, we can -- we deploy with a helicopter, and
10 depending on the condition of the helicopter, if it's fully ready
11 to go, depending on where we're patrolling, we'll have the
12 helicopter either embarked in the hangar, or we'll have it ashore
13 in Dutch Harbor where it can have a, sometimes a better response.
14 And if we're at sea we can't launch them because of the -- what
15 the weather looks like.

16 We carry two small boats. Both are around 23 feet long, and
17 capable in smaller sea states, and we have a surface search -- we
18 have multiple surface search radars, three of them. And one air
19 search radar.

20 So those are, that's pretty much covers our Search and Rescue
21 capabilities. We have, you know, as other ships, we'll have
22 searchlights and deck lighting, and all kinds of, you know, minor
23 equipment. But that's the major capabilities. We'll get out, a
24 long ways away, on scene at a fairly reasonable clip, and then
25 stay on scenes for a while.

1 Q. So for this, when you got the call to respond to the *Scandies*
2 *Rose* accident, did you have a helicopter on board the vessel?

3 A. We did not have our helicopter on board. They were, they
4 were not fully mission capable, and they were in Dutch Harbor, I
5 believe waiting for parts.

6 Q. And by fully mission capable, you mean, would I be correct in
7 saying that you mean that there was a mechanical issue?

8 A. When we searched through our records, and just the way the
9 records go, I didn't have, I don't have full access to, to that
10 for the last few weeks, as we got ready for this. But the ship's
11 log stated they were in Dutch Harbor, down.

12 Q. So just for clarification, when they -- in a previous
13 testimony, someone said an aviation detachment was aboard. What
14 they're talking about is people who were aboard that support
15 helicopter operations?

16 A. So the, the way, the way it's gone for my team's last two
17 deployments to Alaska is when the helicopter flies off to Dutch
18 Harbor, they take the full aviation detachment with them to work
19 on the helicopter at the hangar that they have in Dutch Harbor.
20 So we didn't have any of the, the aviation detachment, or the
21 helicopter on board. They were all in Dutch Harbor that day --
22 that night.

23 Q. So we could pull the ship image down, Lieutenant. So,
24 captain, from your vantage point as the commanding officer, and
25 the principal individual that's responsible for the ship, what are

1 the unique challenges of operating the Cutter *Mellon*, or any other
2 Coast Guard cutter in Alaskan waters?

3 A. The weather. Number one.

4 Q. And could you elaborate for us?

5 A. The -- you have the largest state in the Union, with limited
6 forecasting capability. You're getting forecast areas that are
7 the size of entire states for one small forecast area. And the
8 weather is exceptionally challenging. The way the weather comes
9 from the west, there's limited -- you don't have as much data as,
10 you know, if you're sitting in, you know, anywhere on the East
11 Coast, most of the weather is passing from west to east.

12 You get to see what that weather impact had all the way
13 across the country before it gets to you. And even somewhat on
14 the West Coast, as the weather swoops across the North Pacific.
15 You get to see how that weather's building and changing. And in
16 the Gulf of Alaska and the Bering Sea, there's very limited
17 weather sensors to the west, and how those are going to react with
18 the weather coming out of North America is always one of the
19 biggest challenges.

20 So I would say the weather is the biggest thing, and then on
21 a, on a major cutter that's 52 years old, the second biggest
22 challenge is keeping it running. So those are the two hurdles you
23 face staying mission ready in Alaska.

24 Q. How about communications? Do they present any problem for
25 the operation and response to the sinking of the *Scandies Rose*?

1 A. Not for us, it did not.

2 Q. And could you have, could you hear the comms with the
3 helicopters and listen to their flight activities from the ship?

4 A. No. VHF range and UHF ranges, we're, I think we were 600
5 miles away. I mean we weren't even close. We couldn't hear any
6 of the traffic.

7 Q. So when you were out on patrol, were you on patrol at the
8 time you got the tasking?

9 A. We were moored in Beaver Inlet, standby for weather, so
10 (indiscernible) in circles, waiting for a call. It keeps us more
11 ready than being anchored, or being moored in Dutch Harbor.

12 Q. So the call comes in, could you talk about how that call came
13 in, and what your direction was from shore side in terms of what
14 you're expected to undertake?

15 A. So we got the call at 2326. We were in Beaver Inlet at the
16 time and we loaded up -- so normally, what we'll do is we'll run
17 on one engine to try to conserve fuel, and with the diesel
18 engines, you don't want to lag them, so we'll run on one because
19 we want to go slow.

20 So we order up a second main, and we didn't go straight to
21 the turbine, which gives us 20 knots, immediately because the
22 proximity of Stillwater. So we had -- we got up on two mains, 15
23 knots, steamed our way out of Beaver Inlet and then once we got
24 out into a little more open water, we ordered up the gas turbine.

25 We came up on the first gas turbine, and had some issues.

1 Switched over to the second gas turbine, and went to 20 knots
2 heading towards -- and the tasking was to make best speed to last
3 known position of *Scandies Rose*. So we cut a track line through
4 the Shumagin Islands, knowing that we'd have to do a couple of --
5 when you get within three miles of shore water, we have -- we
6 bring more people up on the bridge to make sure that, that we
7 transit safely.

8 And so with going through the Shumagin Islands, we'd have to
9 bring more people on the, onto the bridge of the ship. Bring more
10 people up, have people up on the (indiscernible) ready to drop an
11 anchor in case we had a mechanical issue. And we went through the
12 Shumagin Islands to make best speed. And that was our initial
13 tasking and plan.

14 Q. So in a minute, I'm going to ask the Lieutenant to pull up
15 Coast Guard Exhibit 076 and go to page 4. But before I do, how
16 many men and women serve on the ship?

17 A. So on the day in question, we had 25 officers, and 123
18 enlisted.

19 Q. So at what point, Captain, did you begin to assess the risk
20 of the mission that you were about to undertake?

21 A. I, I mean, we begin the risk assessment as soon as we got the
22 call. We were, you know, we were in Beaver Inlet. It's dark.
23 It's New Years Eve. It's cold. The weather is not ideal. And
24 we're going to go steam across the Gulf of Alaska at, you know, at
25 best speed.

1 So immediately you're assessing the risk. And as I said, we
2 came up on two mains to try to get us out of the Inlet quickly,
3 but not at gas turbine speed. And then once we got into open
4 water, based on the risk, we came up to full on one engine. So
5 it's a continuous risk assessment and, yeah, continuous risk
6 assessment and discussions with my senior leadership team on the
7 ship.

8 Q. So graphically, the risk assessment assigns colors to risk,
9 red being highest, and green being least. Am I correct in that?

10 A. Yes.

11 Q. So you got tasked for the mission and are beginning to get
12 underway, what color would have represented the risk that you
13 identified?

14 A. I would say we were definitely in the amber range, as we, as
15 we came out of Beaver Inlet. Just steaming around in Beaver inlet
16 on December 31st, we were at the very top of the green threshold
17 and anything goes wrong, you're immediately in Amber. You're in
18 Alaska, there's no one to help you, and you're close to shore
19 water, and the water's so deep you can't anchor. So yes, we were
20 in green, but amber's right around the corner.

21 Q. So as the mission progresses, and we'll talk about that a
22 little bit more, you assess the risks, could you assign a new
23 level of risk like (indiscernible) and begin search operations.
24 Could you reevaluate risk and assign it a new, I'll say color just
25 for the simplest term, of risk for your ship. Could you reassign

1 that?

2 A. Yeah, I think once we, you know, by the next afternoon when
3 we got on sea. And I'm trying to -- let me grab my notes. I can
4 tell you want time here. So at -- so we got on the scene about
5 1600, or 1615 we arrived on scene. And we started our search
6 pattern. And as we slowed down and turned, so we've been running
7 down, downwind and down swell the whole time. So a lot of the
8 weather would have been at our back.

9 And then as we turn our first search pattern, we're looking
10 at how much ice we had, and there was enough with darkness quickly
11 approaching, that before it got dark, I wanted to get the crew out
12 there to remove the ice, because our risk was going to climb up.
13 And then once it gets dark, the last thing I want to do is have 25
14 junior folks removing ice from the icy decks of a ship. So we did
15 that. We stopped our search pattern. Cleaned off the ice, and
16 then continued the search pattern. So that was, you know, we're
17 skipping ahead, you know, almost 16, 17 hours later.

18 Q. And we'll circle back on the ice issue, but I'd like the
19 Lieutenant, if he would, please pull up Exhibit 76 and go to page
20 4, which are tracks, search assets, and you'll see when we get
21 there, if you zoom down in the corner, if you can tighten up in
22 the lower left section. You'll see the position with the gold
23 star of the Coast Guard cutter *Mellon*.

24 A. Um-hum.

25 Q. And the green triangle represents the position, last known

1 position of the *Scandies Rose*. Captain, could you just, as we
2 move along the track, talk to us a little about the voyage down in
3 there. You mentioned the ship was favorably deposed in terms of
4 the weather, because the seas and wind were on the aft section.
5 Could you briefly talk about the trip down to the search site, and
6 what you did to plan for the search activities when you got on
7 scene?

8 A. So we were given a creeping line search by District 17. We
9 departed Beaver Inlet, which is not where that -- that star's not
10 where we started at 2326 when we got the phone call, when we got
11 the call to divert for Search and Rescue. Then we proceeded
12 through south of, of Unimak Pass, and then on a northwesterly
13 course.

14 Seas were about four foot sea waves with six foot swells is
15 what's in the ship's log for overnight, four and seven, you know,
16 going back and forth out of the 3-3-0 was the ships logs for the
17 early morning hours. And the winds were out of the northwest
18 between 25 and I think we have a high of 40 knots at 1200.

19 So it was heavy, you know, definitely heavy weather on our
20 stern. We're going fast for our sized cutter, and our age of
21 cutter. And the -- it becomes hard to steer. We transited up
22 through Shumagin Islands and because the cutter's been
23 decommissioned, all of our navigation software that had all of our
24 specific track lines on it, has been removed. And I have not -- I
25 didn't have access to it.

1 But from the ship's logs and as you guys could see, when we
2 reviewed our ship's logs, we did set the modified navigation
3 detail twice during the day, and then at one point, after we set
4 modified navigation (audio interference) Captain Riddle at
5 (indiscernible) to talk about pros versus cons of me coming up on
6 a second main gas turbine because we were in a little bit more
7 protected water, and I'd have the ability to run just a little bit
8 harder.

9 But the con of that being my on-scene time, or my ability to
10 be diverted for another case if it were to come up. Because we
11 end up burning about twice as much fuel. When I spoke to him, the
12 conversation ended with it would probably be the best answer for
13 you to come up on both mains to try to get there before sunset.
14 And I wanted to make sure that my bosses understood the risk of me
15 coming up on both engines, to get three more knots.

16 And so we came up at 1039 on both main gas turbines. And
17 throughout the day, we were in restricted visibility, and we just
18 had to have multiple people, including myself, on the bridge to
19 try to make sure that we were in compliance with the navigation
20 rules going 25 knots in restricted visibility.

21 So that was, it was definitely a challenging transit. But
22 we, we went the most expeditious route we could, and tried to make
23 the best absolute speed we could, knowing there could be Mariners
24 in distress on the other end.

25 Q. So this, this graphic simply represents the distance from,

1 from the approximate notification position to the last known
2 position, but it would be fair to say that your course would have
3 been through a series of islands and so forth, that's not
4 represented here. Right? You'd have to do some more precise
5 navigation to reach the distress scene?

6 A. Absolutely.

7 Q. So I'm kind of getting ahead of myself, but I want to talk a
8 little bit, you talked about the stresses and strains on the
9 vessel. You've talked about the consideration for the speed that
10 the vessel was going to make in the seaways, steering issues.
11 But, Lieutenant McPhillips, if you'll pull up Coast Guard Exhibit
12 096. You mentioned icing. And these are two images that were
13 supplied by you, I believe, that show icing and the actual sea
14 conditions that the *Mellon* encountered. There's two slides, so
15 you can ask Lieutenant McPhillips to advance when you'd like. But
16 could you describe the icing that we see in these pictures?

17 A. So we were running, when we left Beaver Inlet to head to the
18 last known position of the *Scandies Rose*, we were mainly running
19 down swell. So you don't, you don't get nearly as much icing as
20 you do if you're running into the winds, or into the seas.

21 And so on a down weathers run like this, it wasn't -- we were
22 building some, and as we were, you know, as the winds kind of
23 pushed (indiscernible) the ship, you get a little spray and so we
24 got to the search position, it was not -- even when we turned on
25 our first leg back, we started hitting, and it was probably about

1 two to three inches of solid ice on the deck.

2 You can tell by the, the life lines are a pretty good
3 indicator. And the ship's not very well insulated, so you can see
4 like all the ribs where the, where the ribs melted off. Can you
5 advance to the next picture?

6 Q. I'm sorry. There's only one slide there. We have another
7 one, I believe, which is 095. If you could pull that up,
8 Lieutenant, when you have a chance.

9 A. And that's what de-icing on a Coast Guard cutter looks like.

10 Q. Can you pull it back up again, Lieutenant? And just stop as
11 soon it pops up. Thank you. So, Captain, how fast did the ice
12 form on the ship?

13 A. We had not de-iced since we left, since we left Beaver Inlet.
14 And part of it was, a lot of times I really -- I want to slow
15 down. I don't want to be going 20 knots in case someone were to
16 fall over. You have people walking on ice. You have people, a
17 lot of times, it's a lot of junior folks. You have people
18 shoveling the ice over the side. And just one slipped move, and
19 one of these people could fall over.

20 So I, I typically want to go as slow as possible. And on our
21 way to the search area, I didn't want to slow down. So we, we
22 just stayed on it until we got there, and then as it looked like
23 sunset, we weren't going to be able to finish our entire search
24 before sunset, I stopped the search for a moment to de-ice the
25 ship, and then we went back and resumed our search pattern we were

1 assigned.

2 Q. So this was the first of January, the next day, after the
3 sinking, how long was -- did you have daylight? Do you have an
4 approximate figure for that?

5 A. I can tell you when the logs have sunset. Sunset was at
6 1710. So 5:10 in the evening.

7 Q. Do you have an approximate sunrise time?

8 A. Sunrise that day was at 0935 for us.

9 Q. And as a ship handler, could you feel the effects of the ice
10 that was beginning to accumulate on the ship?

11 A. I would -- this amount of ice, on this cutter, I would say
12 no. But I have definitely been in situations where I have in the
13 past on Coast Guard cutter *Hickory*, multiple times.

14 Q. So this ship is going to be engaged in Search and Rescue
15 activities and you have to send a large number of your ship's
16 workforce out onto the (indiscernible) the bough of the ship to
17 break this ice off. And Coast Guard men and women are physically
18 fit, and medically screened. Did this like introduce some fatigue
19 into the duties, or their capabilities for the Search and Rescue
20 mission that you were undertaking?

21 A. Yes. I mean, there's definitely a level of fatigue for any
22 person to go out in cold weather, and swing a hammer, and shovel
23 something. But I mean most of these folks, if we weren't in such
24 heavy weather, they, they'd go down the gym and spend a half hour,
25 45 minutes down there exercising each day.

1 So there's an immense tradeoff. I'm sure there's people that
2 it was fatiguing. I know other people were excited to go outside
3 time and get some exercise. The -- in this picture right here,
4 one of my deck watch officers got injured, injured his back
5 shoveling snow the moment I took this video, and spent the next
6 four days in a horizontal position, trying to get his back to
7 straighten back out.

8 Q. Thank you, sir. So, Lieutenant, you can pull that down, and
9 if you would, pull up Exhibit 76, which is another part of the
10 Search and Rescue presentation, and go to page 14. And if you
11 will back out a little bit. Okay. That's good. So we had
12 Mr. Giard, our Search and Rescue specialist, talk about the common
13 operating picture that the Search and Rescue software delivers,
14 that represents probability of detection. But I want to a little
15 clearer here. So if I'm looking at these squares, the light green
16 and the gray would mean the less probability that a victim would
17 be found in that location. And the purplish red, that would
18 represent a higher probability. Is that correct?

19 A. I don't know. But I'm not -- this isn't a software that's
20 part of my job.

21 Q. Okay. So this information is not transmitted to the ship.
22 Is that correct?

23 A. Not, not to me.

24 Q. Okay, and is the parameters of the search patterns, if you
25 look up in the upper left corner, you'll see a black rectangle

1 where it has the cutter *Mellon*, and then there's an S form. Is
2 that information conveyed to the ship in terms of how to conduct
3 the search pattern?

4 A. They give us the coordinates of each, each point of the
5 search they'd like us to go on.

6 Q. So they don't send out this graphic to kind of show a common
7 picture, and the activities of all the Search and Rescue assets.
8 Is that correct?

9 A. I'm not sure. They may do that in some cases. But we did
10 not -- I did not see that for this. And I've seen other big cases
11 when I was (indiscernible) a sector where they overlay all the
12 different unit search patterns, we get an idea where you were, in
13 this situation, we were given our search, our creeping line search
14 to complete. And it populated on our navigation software, and we
15 executed the search as we were tasked.

16 Q. And when you say populated on your navigation software, do
17 you mean that the shore-based people sent that search pattern to
18 the ship, and the ship had everything done? Or did it require
19 some work by your navigation crew to plot or input this data, and
20 then carry out the search?

21 A. I think it's more of the second. They give us the corner
22 points of the search, and we have to have someone go in and punch
23 each lat/long in.

24 Q. So the search speed, could you talk about the search speed?
25 So you come up on gas turbines. You've arrived on general

1 location of the Search and Rescue operation. Talk about the, if
2 you would, Captain, the search speed during that operation.

3 A. I think our number one goal during this search was the
4 attempt to maintain our (audio interference). As we attempted to
5 go down to what I would consider my, you know, ideal search speed
6 for a search like this, the winds and seas we were, we were
7 steering 40 degrees off of our creeping track line search lag,
8 trying to maintain, maintain our course.

9 It was a -- I remember it was exceptionally challenging to
10 try to go slow when you're, when you're into 30 knots of wind and
11 about 12 foot of seas, to try to go six or eight knots, and could
12 not just search, as you're just getting pushed sideways.

13 Q. So generally, you followed the search pattern and you, the
14 term crabbing or twisting in the wind to make that search pattern.
15 Would that be correct?

16 A. Yes.

17 Q. So how hard would it be, you're looking -- what are you
18 looking for at this point? You enter the search area. Have you
19 been told that you're looking for people in the water, potential
20 people in the water, or a raft, or debris? What were you looking
21 for?

22 A. There had been discussion during the mid part of the day
23 about someone had sighted a raft, and then about, I think it was
24 about an hour or so before we got on scene, they had verified that
25 the raft was floating. And I think a helicopter had gone and

1 either recovered it or sunk it. But originally we were kind of
2 racing to try to help find that. But when we, as we were
3 approaching, I believe all the aviation assets had already
4 returned to base at that time.

5 Q. So in general, based on your considerable cutterman
6 experience at sea, how hard is it to locate a person in the water
7 from the vantage point of a ship?

8 A. Challenging. Absolutely challenging. Especially in heavier
9 weather.

10 Q. So would this search pattern, this design that as you moved
11 along that serpentine sort of S-shape, the distance between the
12 tracks would give you the coverage so that you could possibly find
13 a man in the water, as opposed to going faster or moving those
14 parts of the S further apart to expand the search area. Would
15 that be correct?

16 A. That would be correct.

17 Q. So can you give us any idea of anything, any equipment, and
18 I'm not talking about necessarily Coast Guard equipment or any
19 equipment. One of the things that's been discussed here would be
20 personal locator beacon. Would that assist you in more rapidly
21 finding a person in the water?

22 A. Yes.

23 Q. And how would that work? Do you know?

24 A. It would put out a signal, we would use the directional
25 finder and find the person that's sending the signal.

1 Q. So for the ship, and I'm getting to the answer of my
2 question, but was there any equipment that performed poorly, or
3 not as designed? You mentioned steering concerns due to the age
4 of the ship. Anything else?

5 A. Not that I know of.

6 Q. And how about anything, the crew, or the ship itself, that
7 performed very well in this particular mission?

8 A. I mean it was definitely, it was definitely challenging
9 navigation and operations as we went through, you know, fairly
10 narrow passages at a high speed with, you know, as I said,
11 multiple times during the day we, we ran into fog banks and we
12 just held our speed going through the fog banks, trying to get
13 there was expeditiously as possible with the whole goal of getting
14 there to try to get a search done before sunset.

15 Q. So you trained regularly on Coast Guard ships to rapidly
16 recover a person in the water. What is the benchmark that you use
17 in this training for the amount of time someone might be
18 incapacitated, that you use in your training? How quick do you
19 need to recover a person in the water, in your training?

20 A. Well for the Coast Guard training, for our internal man
21 overboard drills, I believe it's about 9 minutes for a ship board
22 pickup. I think it's somewhere in that realm.

23 Q. I've asked you a lot of questions, and I thank you very much,
24 Captain.

25 MR. FAWCETT: Captain Callaghan, that's the end of my

1 questions

2 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

3 Captain Musman, I'm going to now go to our colleagues at the
4 National Transportation Safety Board.

5 Mr. Barnum?

6 MR. BARNUM: Thank you, Captain Musman. I appreciate your
7 testimony today and also your efforts and your -- thank you for
8 your service, for your long career in the Coast Guard. I have no
9 questions. I believe my colleague does.

10 BY MR. SUFFERN:

11 Q. Good morning, Captain Musman. I appreciate your time today.
12 I just had a couple of questions related to the weather
13 information that you used on board to gather as you're heading up
14 to the Search and Rescue grounds. What weather information and
15 weather sources were you using?

16 A. So what sources was I using to make my judgments? Or what
17 are we using on board the ship to gather weather data? I guess
18 that's, that's -- can you clarify?

19 Q. Yes. Both of them, I guess both of those questions, yeah.
20 So what are you using? Do you have weather instruments on board
21 that you're gathering information from? And then what types of, I
22 guess, forecast information or things that prolong -- longer
23 outlooks that you're determining, you know, is it safe to go all
24 this way in this, this type of weather?

25 A. Okay. So on board the ship we have, you know, thermometers,

1 barometers, anemometers. They're all calibrated on a regular
2 basis. There's a calibration schedule for all the weather
3 gathering equipment. And as was submitted, you see that we have a
4 weather log where hourly, underway, and every four hours in port,
5 they -- the crew takes weather readings.

6 And the -- I would say the one thing is the crew has, it's
7 always a challenge on true winds, but I usually try to verify that
8 with them every time. It's one of the big jokes on, on my ship
9 was what's the first thing the Captain's going to ask when he
10 walks onto the bridge, and the question I always ask is what are
11 the true winds. And then I usually want them to tell me which
12 direction, relative to where we are, relative to our heading,
13 where those true winds are.

14 So I'm constantly using my internal, you know, our internal
15 sources, and then for external forecasting and modeling, I've used
16 Windy for the last couple of years pretty heavily. And before
17 that, it was Stormsurf was the go to. And then once in a while,
18 I'll check in the NOAA forecast. But like I said at the beginning
19 of my testimony, the NOAA forecast, some of those forecast areas
20 are the size of a midsize state.

21 So it's, it's kind of hard to get that more micro-weather,
22 especially if you're operating close to the Alaska Peninsula or
23 within the Shumagins to try to get that micro, more micro-weather
24 that you see in those areas. And I found that Windy, a lot of the
25 modeling with Windy is pretty accurate.

1 Q. So do you use that information on your phone? Is there a
2 computer, internet available there on the bridge that you queue
3 that information?

4 A. We have internet in most of the, most of the offices and
5 stateroom on the ship. It's not very fast. It's very similar to
6 sharing dialup with 150 of your closest friends. So it's gotten
7 better of late, but usually, if it's getting really slow, I can
8 have our IT folks turn other people off so I can get enough
9 bandwidth to check a couple different weather sources.

10 Q. Okay, and then do you relay the, you know, it sounds like you
11 take hourly, or four hourly weather logs. Do you relay that
12 weather information to other Coast Guard sources? Or the National
13 Weather Service, or any other sources when you're taking those
14 logs?

15 A. Yeah. We do send weather observations to the National
16 Weather Service to help them build their forecast models. And
17 that's on a regular scheduled reporting that they ask for.

18 MR. SUFFERN: Okay. Thank you so much, Captain. I
19 appreciate your time. That's all the questions I have for right
20 now.

21 THE WITNESS: Okay.

22 CAPT CALLAGHAN: Thank you.

23 Captain Musman, I'm now going to pass it over to our parties
24 in interest, counsel for the two survivors.

25 Mr. Stacey?

1 MR. STACEY: Thank you, Captain Callaghan.

2 And thank you, Captain Musman, for your work and your
3 distinguished work with the Coast Guard. I have no questions for
4 you, sir.

5 CAPT CALLAGHAN: Thank you, Mr. Stacey.

6 And now to counsel representing the vessel owners,
7 Mr. Barcott.

8 MR. BARCOTT: Good morning, Captain Musman. My name is
9 Michael Barcott, counsel for *Scandies Rose* in this matter. Are
10 you able to hear me all right?

11 THE WITNESS: I hear you fine.

12 MR. BARCOTT: Fantastic. First off, on behalf of the vessel
13 owners, I really want to take a moment to thank you and your
14 entire crew's efforts during this search for the *Scandies Rose*.
15 At this point, I have no, no questions for you. Thank you very
16 much for your testimony today.

17 CAPT CALLAGHAN: Thanks, Mr. Barcott.

18 And, Captain, I just have a couple of quick follow-up
19 questions from Commander Denny.

20 THE WITNESS: Okay.

21 CDR DENNY: Thanks, Captain.

22 BY CDR DENNY:

23 Q. (Indiscernible) today, I did have a few follow-up questions
24 for you. When you were describing the *Mellon's* capabilities, you
25 said that there were, I believe, two mains, and then two turbines.

1 Is that correct, sir?

2 A. That's correct.

3 Q. Okay, and what type of fuels do the mains and the turbines
4 use? Sand fuel or different fuels?

5 A. Sand fuel.

6 Q. And what kind of fuel is that, sir?

7 A. Marine gas oil, MGO. We pretty much burn whatever we can
8 get.

9 Q Okay, and to the best of your recollection, during that
10 transit from the time that you were directed to head to the last
11 known position of the *Scandies Rose*, until you got on scene and
12 began your search, about how much fuel did the Coast Guard cutter
13 *Mellon* burn? Because you've mentioned multiple times that for
14 twice the fuel burn, you could get that extra couple of knots per
15 hour. Could you, to the best of your recollection, let us know
16 how much fuel you burned?

17 A. (Indiscernible) we have the engineering logs, and we have the
18 soundings for those two days. I believe it was over 90,000
19 gallons. Almost half of our, of our fuel in 24 hours.

20 Q. So okay. I'm just going to repeat to make sure that I heard
21 you correctly. You're saying that you burned more than 50 percent
22 of the cutter's fuel source in order to transit in that 24 hour
23 period, in order to get there. What did that do to the Cutter
24 *Mellon's* stability?

25 A. It does not make it great. We did get down to about, around

1 62 percent. We should start considering balancing, but because
2 the ship is so old, we don't have dedicated balanced tanks. So if
3 we're going to balance, that means we're going to put salt water
4 in a fuel tank and then, then you typically have to get your fuel
5 tanks cleaned because the next iteration is growing stuff in your
6 fuel tanks.

7 So I'm pretty sure we burned about 90,000 gallons of fuel in
8 that transit. It was -- my biggest concern was getting a second
9 call for a different Search and Rescue case, as there were
10 multiple vessels leaving Kodiak, heading for the Bering Sea those
11 days, and not have fuel to be able to respond to another case.

12 And so I think our instability, we can work through that.
13 It's having the endurance to be able to, to go and respond to
14 another case. So we, we did, at the end of this case, we made a
15 slow steam back towards Dutch Harbor and immediately refueled the
16 cutter.

17 Q. Understood, Captain. Thank you. That was actually my other
18 question in that, the overarching risks and gains, so you just
19 explained that. Thank you, sir. I just want to make sure that I
20 heard you correctly.

21 At one point you said it was 16 to 17 hours of transit at
22 your best speed, and you had extra people on the bridge, which
23 also increased fatigue for some type of your crew. So in your
24 assessment, is it a fair statement to say that your risk was
25 creeping up?

1 A. Yes. I would definitely say, you know, as I reviewed the
2 logs over the last couple of days, you know, we were going well
3 over 20 knots in restricted visibility. And so for anyone who's
4 been at sea on a Coast Guard cutter, that is, that is not common.

5 Normally, a Coast Guard cutter in restricted visibility,
6 you're coming down to the lowest reasonable speed you can be at.
7 And then for people that are familiar with Alaska, as you're
8 through the Shumagins in restricted visibility at 25 knots, there
9 is a likelihood that you can come upon a 25 or 35 foot vessel,
10 which isn't, isn't picked up on radar. They're not on AIS, and
11 they're the one that pops out of the fog when you're doing 25
12 knots, that you -- the first time you see them is 150 to 200 yards
13 away.

14 And so we were -- there was a good deal of risk. I was
15 personally on the bridge all those times we had multiple, you
16 know, one or two deck (indiscernible) on the bridge to try to
17 mitigate, bring those risks down. And we wanted, we really wanted
18 to get there before sunset on the 1st. That was a strong goal for
19 not only myself, I think for the whole crew.

20 Q. Thank you, Captain. I've got two more questions. And one of
21 them was you mentioned in your history that you were stationed on
22 the Coast Guard cutter *Hickory* out of Alaska, and you also
23 mentioned later in your testimony that while on the *Mellon*, you
24 did not feel the effects of the de-icing because, and I assume,
25 please correct me, but it's because it's a larger ship that the

1 (indiscernible) the *Hickory*. Can you just elaborate on that a
2 little bit? Is that because of the size of the *Hickory*?

3 A. We just, my time on *Mellon*, I've been, I was pretty
4 fortunate, we had, you know, multiple times with that icing
5 conditions, but I think -- I've been pretty lucky to be able to
6 mitigate it by either slowing, or turning, or removing the ice. I
7 know there's a couple of times we were north of Saint Paul Island,
8 we were making ice. But it wasn't, wasn't steamed up again.

9 On the other hand, I had probably three separate occasions on
10 Coast Guard cutter *Hickory*, one of which I had -- we had such
11 heavy icing that the whole port side of the ship was -- we were in
12 a lolling condition. We had a (indiscernible) break loose because
13 it, it iced up and it went back and hit the port side ladder that
14 goes up to the wheelhouse. I mean we, we had some really, you
15 know, nightmare nights with ice in the Shelikof Strait, just
16 northeast of where the last known position of *Scandies Rose* is.

17 Q. So sir, from your experience, what are the physical impacts
18 that icing has on a, on a vessel let's say the size of the *Hickory*
19 since that's your experience? You mentioned lolling, could you
20 describe that for the benefit of the public?

21 A. Yeah. You can feel the ship as, you know, we are icing, on
22 my experience, on *Hickory*, we're icing, the weather was to our --
23 off our port bow, probably, you know, relative 3-2-0-3-3-0-0 so
24 just, just off our port bow, you know, 10:30, 11:00 on a, you
25 know, it's 12:00, it's off your bow, and so we were building up a

1 lot more ice on our port side than we were on our starboard side,
2 and you could feel the ship would, it would lean to port, and then
3 it would come back. And it was, you know, you had a list, but
4 then you also had that, it would just be slow to that side, and
5 then sort of recover.

6 And then the downfall of that is, as the next, next spray
7 comes and hits you, it all washes that same side. And then you
8 just, you kind of go and kind of dancing in that, in that
9 direction. So that's, that was the challenge that we faced on
10 that night of icing, especially when -- so I end up going the
11 wrong direction, just so I can keep the seas right off my bow.

12 Q. And, Captain, I think I might have missed this --

13 A. I can't hear you. Commander Denny, I think you're muted.

14 Q. Sorry about that, sir.

15 A. There you go.

16 Q. I'm the technical difficulties person. So my question was
17 just going to be, so how -- what is the length of the *Hickory*?

18 A. 225 feet.

19 Q. I'm just pulling up the *Scandies Rose*, just to understand the
20 comparison for both the Board and the public to get that sense of
21 the size of the vessel in comparison to (indiscernible).

22 A. Yeah, 225 feet, 2,000 tons. Pretty big ships.

23 CDR DENNY: So for the benefit of the public, the size of the
24 *Scandies Rose* was about 113 feet. So, so roughly, smaller, so it
25 was quite smaller than the *Hickory*, and you guys were experiencing

1 that kind of lulling. Thank you for helping us understand those
2 conditions in that area. Thank you, Captain. I have no further
3 questions, sir.

4 CAPT CALLAGHAN: Thank you, Commander Denny.

5 Captain Musman, I just kind of -- ask Lieutenant McPhillips
6 to pull up the video one more time and, Lieutenant McPhillips, if
7 you could just pause it as soon as you get it up.

8 BY CAPT CALLAGHAN:

9 Q. So, Captain Musman, what I'm kind of looking at here is the
10 port rail there, on the port side, on the left of the video here,
11 appears to be a solid wall of ice. But in, in terms of framing
12 that for reference, looking at the starboard side, that's a
13 three-wire rail that goes between the posts. Is that correct?

14 A. It is.

15 Q. And as a history to that, to paint a reference for, we've
16 done a lot of talking about ice, and particularly looking at how
17 it goes up on pods and different surfaces. Just trying to paint
18 that picture there on how that seemingly built a, a wall along the
19 bulkhead there.

20 A. If you look forward, just to the, just to the left of the 76
21 gun, you can see how the, just a little bit to the right of there,
22 right in there, it's -- basically, it's filled in those safety
23 nets. The ice has -- right there where the cursor is, whereas on
24 the starboard side, where it's getting a little bit of a lee from
25 that port side icing, that it, it did not fill in the safety net

1 as much.

2 Q. Yeah, and that's a great reference point. And very similar
3 to how kind of (indiscernible) on individual crab pods.

4 CAPT CALLAGHAN: Thank you, Lieutenant McPhillips, you can
5 pull that down.

6 Captain Musman, I really appreciate your time, making the
7 time to sit with us today and share your firsthand account of just
8 the operation of the vessel and what the unseen conditions were
9 for that case. So I really appreciate your time. Certainly want
10 to recognize your time, your career in the Coast Guard doing this
11 for the (indiscernible). Just to extend our appreciation for what
12 you have dedicated so much time you do, so thank you for that.

13 THE WITNESS: All right. Thank you.

14 CAPT CALLAGHAN: At this time, you are now released as a
15 witness from this formal hearing. Thank you for your testimony
16 and cooperation. If, at a later time, we determine that this
17 Board needs additional information from you, we will reach out and
18 contact you through counsel. If you have any questions about the
19 investigation, please feel free to contact the investigation
20 recorder, Lieutenant Ian McPhillips.

21 Thank you very much for your time, Captain.

22 THE WITNESS: All right, thank you.

23 (Witness excused.)

24 CAPT CALLAGHAN: The time is now 1209. This hearing will now
25 go into recess and will resume as scheduled for the afternoon. If

1 for any reason we're able to begin sooner, we'll update the time
2 displayed on livestream.

3 (Off the record at 12:09 p.m.)

4 (On the record at 1:00 p.m.)

5 CAPT CALLAGHAN: The time is now 1300, and this hearing is
6 now back in session. We will now hear from Captain Schlegel and
7 Commander Nassar.

8 Captain Schlegel, Commander Nassar, Lieutenant McPhillips
9 will now administer your oath and ask you a few preliminary
10 questions.

11 LT MCPHILLIPS: Good afternoon, Captain. Good afternoon,
12 Commander. Please stand and raise your right hand.

13 (Whereupon,

14 CLINT SCHLEGEL and SAMUEL NASSAR

15 were called as witnesses and, after being first duly sworn, were
16 examined and testified as follows:)

17 LT MCPHILLIPS: Please be seated. I will be asking each of
18 you questions about your background, starting with Captain
19 Schlegel.

20 Captain, please state your full name and spell the last name.

21 CAPT SCHLEGEL: Clint Schlegel, S-c-h-l-e-g-e-l.

22 LT McPHILLIPS: Please identify counsel or representative, if
23 present.

24 CAPT SCHLEGEL: That would be Lieutenant Commander Pekoske.

25 LT McPHILLIPS: Counsel, please state and spell your last

1 name, as well as your firm or company relationship.

2 LCDR PEKOSKE: Lieutenant Commander Matt Pecoske,
3 P-e-k-o-s-k-e, U.S. Coast Guard Judge Advocate, witness counsel to
4 Captain Schlegel.

5 LT McPHILLIPS: Captain, please tell us, what is your current
6 employment position?

7 CAPT SCHLEGEL: Current employment is with the U.S. Coast
8 Guard, and I'm currently the office chief for the U.S. Coast Guard
9 Office of Search and Rescue, which is within Coast Guard's Office
10 of Response Policy.

11 LT McPHILLIPS: What are your general responsibilities in
12 that job?

13 CAPT SCHLEGEL: My general responsibility is to manage the
14 policies specific to the Search and Rescue missions of the U.S.
15 Coast Guard.

16 LT McPHILLIPS: Can you briefly tell us your relevant work
17 history?

18 CAPT SCHLEGEL: I currently have 23 years of service in the
19 Coast Guard, with 13 of those years in Search and Rescue
20 operational assignments. The majority of those have been as an
21 aviator in an H-65 helicopter.

22 In addition, I've managed units, operational units, on the
23 Great Lakes, managing five helicopters, responding to Search and
24 Rescue cases on the Great Lakes, and also as the deputy sector
25 commander on the west coast for Sector Humboldt Bay, managing

1 three helicopters, two cutters, two response boat stations on the
2 west coast, the, obviously, Search and Rescue missions, in
3 addition to others.

4 LT McPHILLIPS: What is your education related to your
5 position?

6 CAPT SCHLEGEL: I previously held the Search and Rescue
7 mission coordinator designation, as well as the active search
8 suspension authority, in addition to several other courses that
9 I've attended throughout my career, relating to my designation
10 qualification as a aircraft commander.

11 LT McPHILLIPS: Do you have any other professional licenses
12 or certificates related to your position? Please explain, if so.

13 CAPT SCHLEGEL: No. I'm sorry, no, I do not.

14 LT McPHILLIPS: Thank you, Captain.

15 Commander, please state your full name, and spell your last
16 name.

17 CDR NASSAR: Yes, good afternoon. Samuel Nassar, spelled
18 N-a-s-s-a-r.

19 LT MCPHILLIPS: Please identify counsel or representative, if
20 present.

21 CDR NASSAR: Yes, Lieutenant Commander Pecoske.

22 LT MCPHILLIPS: Please tell us, what is your current
23 employment and position?

24 CDR NASSAR: I am the chief of the Communications and
25 Infrastructure Division here in the Office of C5I Capabilities,

1 where we manage communications requirements and infrastructure
2 requirements for the U.S. Coast Guard.

3 LT MCPHILLIPS: What are your general responsibilities in
4 that job?

5 CDR NASSAR: Understanding, as far as communications and
6 infrastructure needs, where gaps are. And so if you can't
7 communicate in a certain area, we generate requirements, trying to
8 fill those gaps. Also, for the systems that we have in place, if
9 they're not working correctly, essentially they aren't meeting the
10 requirements.

11 You know, we apply resources and we apply direction to those
12 managing programs, into those service centers to basically -- to
13 fix whatever gaps that we have. So it's a combination of, you
14 know, does what we have meet the requirements? And if there's a
15 new, emerging requirements, generating new requirements the
16 fulfill those needs.

17 LT MCPHILLIPS: Can you briefly tell us your relevant work
18 history, sir?

19 CDR NASSAR: Yes. So I come from electrical engineering
20 background. Actually, electrical engineering from U.S. Coast
21 Guard Academy. Class of 2003, as a matter of fact. Then got my
22 master's degree in electrical engineering, as well, with a focus
23 on communications. That was 2008. I've served in a number of
24 positions involving broadcast and communications systems,
25 including the navigation center, where I managed a ACE navigation

1 broadcast called Differential Global Positioning System.

2 Also served as engineer officer, operations officer, and for
3 a brief period, I was also executive officer of Communications
4 Area Master Station Pacific, where we were -- basically oversaw
5 all the operations involving communications. I should -- let me
6 correct myself. Oversaw all the communications supporting
7 operations in the Pacific theater. And that includes oversight of
8 the communications station in Kodiak, at the time, that was stood
9 up.

10 So we free-structured a little bit of how we managed
11 communications and how we, you know, the Communications Command,
12 if you want to call -- or, sorry. Refer to it as Communications
13 Command now, but we have -- back when I was in that position, the
14 command I was at was responsible for the D-17 region.

15 LT MCPHILLIPS: Thank you, Commander. Do you have any
16 professional licenses or certificates related to your position?

17 CDR NASSAR: So, as far as on the infrastructure side, I hold
18 a certification called the Certified Information Systems Security
19 Professional. It's a cybersecurity certification. But it more
20 closely aligns with cybersecurity and network infrastructure,
21 rather than kind of legacy kind of plain old voice communications.

22 LT MCPHILLIPS: Thank you, Commander.

23 Captain Callaghan will now have follow-up questions for both
24 of you.

25 EXAMINATION OF CLINT SCHLEGEL AND SAMUEL NASSAR

1 CAPT CALLAGHAN: Good afternoon, gentlemen. Thanks for being
2 with us today. You were provided with a virtual format with the
3 ability to pull up exhibits that will appear on your virtual
4 desktop. If, while viewing exhibits, you'd like to highlight
5 something or zoom in, the hearing recorder, Lieutenant McPhillips,
6 can do so from here.

7 Just as best as you can, please try to avoid using acronyms
8 that are unique to the Coast Guard or the marine industry, and try
9 to explain in plain language, as best as possible. I know both of
10 you gentlemen had prepared a brief presentation, and what I'd like
11 to do is first start with Captain Schlegel, allowing you the time,
12 sir, to make your -- the presentation that you provided. And from
13 there, we can do a few follow-on questions, and then move into
14 Commander Nassar's presentation.

15 Lieutenant McPhillips, can you pull up Exhibit 107, please?
16 And, Captain Schlegel, I'd like to turn it over to you, sir, if
17 you wouldn't mind bringing us through this presentation?

18 CAPT SCHLEGEL: Sure. Thank you. Many of these items were
19 previously spoken to here. The question -- the only thing I can
20 add, a few more details. Under the director of Search and Rescue,
21 policy is divided into two policy segments. The first policy
22 segment deals primarily with Coast Guard Search and Rescue policy.
23 It also deals with the SAR case study program, as well as, we have
24 the subject matter expert in SAR theory -- or, excuse me, Search
25 and Rescue theory, and also an oceanographer, who helps assist us

1 with drift theory and how that's implemented into our Search and
2 Rescue Optimal Planning System as well.

3 Our second division primarily serves in the national and
4 international engagement piece in regards to the Search and Rescue
5 mission. We have membership on the National Search and Rescue
6 Committee. We also have staff who manages our mass rescue
7 operations program, in addition to our SARSAT or Search and Rescue
8 Satellite-Aided Tracking system.

9 Next slide, please.

10 From a federal response standard, the Coast Guard receives
11 its authority through 14 U.S. Code 521, which essentially
12 authorizes the Coast Guard to render aid to distressed persons on
13 the high seas or within the waters within the U.S. jurisdiction.
14 They use very specific language within this U.S. Code, and I have
15 it underlined there.

16 The Coast Guard may perform any and all acts necessary to
17 rescue and aid persons and protect and save property. Using that
18 term, may, essentially provides -- or its interpretation is that
19 it's a permissive in nature, to allow us to do that mission. And
20 there's no further language that delineates any specific response
21 or other standards that the Coast Guard needs to meet, in response
22 to our SAR coordination efforts.

23 Next slide.

24 Within Coast Guard internal response policy standards, we do
25 have a resource planning standard, and I would like to note, a

1 resource planning standard, what that is. That essentially guides
2 the Coast Guard's decision on where we align our, specifically,
3 our Search and Rescue resources along our coastline.

4 We develop a two-hour, essentially, response ring, dependent
5 on that particular Search and Rescue asset's general transit
6 speed. And we try to minimize any coastal gaps in that two-hour
7 response ring on where we align our resources. However, policy
8 recognizes that Search and Rescue's very unique. Each case is
9 unique. And while this is a resource-planning standard, there is
10 no definitive response standard to arrive within the area within
11 two hours.

12 Not all areas can achieve this two-hour response standard,
13 due to, obviously, the vast amount of open ocean. And there are
14 some unique areas, both domestically and internationally, that has
15 a much smaller Search and Rescue demand, so we align our limited
16 resources to ensure they're utilized to the best use of the
17 public.

18 The Coast Guard policy permits a wide breadth of response
19 efforts, and we allow a tailored approach to each Search and
20 Rescue case, depending on the circumstances surrounding that
21 particular case. We're allowed to use not only Coast Guard
22 resources, but commercial, civilian. Our local, state, and
23 federal resources, as well.

24 Next slide, please.

25 At the very beginning of what is called the U.S. Coast Guard

1 Search and Rescue Addendum, it specifically states that this
2 document provides no standard of care or obligations that
3 shouldn't be relied upon by the Coast Guard to meet any specific
4 performance requirements in regards to Search and Rescue. And
5 again, this policy speak to -- each Search and Rescue case is very
6 unique, and the circumstances and environment can be very
7 hazardous, and it would be unreasonable to ask that Coast Guard to
8 have a specific standard of response for every Search and Rescue
9 incident.

10 Next slide, please.

11 I was asked also to provide a short overview of the Search
12 and Rescue Satellite-Aided Tracking System, which is commonly
13 referred to as Sarsat. I've divided it up into two segments. And
14 it's a little small on my screen. I might refer down to my notes
15 here. On the left-hand side is the international component. And
16 on the right side is a domestic component. I'll first speak to
17 the international component, which is often referred to as
18 COSPAS/Sarsat.

19 COSPAS is a Russian translation. It's a Russian term
20 indicating Space System for the Search of Vessels in Distress. As
21 an international component, there are four parties back in 1979
22 who decided to develop this system, to include the United States,
23 the Russian Federation, Canada, and France. Currently, there are
24 additional 39 other countries and five organizations which
25 participate in this program. Its headquarters is in Montreal,

1 Canada, with a secretariat to help manage that program with a
2 staff of 11.

3 Down in the bottom left-hand portion are the different system
4 components on the international or global level. There are over
5 50 satellites currently in orbit that participate in the Search
6 and Rescue program, that have Search and Rescue antennas on them
7 that can detect distress alerts from distress beacons. There are
8 over 100 -- well, called local user terminals that are located
9 around the globe that are able to track and collect and
10 communicate to these satellites to receive these distress alerts.
11 The local user terminals, once they receive an alert, they
12 transmit that alert to a mission -- the associated mission control
13 center. And there are over 30 of these across the world.

14 As an interesting statistic, there are over two and a half
15 million registered distress alert beacons throughout the world.
16 And in 2019, over 2,700 lives have been saved, using this system.
17 On the right side is our domestic system. There are also four
18 parties to this, which the National Ocean and Atmospheric
19 Administration, or NOAA, is the lead agency, along with the U.S.
20 Coast Guard, the U.S. Air Force, and NASA.

21 This dates back to 1984, through a formal memorandum of
22 understanding that is typically renewed every five years. And
23 it's headquartered in Suitland, Maryland, with a staff of six,
24 along with 30 other additional contractors who help manage the
25 system.

1 Again, on the bottom right are the U.S. system components,
2 which include over 25 U.S.-owned satellites, which have a SAR
3 payload, or SAR antenna on the satellites that are able to receive
4 these distress beacons, which provide, again, a global coverage
5 around the world, along with the international component. We have
6 over -- we have 11 local user terminals that are located within
7 the continental United States.

8 One is located in Alaska, one in Hawaii, and another one in
9 Guam, again, to be able to track and communicate to these
10 satellites. And we have a single mission control center that the
11 local user terminals will transmit those distress alerts to.
12 That's also located in Suitland, Maryland, at a NOAA facility.
13 These distress alerts will then be properly distributed to the
14 rescue coordination center in which the distress alert is located.
15 In addition, we support 31 other countries through our mission
16 control center.

17 So if a distress alert occurs within their Search and Rescue
18 region, that alert will be sent to that country's rescue
19 coordination center. Including the Department of Defense, there
20 are over 700,000 registered U.S. beacons, and just over 400 lives
21 saved in 2019, using this system.

22 Next page, please.

23 Here's a graphical depiction of the Search and Rescue
24 Satellite-Aided Tracking System that's a little easier to
25 understand. Typically, any three devices can be used to initiate

1 the system. These include, I believe you understand EPIRBs, which
2 are typically maritime-based. ELTs are Emergency Locator
3 Transmitters, which are typically related to aviation.

4 And PLBs, which are Personal Locator Beacons, which are
5 basically -- any commercial or any private person can purchase
6 these and own them. Once you've registered them, that helps the
7 Search and Rescue Satellite-Aided Tracking System identify who the
8 person in distress is. When the device is turned on or activated,
9 approximately every 50 seconds, it sends a signal, which is
10 received by one of these many satellites that are around the
11 globe.

12 When a satellite receives that signal, it transmits it to the
13 associated local user terminal, and then transmits that to the
14 mission control center, which determines the location of the
15 distress alert and transmits it to the appropriate rescue
16 coordination center.

17 Now, I'd like to note, Steps 1 through 5 are a completely
18 automated process, without any human intervention. On Step 5, the
19 appropriate rescue coordination center will receive the distress
20 alert, and if there's an associated position with that distress
21 alert, internationally, are required to provide a Search and
22 Rescue coordination mechanism, in order to communicate an attempt
23 to rescue those in distress.

24 On the right-hand side is another graphical depiction of the
25 participating countries around the globe, that are highlighted in

1 green, that participate in this program. And there are a few
2 statistics located underneath.

3 Next slide, please.

4 I'm going to provide a quick, broad overview of the Coast
5 Guard SAR, Search and Rescue, policy system, and how it was
6 developed, and how we utilize it. From an international
7 perspective, there were two what we call conventions that began to
8 explain and provide a standardized Search and Rescue platform in
9 the international realm. This was in 1944. It's commonly called
10 the Chicago Convention. And in 1979, it's called the SAR
11 Convention.

12 From these two conventions that culminated in the publication
13 in 1999 of the International Aeronautical and Maritime Search and
14 Rescue Manual, which is the global standard for Search and Rescue
15 response policy. Domestically, we have the U.S. National Search
16 and Rescue Plan, which -- there are several agencies that
17 participate in that, to include the Department of Homeland
18 Security, Department of Commerce, Department of Defense,
19 Department of the Interior, Department of Transportation, the
20 Federal Communications Commission, and I forgot two additional
21 agencies, to include NASA, as well as the Department of State,
22 participate in this Search and Rescue plan.

23 And there's an associated National Search and Rescue
24 Committee. Further defining the national plan is the U.S.
25 National Search and Rescue Supplement to the IAMSAR Manual. And

1 at the Coast Guard level is the U.S. Coast Guard Addendum to the
2 National Search and Rescue Supplement, which I had referred to
3 before.

4 These top three documents are available on the National
5 Search and Rescue Committee's website. We have an Atlantic and
6 Pacific Area Search and Rescue Plans, and then finally, further
7 stratified into the District Search and Rescue Plans.

8 Next slide, please.

9 This is a very broad overview of how our Search and Rescue
10 system is structured. We have a Pacific and area commander, which
11 typically have several district commanders underneath, and as
12 noted, the district commanders are the internationally-recognized
13 rescue coordination centers. Within each district commander,
14 there can be several sector commands, which are not the most
15 basic, but our most active Search and Rescue coordinating
16 mechanism in the Coast Guard.

17 However, the area commander, district commander, or a sector
18 commander, any three of those entities can coordinate a Search and
19 Rescue response. And then we have a myriad of rescue assets that
20 any level of that command structure can utilize to coordinate
21 Search and Rescue efforts. And again, a reminder, it doesn't just
22 have to be Coast Guard assets, but we have the ability to
23 coordinate with the other participating members of the national
24 Search and Rescue Committee, including local, state, federal
25 resources, and commercial, private, and international.

1 Next slide, please.

2 Here, a quick definition of a rescue coordination center.
3 And, again, it's established globally to promote the official
4 organization of Search and Rescue's services for those in
5 distress. At the bare minimum, a rescue coordination center is
6 required to have communications abilities to both receive distress
7 alerts and to try to communicate with those in distress.

8 These include any designated rescue subcenters, in which
9 included in the Coast Guard side are sector commanders -- or
10 sector commands are considered rescue subcenters to the district
11 commanders, which are the internationally-recognized rescue
12 coordination centers.

13 Next slide, please.

14 Here's a graphical depiction of how the Coast Guard districts
15 are established. The blue stars are the district offices. And
16 again, those are designated -- or, rescue coordination centers.
17 And then the orange, or they may look red, circles, with a few
18 exceptions on this map, are the sector commands. And again, those
19 are probably the busiest or most local rescue coordination
20 mechanism in the Coast Guard, outside of our Search and Rescue
21 units.

22 Next slide.

23 Here's a graphical depiction of our Search and Rescue
24 regions. As you can see, it's very vast, so it not only includes
25 our domestic waters, but also international waters. And again,

1 this is all based off the SAR Conventions that I mentioned
2 earlier. And I have one more slide. Specific to this incident,
3 Sector Juneau, within -- the lines there describe their Search and
4 Rescue region, again, which is quite vast, that they're
5 responsible for coordinating Search and Rescue to anyone who's in
6 distress.

7 That concludes the, I guess, my formal presentation of
8 slides, and I'm happy to entertain any questions.

9 CAPT CALLAGHAN: Thank you, Captain. Greatly appreciate
10 that. I think -- and those slides helped and will answer a lot of
11 -- have answered a lot of questions, so I'm going to try and
12 narrow it down. Can you please describe what a joint rescue
13 coordination center is, what the difference between a joint rescue
14 coordination center is and, say, a sector command center?

15 CAPT SCHLEGEL: Typically, a -- I've never worked at a joint
16 rescue coordination center, so I can't talk from personal
17 experience. But typically, those are going to be our partner
18 federal and state and potentially local agencies, and are
19 generally locations, instead of each agency having to man their
20 own coordination center, that they collectively establish a single
21 point where all the individual agencies can work at, and typically
22 has provided quicker and faster coordination between the different
23 agencies.

24 CAPT CALLAGHAN: And so on an internal Coast Guard level, at
25 the district level, you talked about the regional SAR

1 coordinators. So can you highlight -- is there any difference
2 between the regional, internal regional coordination centers and
3 the sector command centers?

4 CAPT SCHLEGEL: Sure. I'll start a little bit broader, at
5 the rescue coordination centers, which I think you're referring to
6 as the district command centers. Typically speaking, the Coast
7 Guard structure is dependent on the complexity of the case, the
8 number of rescue assets or rescue resources that are responding to
9 the case, or perhaps the location of the case, that the district
10 command center may take ownership of coordinating that response.
11 At the sector level, they typically have a smaller area of
12 responsibility.

13 So that last slide there was for, well, typically -- that was
14 the district or D-17 Search and Rescue region. The sector Search
15 and Rescue region would typically be a bit smaller. Their
16 coordinating mechanism typically is a lot closer with the local
17 units, because they -- or the local resources, to include state
18 and local, because they live and work in the similar areas,
19 typically speaking. And typically, the sector command centers
20 will have increased communications capability.

21 And again, the sectors typically do it on a more frequent
22 basis than the district command centers. However, as I mentioned
23 before, internationally, the rescue coordination centers are
24 required to maintain communications capabilities, and the
25 districts provide that, also. So I hope that helped a little bit

1 to answer that question.

2 CAPT CALLAGHAN: Yes. Thank you. And so I'm going to kind
3 of tie everything to the Alaskan region. And can you talk about
4 -- talk to any differences with regards to coverage for the Alaska
5 Rescue Coordination Center from any of the others across the
6 country?

7 CAPT SCHLEGEL: Sure. I don't know if I -- I've never served
8 within that district. The rescue -- the district commanders have
9 the flexibility to establish their own lines of communication and
10 how they want to manage their cases. And that's not necessarily a
11 directed Coast Guard policy on how they do that.

12 So we allow them some flexibility, depending on their area of
13 responsibility and where their rescue resources are, of how they
14 want to utilize -- either if a case is going to be going by the
15 district command center, or if it's going to run by the sector
16 command center. And I'm not familiar with the District 17 --
17 their specific policy in regards to this.

18 CAPT CALLAGHAN: Okay. And earlier, you talked about
19 engaging resources outside the Coast Guard. Can you tell us more
20 about the tools the Coast Guard utilizes to engage entities
21 outside the Coast Guard to assist in Search and Rescue?

22 CAPT SCHLEGEL: Sure. And I may start on the broader level.
23 On the National Search and Rescue Committee, as I mentioned
24 before, I think there's nearly 80 different agencies that are
25 involved in the National Search and Rescue Plan. So that's our

1 very broad coordinating mechanism for that. And then that further
2 goes down to the area commanders, district commanders, then
3 eventually to the sector commanders, which I would call our --
4 probably our most tactical Search and Rescue coordination
5 mechanism.

6 So they may be coordinating with individual fire departments,
7 individual beach patrol, or the local sheriff or county sheriff
8 and their rescue resources, whereas a district command center may
9 have a better coordinating mechanism with the state, say, the
10 State of California, and their rescue resources, or some federal
11 agencies that serve a more broader area, such as FEMA and other
12 agencies such as that.

13 So typically, it's -- the more tactical is going to be --
14 tactical coordinating mechanism is your sector level, and it gets
15 more broader as you go up in the organization.

16 CAPT CALLAGHAN: Okay. And I wanted to ask -- the tools that
17 a sector command or a district command center would use to contact
18 other, you know, reach out to other mariners, to, you know,
19 outside of public entities, to assist?

20 CAPT SCHLEGEL: Sure. You know, at the very basic form of
21 any kind of Search and Rescue response is typically VHF, Very High
22 Frequency marine band radio broadcasts. And we have certain
23 standardized ways in order to publish broadcasts that we've
24 received a distress alert, and that we would ask for any and all
25 assistance, and if we know the location of that distress alert,

1 and ask anyone to report if they had heard or seen anything
2 familiar with that.

3 So that's a fairly standard response at the sector level for
4 any kind of distress alert. And then there's a myriad of other
5 communication methods from there, via cell phone, satellite
6 communications. I've already mentioned radio. And then other
7 coordinating mechanism with other agencies, if that answers your
8 question.

9 CAPT CALLAGHAN: Yes, it does. And so earlier we heard
10 testimony, and we talked a lot about particulars with regard to
11 this case and, you know, the issuance of urgent marine information
12 broadcast. And so from a programmatic perspective, are you aware
13 of any efforts to try and broaden the scope of how the Coast Guard
14 gets those broadcasts out? For example, we have such a vast
15 network of AIS users. Are you aware of any efforts to try and
16 create an automatic ping for a broadcast to AIS users within a
17 certain area?

18 CAPT SCHLEGEL: I am not familiar with any initiatives
19 utilizing AIS.

20 CAPT CALLAGHAN: Are you familiar with any other initiatives
21 that maybe aren't just -- maybe aren't using AIS, but just in
22 general?

23 CAPT SCHLEGEL: From my period serving as the deputy sector
24 commander of Sector Humboldt Bay, I know our command center -- and
25 managing other command centers, we're looking at potentially

1 automated ways in order to make that broadcast, so a member
2 actually in the command center would not have to physically make
3 those broadcasts on the regular occurring basis that are required,
4 but rather, it would be an automated system. But outside of that,
5 I'm not familiar with any current initiatives. Yeah, I'll leave
6 it at that.

7 CAPT CALLAGHAN: Okay. And then, with regards to response
8 times, you kind of mentioned that two-hour standard. Right?
9 Obviously caveated by, it's a broad standard that certainly allows
10 for flexibility, given a different multitude of circumstances,
11 including distance and other circumstances for each case. In
12 relating that to the areas within Alaska, are you aware of any
13 efforts, programmatically, to try and improve the likelihood of
14 meeting that standard, given the weather challenges?

15 CAPT SCHLEGEL: We've had several recent Search and Rescue
16 case studies, which currently have not been completely reviewed
17 and approved, but have indicated that there are areas that --
18 there's a perception that we could provide some benefit of
19 additional resources in an area. Specifically, Alaska, obviously
20 very vast and very large, and when you look at other areas of the
21 country, the number and locations of Search and Rescue assets are
22 not as great as in other locations.

23 However, the Coast Guard also looks at a broader instance of
24 the number of cases and the activity, the maritime activity, in
25 that particular area, to try to align their rescue resources. And

1 understanding, a lot of these resources are established, and
2 especially on the east coast, were just simply based on the fact
3 that that was the earliest part of the United States as a nation,
4 and where our predecessors such as the U.S. Lifesaving Service and
5 other services were based, many, many, many years ago, that we
6 happen to still utilize.

7 But many places on the east coast are redundant. So the
8 Coast Guard continually looks at reprioritizing our assets to
9 where they could be best utilized.

10 CAPT CALLAGHAN: Thank you for that. And again, you
11 mentioned the case study program. Can you tell us a little bit
12 more about that case study program?

13 CAPT SCHLEGEL: Sure. The policy does reside in my office,
14 so the case study program provides the opportunity for the sector,
15 district or area commanders to direct a SAR case review. The idea
16 behind these is to identify any lessons learned from a SAR
17 incident, and to be able to vet any corrective actions that we
18 feel is necessary to prevent a similar incident from happening in
19 the future, or to help improve the Search and Rescue system.

20 And there are some triggers that require these, but most
21 often, they're optional. And I can try and go through and explain
22 that. There's basically three areas that are specifically
23 required. If a search -- if a search object is found outside of
24 the designated search area, it is required to do a Search and
25 Rescue case study. If a search object is found after active

1 search suspension is provided, that's also a requirement. And
2 then any time the district commander or Search and Rescue
3 coordinator would require one.

4 So that's a pretty broad statement that can apply. And then
5 they're all -- they're voluntary, as well. The sector commander
6 can voluntarily decide to do one on their own, if they feel
7 there's sufficient lessons learned, that they'd like to share
8 throughout the Coast Guard.

9 CAPT CALLAGHAN: And once it's initiated, can you just
10 briefly describe the process for carrying out that case study?

11 CAPT SCHLEGEL: Sure. Typically, on the -- there are two
12 types of SAR case studies. One specifically uses the term study,
13 and then there's a SAR case review. SAR case review is what you
14 may consider a more condensed version of a SAR case, and the SAR
15 coordinator can designate only certain parts of the SAR case to be
16 reviewed. And that helps to save time and resources to gain where
17 they believe the lessons learned are located at.

18 A SAR case study is required to review all aspects of the SAR
19 incident, and it's a more formalized report. Typically it takes
20 more resource hours to produce that, and to route that through the
21 different levels, the chain of command, to ensure the
22 recommendations fit the findings of fact within that case review
23 study.

24 CAPT CALLAGHAN: Do you know if either a study or a review
25 was conducted for the *Scandies Rose* case?

1 CAPT SCHLEGEL: Yes, I believe a SAR case review was
2 completed.

3 CAPT CALLAGHAN: And that is -- just to clarify, that's the
4 more condensed version of the --

5 CAPT SCHLEGEL: Yes. And I say condensed just to confirm
6 that it allows the SAR coordinator to define the limits of the
7 study.

8 CAPT CALLAGHAN: Sure. And are you aware of any
9 recommendations that came out of that review?

10 CAPT SCHLEGEL: It's currently still under review. And so
11 while it's currently under review, I typically do not release any
12 of the case studies until they're approved.

13 CAPT CALLAGHAN: Okay. Thank you. And then regarding
14 communications in Alaska, sir, are you aware in the policy,
15 overarching policy office, looking at Search and Rescue, are you
16 aware of any known, like, communication capability gaps in the
17 Alaska region?

18 CAPT SCHLEGEL: Yeah, unfortunately, I'm not familiar with
19 the specifics of any gaps in any particular area from my office in
20 Search and Rescue Policy, no.

21 CAPT CALLAGHAN: Okay. Well, thank you, sir. I'm going
22 to -- that's all the questions I have for you. I'm going to try
23 and use that to transition to Commander Nassar.

24 And I think, Commander Nassar, you provided a brief
25 presentation to kind of talk about capabilities. So I'll let you

1 go ahead and run through that. We'll pull it up here. I'll let
2 you run through that, and I'll follow on with a few questions for
3 you, as well.

4 CDR NASSAR: All right. And just for everyone's awareness,
5 the capabilities that I'm going to discuss, you know, were the
6 ones that were relevant to the case. You know, of course, Rescue
7 21, always kind of on the forefront of Search and Rescue, so we're
8 going to discuss the coverage of that capability. And then we'll
9 also discuss HF, as it was the way that Search and Rescue called,
10 that distress call went through.

11 So, again, Commander Sam Nassar, coming from the
12 Communications and Infrastructure Division of the Office of C5I
13 Capabilities. 14 years' experience in the Coast Guard, involving
14 maritime communications. Like I stated at the beginning, a number
15 of roles, supporting various communication systems, ACE navigation
16 systems, leading the PacArea, Master of Communications, Studies
17 Operations Officer, and particularly, as a highlight, and then
18 just electrical engineering and radio frequency background from
19 formal education. So again, thanks for having me, and I'm happy
20 to give this brief to you all today.

21 So next slide, please.

22 All right. So really, what we're seeing here is the coverage
23 of Rescue 21. And then we also have, with the green triangle, the
24 Search and Rescue area. The key point here is, and it's pretty
25 clear by looking at the chart, is the vessel *Scandies Rose*, at the

1 time of the distress, was outside of the coverage area of Rescue
2 21. Many folks say, well, how does that work? You know?

3 And while I'm not going to go too deep into the physics and
4 the engineering aspects of the communications, I do have a diagram
5 kind of in the top left, as you can see, that kind of just -- that
6 really, at a basic high level, describes why we have limited
7 range. And as you can see, on the left side of that picture, you
8 can see the Earth is shaded in grey, and then you see an antenna
9 tower in the top left, right there.

10 So as you're broadcasting, or if you're receiving,
11 eventually, the curvature of the Earth prevents that radio signal
12 from traveling any further. So really, what happens is, and we
13 say in the, you know, operational field, we say, even on the
14 engineering side of things, we say we have a line-of-sight
15 obstruction. And so if you have a line-of-sight obstruction, in
16 the case of VHF, you know, a line-of-sight obstruction would
17 interrupt, you know, VHF propagation.

18 And let me remind everyone, as well, that Channel 16 is VHF.
19 It's 156.8 megahertz. It's in the VHF band. When you run into
20 the curvature of the Earth, the signal rapidly attenuates. And so
21 you just lose that ability to communicate. So in many cases,
22 especially with the maritime application, it's actually -- it can
23 be helpful, and in this case, you know, with Search and Rescue,
24 obviously, it can be hurtful sometimes.

25 But having that limited range helps, because when vessels are

1 at sea and they're trying to coordinate amongst each other, having
2 limited range actually helps, because you don't want to hear
3 people that are too far away. So in the case of just regular
4 operations, out at sea, coordinating ship-to-ship, bridge to
5 bridge, as we sometimes say, that works with advantage. And so
6 that's why VHF is typically relied on for these types of
7 communications, for maritime communications.

8 On the other hand, you know, when you need more range, and
9 you're relying on VHF, it can obviously be very hurtful, in some
10 cases. And particularly with the many cases that Search and
11 Rescue, where all they had was a VHF radio, and they weren't able
12 to call out. And so I wanted to point this out. I was asked to
13 point out the coverage of Rescue 21, because we know folks out
14 there are trying to better understand the systems and its
15 capabilities, and so hopefully from a coverage perspective, this
16 chart clearly shows where we have coverage.

17 Now, the other thing I wanted to point out is, why do we
18 specifically have coverage in these areas? And I know many
19 mariners, even Coast Guard, have, in fact, asked this question
20 many times. And the answer, it's twofold. One is, when we were
21 building the system, we started the acquisition for Rescue 21 in
22 the early 2000s, and as we developed the requirements, we actually
23 had plans to have additional coverage in certain places. And
24 really, what we found is the lack of infrastructure.

25 So that's things like power and telecommunications circuits,

1 to act as a connection back to where this communication's going to
2 be heard, was really unavailable. And I know that Alaskans out
3 there especially know this. The infrastructure issues have been
4 around for obviously a long time, of course. They're improving,
5 but at the time we acquired the system, there were a lot of
6 constraints to, you know, for basically infrastructure.

7 And so really, what it came down to is, if we really wanted
8 to provide coverage everywhere in the Alaska region, the cost was
9 -- it was unfathomable to even estimate. So the approach they,
10 you know, the acquisitions team took is working, you know, working
11 with the various offices, and working, you know, with the mission
12 managers, and working with D-17 themselves, prioritize the most
13 significant areas, where there's vessel traffic, also in the
14 significant areas where we require port monitoring control.

15 And so you're going to see coverage in areas like Prince
16 William Sound. You're going to see coverage in other areas where
17 there's likely to be just increased traffic in general. And
18 again, this system where we put the sites and where we provided
19 the coverage, again, was prioritization done by a large group of
20 stakeholders to basically maximize the resources that we had, to
21 complete this project. This was all done under the understanding
22 that there's other means to communicate in Alaska.

23 So for example, Captain just mentioned the COSPAS/SARSAT
24 system, which is a satellite system. Of course, there's other
25 systems out there, as well. For example, Inmarsats and Iridium

1 now offer GMDSS satellite communications. And so, you know,
2 really, as kind of, like, a leading to my next topic is with
3 Alaska in general.

4 And I've learned this from talking to watch standers. I've
5 actually sat in the command center in Juneau, and I've obviously
6 sat in the communications, you know, command center at various
7 times in my career as operations officer. You need more than just
8 one way to communicate. You know? And mariners out there need to
9 ensure that they're carrying, you know, multiple means of being
10 able to communicate, obviously for distress purposes most
11 importantly.

12 And so with that said, let me -- let's go to the next chart.
13 And I'll briefly explain another way we can -- another way we can
14 -- the Coast Guard can be contacted for Search and Rescue. So
15 this chart is going to talk about high-frequency communications.
16 And understand that high-frequency was really one of the only ways
17 that mariners could communicate prior to satellite technology.
18 And so we're kind of going way back here. But HF has been around
19 in the maritime community, you know, essentially since it was
20 invented.

21 So we're talking, you know, early 1900s time frame, when all
22 this technology came to bear, and it was implemented. You guys
23 may even recall the Titanic, how they got that distress signal
24 from the Titanic. It's all started from there. And this
25 over-the-horizon capability, we call, again, high-frequency

1 communications, you know, used for distress, has been around, you
2 know, for decades. And the Coast Guard has maintained sites over
3 the years to be able to pick up these long -- you know, these
4 mariners that are out at sea at, you know, long ranges, to be able
5 to go out there and execute Search and Rescue missions.

6 So real quick, on the top left of this chart, you see
7 basically a website. It's the Navigation Center. This is
8 available to the public. What this webpage is showing is the HF
9 distress and U.S. Coast Guard contact frequencies. And what I've
10 done on the top right of the chart is kind of take a piece of that
11 website and made it bigger, so that everyone can see it. So if
12 you wouldn't mind just scrolling over to the right-hand side of
13 that chart, please? Thank you.

14 So what you see in this is basically what we're telling the
15 public, is that we're monitoring these frequencies at these
16 different stations. And so in this piece of the website, you can
17 see, on the top of this table, the Kilohertz, Ship, Station.
18 That's basically the frequency. You see 4125 in the top left.
19 And as you go across, you'll see three stations that we were
20 trying to highlight, at least in this case, in this table. On the
21 right-hand side, circled, is November Oscar Juliet. That is the
22 call sign for Kodiak.

23 And if you scroll down to the bottom of the chart, on the
24 bottom right, November Oscar Juliet monitors a number of different
25 communications sites simultaneously. So if you wouldn't mind just

1 scrolling down to the bottom, there, of the chart? There we go.
2 So on the bottom right, you see a picture of Alaska, and then you
3 see a number of HF high sites.

4 And so you'll see Nome up top. You'll Point Higgins, Kodiak,
5 Shemya, Cold Bay, and St. Paul. These are all locations where we
6 actually have HF communication sites, where we're able to transmit
7 and receive -- where we're able to transmit and receive HF
8 distress frequencies. And in particular, those frequencies that
9 are listed in that table above. And so for this case, the call
10 came in on 4125, as we call it, the frequency. It came in through
11 the Point Higgins communications station, which is pictured on the
12 top right. It's southeast Alaska.

13 Now, the next question you might be asking was, why Point
14 Higgins, when we have all of these other sites? In fact, there's
15 a lot of other sites that are even closer to the Search and Rescue
16 area. So if we go down to the bottom left corner of the chart,
17 and again, I'm going to keep this high-level, but in simple terms,
18 with favorable conditions, HF or high-frequency communications is
19 capable of achieving over-the-horizon distances, due to ground
20 wave and sky wave propagation.

21 So really, in layman's terms, you can see an antenna tower on
22 the left-hand side of the diagram, and you're actually
23 transmitting to what looks like it's the sky. And so we call that
24 the ionosphere. And so in many cases, with HF, depending on the
25 time of day and depending on the frequencies, there's a lot of

1 variables involved with HF communications, and I'd like to just
2 remind everyone of that.

3 But the high-level is that you can actually bounce signals
4 off of this layer of the atmosphere called the ionosphere, and you
5 can actually get that signal back down at the receiver, which is
6 on this diagram on the bottom right of the diagram. So that's
7 really how you get around the line-of-sight issue. And the
8 previous slide was actually 21. We've pointed out the coverage
9 limitations, due to not being -- not having the line of sight, not
10 having the range. And as the wave propagates into the Earth, you
11 lose that signal.

12 Well, with HF technology, and HF transmissions, that signal
13 actually bounces off the ionosphere, and can bounce down to the
14 receiver. And many folks may have friends or family or maybe
15 yourself, your ham radio operators, for example. Ham radio
16 operators use HF to try to achieve over-the-horizon communications
17 to various parts of the world, and in some cases, you know,
18 hobbyists will actually get, with very lower power, all the way
19 around the world. It's pretty incredible what you can do. But of
20 course, it varies with the conditions. It varies with everything
21 from what's happening with the sun -- literally, the sun affects
22 the ionosphere.

23 There's many different layers of the atmosphere that play a
24 part. And so what we've done in the Coast Guard, to try to
25 counter that, is build as many sites as feasible, to support

1 communications to basically increase the probability that we're
2 going to be able to receive a signal. So in this case, with the
3 frequency that they transmitted at, the *Scandies Rose*, the 4125,
4 at that time of day, it came in best at Point Higgins.

5 And just, you know, for the audience, just know that another
6 time of day, or maybe, you know, given a varying atmospheric
7 condition, that signal could've come in through any one of these
8 towers. So point being is that we monitor all towers in this
9 region simultaneously, and so that's how we received that
10 communication on that day.

11 And so that's the conclusion of the formal brief. Again, I
12 wanted to give some insights on how Rescue 21 is set up, and how
13 long-range communications works in the HF realm, and hopefully
14 that helps.

15 CAPT CALLAGHAN: Yeah, thanks for that. That was helpful.
16 And so couple of quick questions for you. So in terms of the
17 frequencies that we are monitoring in the Coast Guard, could we or
18 should we be doing more in the way of outreach to ensure the
19 visibility of the different frequencies that we're monitoring?
20 And what I'm trying to get at -- are we doing anything beyond, you
21 know, the NavCen website to get that outreach out there?

22 CDR NASSAR: That's a very good question. So we do have our
23 official ways of, you know, sharing this information with the
24 public. The NavCen is one venue. Mariners have many references,
25 you know, that they should be, you know, consulting, to figure out

1 the types of distress communication equipment they have, and what
2 type of frequencies we're monitoring.

3 So let me just point out one, as an example. This is a
4 publication, and it's called the List of Radio Signals. There's
5 another publication. This is called the Safety of Life at Sea.
6 It's a treaty. Right? And so the information is in here. The
7 information's on the NavCen website. So my opinion, I think
8 there's always room for improvement.

9 And I know that when, for example, although this is kind of
10 separate from the *Scandies Rose* case, but with Rescue 21, for
11 example, with some of the maintenance issues that we've had more
12 recently, we know that D-17 really was proactive in trying to
13 increase that awareness and increase that communication.

14 So I guess my answer would be, if you're a mariner, and
15 especially if you have multiple souls on board, it is their
16 responsibility to make sure that they understand who to contact,
17 so in this case, obviously, the U.S. Coast Guard, on what
18 frequencies. There's different times of days that we monitor
19 different frequencies, and that's for the reasons I pointed out on
20 the HF slide, the high frequencies right above the variables and
21 HF propagation.

22 And so it's complex. HF communications, particularly, is
23 complex. And mariners, I would say, have to ensure that they are
24 doing their due diligence to make sure that they understand how to
25 communicate. Now, in years past, you know, and this is, you know,

1 more my opinion from my own studies and from my own experience, I
2 think mariners, because they more relied on HF communications,
3 better understood it. And I think we've seen this internally in
4 the Coast Guard, as well.

5 With new technology and satellite technology and things like
6 cellphones, you know, we've kind of lost a little bit of that --
7 what we call an art of HF communications. And so I would say that
8 there is room for improvement. I would say there's always room to
9 increase the awareness. But at the end of the day, if you're
10 taking folks out, if you're taking yourself out, they should know
11 how to communicate.

12 CAPT CALLAGHAN: Thank you. And then, the last question I
13 have for you, Commander, is, given the known gaps in the
14 communications in Alaska, are there any efforts currently underway
15 to improve that coverage?

16 CDR NASSAR: Okay. So there are. I left out one position
17 that I think is now relevant, since you're asking this question.
18 A position that I was in in my last tour was at the Coast Guard
19 Research and Development Center. And in that position, we're
20 forward-looking, of course, research and development, trying to
21 figure out how we can better do our mission, trying to figure out
22 and better understand our gaps and how we can close those gaps.
23 My area of focus in that position, or I should say, one area of
24 focus, was communications.

25 And we did a lot of research on how to improve and different

1 ways we could use technology to maybe improve communications.
2 Now, a lot of the efforts that are happening right now are at
3 their early stages. And we have gotten champions inside the Coast
4 Guard at the senior leadership level to sponsor these. And I can
5 name a couple as an example.

6 So first example is, we have a project with University of
7 Alaska, the Arctic Domain Awareness Center. It's sponsored by DHS
8 Science and Technology. And their project right now, and we're
9 actually -- we did an official kickoff for this -- is to go out and
10 interview Alaskan mariners and ask them, in particular, you
11 know, about their equipment and their communications knowledge,
12 and where they see themselves going, as far as communications.
13 You know, just, you know, a few examples.

14 We know that there are a lot of emerging space-based
15 capabilities that are going to come to bear. And if anyone's been
16 watching the news, you know that, for example, SpaceX, they're
17 going to be launching a satellite constellation, which is going to
18 provide, you know, internet pretty much everywhere. Can't speak
19 for them, of course, but, you know, we know in that Gulf of Alaska
20 and Bering Sea region, for example, SpaceX will be providing
21 coverage there.

22 There's a number of other companies that are promising, you
23 know, connectivity solutions. And these companies have actually
24 filed with the FCC for ground stations, and have filed, you know,
25 with the government, the official government channels, to actually

1 launch spacecraft and satellites and put them on orbit. And so
2 we're seeing a lot of promise for increased communications
3 capability by industry, as well.

4 And so, going back to the project, the initiative that we're
5 doing here, it involves reaching out to the mariners and
6 understanding, really, what it is that they need and, really, what
7 it is that would help them go about their everyday business,
8 whether they're rec boaters, whether they're fishermen, any other
9 type of mariner, the goal of this project is to connect with the
10 mariner in figuring out what products, as in things like weather,
11 marine safety information, what is it that they need?

12 And as far as distress communications, what are they
13 carrying? What do they intend to carry? And we're actually
14 interested to see if they're actually going to, you know, maybe
15 sign up or, you know, procure some of these emerging commercial
16 internet services, like I mentioned, the SpaceX Starlink internet.
17 So as they're fishing, for example, in the middle of the Bering
18 Sea, middle of the Gulf of Alaska, they actually can be connected
19 to broadband, which not only will provide them a connection to the
20 regular world while out at sea, but can offer an alternative way
21 for distress communication.

22 So that's the first project I want to highlight. That's been
23 sponsored by our leadership. That has been kicked off by DHS
24 Science and Technology and the Alaska Domain Awareness Center, and
25 we are in the beginning of processes of actually setting up

1 meetings with local communities and with the mariners. That's
2 going to be done by the Arctic Domain Awareness Center, to really
3 start communicating and connecting with the mariner -- with the
4 mariners themselves, if that makes sense.

5 The second project, if you'd like me to talk about that, I
6 can. It's still in the beginning stages. But it involves using
7 satellite technology for Search and Rescue. And if you'd like me
8 to speak to that one, I can, as well.

9 CAPT CALLAGHAN: Yeah, sure, if you could briefly highlight
10 what that one is?

11 CDR NASSAR: Roger that. So what we realized, especially
12 with the maintenance issues in Alaska, is that maintaining Rescue
13 21 is extremely difficult. I could spend hours going over photos
14 and showing you imagery of iced-up antenna towers, snowbanks
15 covering antenna systems, generators, microwave systems. These
16 are all the systems that are actually providing the infrastructure
17 and connectivity that actually make these communications work.

18 And so it's one thing to be out on the water, to be out at
19 sea -- and I'm speaking more towards Rescue 21 right now. But to
20 hear a broadcast or to be able to communicate with the Coast Guard
21 on that system is one thing. But if you saw the back end, you
22 know, I personally think that the maritime community would be
23 shocked of the conditions that these sites have to survive.
24 Again, extreme amount of ice, cold temperatures.

25 And then when they do break, which is sometimes almost

1 inevitable, we have to fly a helicopter, you know, you have to
2 actually land on the mountaintop in the helicopter, and if there's
3 snow and ice or other hazardous conditions -- in many cases, fog
4 is an issue in Alaska -- it's very difficult to get maintenance
5 folks out there to get technicians out there to fix the sites.
6 And so again, I will say on that note, again, that is why it is so
7 important for Alaska mariners to be able to communicate in more
8 than one way, specifically for that reason.

9 But going back into the project, to briefly describe the
10 project, I briefly mentioned before, there are emerging commercial
11 satellite services that are basically offering internet. And then
12 many of these satellite constellations have capabilities, for
13 example, to receive VHF.

14 And so one of the projects that we are considering, and that
15 we are trying to determine the feasibility right now, is basically
16 using this technology to be able to receive VHF out at sea, using
17 these satellites. So right now, we are in a requirements
18 decomposition phase, and so that's a fancy way of saying we're
19 working with DHS Science and Technology to really understand the
20 gap in the problem, and at the same time, we're looking at all the
21 feasible -- the solutions that may be feasible, that might be able
22 to actually accomplish something.

23 It's a very R&D -- you know, it's very much R&D. And so when
24 we work in R&D, we kind of go bold, but we're unsure of the
25 outcomes. But right now, the effort is there to explore, and try

1 to demonstrate the utility of some of these capabilities to
2 enhance communications in the area. And then, you know, that
3 doesn't, you know, and it just -- for us in the United States, in
4 the U.S. Coast Guard in particularly, to do this R&D is really
5 only step, because the maritime community is truly global.

6 And so we're also factoring in international maritime
7 organization, and other, you know, maritime, marine electronics
8 standards organizations that all have to come together to really
9 close the gap.

10 So those are the two major efforts. One is more connecting
11 with the user, in this case, Alaskan mariners, and that's going to
12 be done by the University of Alaska. The second is exploring new
13 technology, and one focus area, again, is the satellite technology
14 to see if we can actually receive VHF distress alerts using
15 satellite.

16 And again, that's very R&D focused, but what I'm trying to
17 say, at least in the testimony, is that the effort is there to try
18 to close the gap and explore other options, you know, other than
19 towers on mountaintops that constantly, you know, beaten down by a
20 harsh Alaskan environment.

21 CAPT CALLAGHAN: Thank you for that. That's actually very
22 helpful, and greatly appreciate the detailed explanation.

23 At this time, I don't have questions for you, gentlemen. I
24 may have some follow-ons. But what I'd like to do is pass it over
25 to my colleagues at the National Transportation Safety Board for

1 further questioning.

2 MR. BARNUM: Thank you, Captain Callaghan.

3 Hello, this is Bart Barnum at NTSB. I do have a couple
4 questions, one for each of you. Mostly clarification questions on
5 the presentations. First question.

6 For you, Captain Schlegel, thank you for the very in-depth
7 presentation. I learned a lot from that. But Rescue 21, could
8 you just tell me what that is?

9 CAPT SCHLEGEL: Well, I am not the resident expert on Rescue
10 21, but on the very plain language, it's a very high-frequency
11 radio spectrum which mariners can utilize to transmit voice
12 communications.

13 MR. BARNUM: Okay. And sorry if that should've been directed
14 at Commander Nassar. Is there anything you could add to the
15 Captain on what Rescue 21 is?

16 CDR NASSAR: Sure. Yes, absolutely. So Rescue 21 is the
17 name of a system. Right? And so Rescue 21 is a system name, but
18 really, what we're doing, as Captain mentioned, is we are actively
19 listening on Channel 16, which is, you know, on Channel 16, which
20 is 156.8 megahertz. It's a VHF FM. We're actively monitoring
21 that frequency for distress alerts. And so that's the classic
22 mayday, mayday, mayday. We're listening for that.

23 And Rescue 21 is the name of the system that we deployed, you
24 know, along our coastlines, to basically have that capability.
25 Now, Rescue 21 does do a few other things outside of monitor those

1 distress frequencies. But for the sake of this, you know, this
2 testimony and the relevance, it's the receipt of Channel 16, which
3 is our voice distress alerting, and it's also probably important
4 to note, too, that there's also digital selective calling. That's
5 another capability.

6 That's a red button on the mariner's VHF radio they can push,
7 and if they push that red button, and everything's properly
8 configured, that will send their GPS coordinates with their vessel
9 ID, identification, a form of identification, to the command
10 center that's receiving that. And then they can go ahead and
11 execute that Search and Rescue mission and continue the
12 communication. So again, Rescue 21 is a system name, providing
13 that capability.

14 MR. BARNUM: Great. Thank you for the explanation, there.

15 Captain Schlegel, you talked a lot about sector command
16 centers, and then district command centers, and their areas of
17 jurisdiction, if you will, areas of -- or I forget exactly the
18 term for it. Understanding in this case, the initial onset,
19 there's some confusion of who had the authority or jurisdiction
20 for the Search and Rescue operations.

21 Ultimately, once it's determined, and I know you mentioned,
22 district command usually takes a higher level, you know, Search
23 and Rescue. They have more assets at the ready, you know,
24 cutters, airplanes, helicopters. Now, I guess my question is,
25 sir, who at the sector command center makes the decision to

1 ratchet it up to, district's going to take over now, we need a
2 cutter there, we need multiple assets?

3 CAPT SCHLEGEL: Sure. I can answer that. Typically, the
4 sector commander may make a recommendation to the district
5 commander to take over a case, depending on the, again, the
6 complexity of the case, if he feels that their command center is
7 not the most suitable resource to plan that effort. And then
8 also, the district commander, as the kind of authoritative figure
9 for the sector, can take the case, as well. And each district may
10 have different policies, as I mentioned, on when and how they do
11 that.

12 MR. BARNUM: So not necessarily every accident or every
13 Search and Rescue operation, will the sector contact the district?
14 I mean, is there certain minor examples where district, you know,
15 isn't briefed on it?

16 CAPT SCHLEGEL: I would say it would be very rare that a
17 district command center would not be aware of a case that a sector
18 command center is working. They typically have routine
19 conversations.

20 MR. BARNUM: Okay. Thank you. Understood. Thank you.

21 And then my last question, Commander Nassar, just for
22 clarification, was on your presentation.

23 Lieutenant McPhillips, will you bring that back up, 109? And
24 then, yes, that page, please.

25 So as you mentioned, sir, the height -- the *Scandies Rose*

1 broadcasted a mayday call, a high-frequency, 4125. It was
2 received at Point Higgins. Is that a manned station? Or did that
3 get automated or transferred through? It's my understanding that
4 comms at Kodiak actually received that transmission in Kodiak. So
5 just, how did that work?

6 CDR NASSAR: Okay. Yeah, I can -- so all these HF sites that
7 you're seeing, at this point in time, they are all remote sites.
8 So there's nobody physically sitting at Point Higgins.

9 MR. BARNUM: Okay.

10 CDR NASSAR: And, like, the other sites at Nome, St. Paul,
11 Cold Bay, and Shemya. There's a little bit of a nuance. Kodiak
12 was a manned station, you know, previously. And we have done a
13 reorganization internally, and this is really mainly due to
14 technology, because now we have the network capabilities that we
15 have. Essentially, what you're doing is, you know, you're
16 connecting that site to basically a wide area network, and all of
17 those communications are going back to one central command.

18 It's the name of the command is called Communications
19 Command, appropriately named. That is in the Chesapeake, Virginia
20 area. And there's watch standers that are there. And I would
21 recommend, if you have questions about that watch and how it's
22 manned, and how they do their operations, that you contact the
23 commanding officer of Communications Command. You know, he can
24 speak to this in depth, and he has logs and he has different
25 things, training, if you have, you know, more in-depth questions

1 to how that site operates.

2 But what I can speak, from where I sit, is that those sites
3 at this time are remoted, and that they're monitored in
4 Chesapeake, Virginia, you know, through a watch there.

5 MR. BARNUM: Okay. So in this particular accident, the Port
6 Higgins station received the mayday transmission on a high
7 frequency, and then the Communications Command in Virginia
8 responded to it, and then contacted the sector district command?
9 Is that -- I'm sorry, the sector command center, and told them?

10 CDR NASSAR: Yeah, so broadly speaking, that's how it works.
11 You have your communications station that's monitoring. Like I
12 said, with the specific case of the *Scandies Rose*, I don't want to
13 speak for, you know, for the commanding officer of that unit. But
14 I can definitely provide the contact information, you know, to
15 provide that link, there.

16 But for general purposes, and broadly speaking, the watch
17 stander there actually performs the communications there, locally
18 at COMMCOM, and can relay various communications from, in this
19 case, you know, whoever's actually, you know, the lead in this
20 Search and Rescue mission. So obviously Juneau would relay, you
21 know, what they want communicated, you know, through other means.

22 MR. BARNUM: Okay. And just to finish this, just for my own
23 clarity, so the person at the command center in Juneau or
24 Anchorage, whether it's district or sector, they didn't actually
25 hear the high-frequency transmission. It was actually relayed to

1 them through the COMMCOM, as you said, in Virginia.

2 CDR NASSAR: I can't say with certainty. But I highly
3 recommend that you contact the Commanding Officer of COMMCOM,
4 because he will be able to explain, very much detail, exactly how
5 it goes down. There's a number of ways it could've happened. And
6 that's why I'd like to just leave my answer at that. If you want
7 that detail, I request you contact COMMCOM, at command.

8 MR. BARNUM: Commander Nassar, Captain Schlegel, thank you
9 both very much. That's all the questions I have.

10 CAPT CALLAGHAN: Thank you, Mr. Barnum.

11 Gentlemen, now I'm going to pass it to our parties in
12 interest.

13 Counsel representing the two survivors, Mr. Stacey?

14 MR. STACEY: Thank you, Captain Callaghan, and thank you,
15 Captain Schlegel and Commander Nassar. We have no questions for
16 you.

17 CAPT CALLAGHAN: Thank you, Mr. Stacey.

18 And over to counsel representing the vessel owners,
19 Mr. Barcott.

20 MR. BARCOTT: Thank you, Captain.

21 Captain Schlegel, Commander Nassar, thank you very much. We
22 have no questions. Thank you.

23 CAPT CALLAGHAN: Thank you, Mr. Barcott.

24 I do have a couple of quick follow-up questions for you,
25 gentlemen, particularly for -- more towards Captain Schlegel. Can

1 you talk about the B-0 requirements for SAR units?

2 CAPT SCHLEGEL: Sure. As I mentioned before, the broader
3 federal requirements don't stipulate any type of particular
4 response posture, and our B-0 or, as probably it's been defined in
5 other testimony as a 30-minute response window from the time of
6 notification to time of underway, is set by the District
7 Commander. And they designate which units are required to
8 maintain that readiness level.

9 CAPT CALLAGHAN: And so, in events where it's deemed that it
10 may not be possible to meet those standards, anything that can be
11 done, to help mitigate that, to meet the B-0 requirement?

12 CAPT SCHLEGEL: Could you rephrase the question?

13 CAPT CALLAGHAN: So I guess, in areas, say, like Alaska,
14 where it's -- the weather conditions and just the geographic area,
15 like we talked about earlier, make this requirement hard to meet,
16 on a fairly regular basis, are there things that can be done to
17 help mitigate that, in advance? As far as -- go ahead, sir.

18 CAPT SCHLEGEL: I think I understand your question now. Yes,
19 the district commander has very broad authority to manage the
20 rescue resources within their region. So if a particular location
21 is experiencing, or maybe anticipating experiencing, very severe
22 weather, say, similar to a hurricane, approaching the Gulf Coast,
23 that district commander has the ability to move their resources to
24 other locations, out of the path of the storm, or maybe, in
25 Alaska, and, again, not as familiar with that area, but severe

1 weather that may provide the lack of ability for a resource to
2 respond, if it was located there, they have the ability to
3 relocate to another location.

4 CAPT CALLAGHAN: Okay. And then, you know, for this
5 particular case, it was the case for the C-130s being relocated up
6 to Anchorage for that particular reason. Okay.

7 Thank you, gentlemen. That's all the questions I have. I
8 want to thank you both for taking the time out of your day to
9 provide testimony for us today, and help answer some of these
10 questions. We greatly appreciate it. I know it's a little later
11 over there on the east coast, but I really appreciate your
12 flexibility and willingness to participate.

13 So, gentlemen, at this time, you're now released as witnesses
14 from this formal hearing. I thank you again for your testimony
15 and cooperation. If we later determine that this board needs
16 additional information from you, we'll contact you through
17 counsel. If you have any questions about the investigation you
18 may contact the investigation recorder, Lieutenant Ian McPhillips.

19 Thank you both.

20 CDR NASSAR: Thank you.

21 (Witnesses excused.)

22 CAPT CALLAGHAN: It's now 1419. This current schedule has no
23 more witness for today. Tomorrow, we are scheduled to hear from
24 representatives from the survival equipment industry, as well as
25 representatives from the Crawford Nautical School, and additional

1 Coast Guard witnesses, to talk about programmatic -- different
2 program matters within the Coast Guard, related to not only --
3 areas that the investigation wants to look at for further
4 improvement.

5 We thank all the witnesses for today's participation and for
6 their flexibility. Again, all the exhibits presented today will
7 be posted on the MBI media site with -- added to the exhibits that
8 will be available, 109 and 129. Is that correct?

9 (No audible response.)

10 CAPT CALLAGHAN: And at this time, it is now 1421 on March
11 2nd. The hearing will now adjourn for today and resume at 0800
12 tomorrow, March 3rd.

13 (Whereupon, at 2:21 p.m., the hearing was recessed.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: March 2, 2021

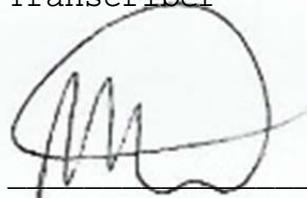
was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Charlene Brown
Transcriber



Sandra Hirsch
Transcriber



Madison Wagaman
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Wednesday,
March 3, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: Good morning. It is 0800 on March 3rd, 2021
4 and this hearing is now in session. Morning, ladies and
5 gentlemen. I'm Captain Greg Callaghan, United States Coast Guard
6 Chief of Prevention for the 11th Coast Guard District. I'm the
7 Chairman of the Coast Guard Marine Board of Investigation and the
8 presiding officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no member of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the table to remove their masks
15 while seated to maximize clarity and minimize disruption. Members
16 are to place masks back on at any time when leaving the table and
17 whenever approached by another person. I ask that anyone who is
18 unable to maintain social distancing, please keep their masks on
19 unless actively speaking into the microphones.

20 Due to the extensive technology used to support this hearing,
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board
25 under the Authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives, on December 31st, 2019, while transiting the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crew members who
7 were lost at sea. Again, many of you are watching this hearing on
8 livestream due to the COVID restrictions in place, but we
9 appreciate you being here with us.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions, and recommendations to
12 the Commandant of the United States Coast Guard. Other than
13 myself, the members of this Board include Commander Karen Denny
14 and Lieutenant Commander Michael Comerford. The legal counsel to
15 this Board is Lieutenant Sharyl Pels. The recorder is Lieutenant
16 Ian McPhillips. The Coast Guard technical advisors to the Board
17 are Mr. Scott Giard and Mr. Keith Fawcett. This Board's media
18 liaison is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB *Scandies Rose* investigation, is here with us,
22 along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witnesses and

1 respect their right to privacy.

2 The members of the press are welcome to attend virtually and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the testimony they have given after I have released them from
6 these proceedings. I ask that any such interviews be conducted
7 with full consideration of the COVID mitigation procedures that
8 the Marine Board has established.

9 The investigation will determine as closely as possible the
10 factors that contributed to the incident so that proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence that any act of misconduct,
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed or credentialed person contributed to
15 this casualty; and whether there is evidence that any Coast Guard
16 personnel or any representative or employee of any other
17 government agency or any other person caused or contributed to the
18 casualty.

19 The Marine Board planned this two-week hearing to examine all
20 events relating to the loss of the *Scandies Rose* and five crew
21 members. The hearing will explore crew member duties and
22 qualifications, shore-side support operations, vessel stability,
23 weather factors, effects of icing, safety equipment, operation of
24 the vessel from the past up to and including the accident voyage,
25 and survey imagery of the vessel in its final resting place. The

1 hearing will also include a review of industry and regulatory
2 safety programs, as well as the U.S. Coast Guard Search and Rescue
3 activities related to the response phase of the accident, after
4 notification that the *Scandies Rose* was in distress.

5 The Coast Guard has designated parties in interest to this
6 investigation. In Coast Guard marine casualty investigations, a
7 party in interest is an individual, organization, or other entity
8 that under the existing evidence or because of his or her position
9 may have been responsible for or contributed to the casualty. A
10 party in interest may also be an individual, organization, or
11 other entity having a direct interest in the investigation in
12 demonstrating the potential for contributing significantly to the
13 completeness of the investigation or otherwise enhancing the
14 safety of life and property at sea through participation as a
15 party in interest.

16 All parties in interest have a statutory right to employ
17 counsel to represent them, to cross-examine witnesses, and have
18 witnesses called on their behalf. Witnesses who are not
19 designated as parties in interest may be assisted by counsel for
20 the purpose of advising them concerning their rights. However,
21 such counsel are not permitted to examine or cross-examine other
22 witnesses or otherwise participate in the investigation.

23 I will now read the list of those organizations and
24 individuals whom I've previously designated as parties in
25 interested: Scandies Rose Fishing Company, LLC, represented by

1 counsel that are here with us today; crewpersons Mr. Dean Gribble
2 and Mr. John Lawler, represented by counsel appearing virtually
3 today; Mr. Bruce Culver, not currently present.

4 The Marine Board will place all witnesses under oath. When
5 testifying under oath, a witness is subject to the federal laws
6 and penalties for perjury for making false statements under Title
7 18 U.S.C. Section 1001. Penalties could include a fine of up to
8 \$250,000 or imprisonment up to five years or both.

9 The sources of information to which this investigation will
10 inquire are many and varied. Since the date of the casualty, the
11 NTSB and Coast Guard have conducted substantial evidence
12 collection activities. Some of that previously collected evidence
13 will be considered during these hearings. Should any person have
14 or believe he or she has information not brought forth for which
15 might be of direct significance, that person is urged to bring
16 that information to my attention by emailing
17 uscg.scandiesrosembi@gmail.com. This email address will be
18 continuously monitored through the -- throughout these
19 proceedings.

20 Mr. Barnum will now say a few words on behalf of the NTSB.

21 MR. BARNUM: Thank you, Captain.

22 Good morning. I'm Bart Barnum, Investigator in Charge for
23 the National Transportation Safety Board's investigation of this
24 accident. The Safety Board is an independent federal agency which
25 under the Independent Safety Board Act of 1974 is required to

1 determine the cause or probable cause of this accident, to issue a
2 report of the facts, conditions, and circumstances related to it,
3 and to make recommendations for measures to prevent similar
4 accidents.

5 The NTSB has joined this hearing to avoid duplicating the
6 development of facts. Nevertheless, I do wish to point out this
7 does not preclude the NTSB from developing additional information
8 separately from this proceeding if that becomes necessary.

9 At the conclusion of this hearing, the NTSB will analyze the
10 facts of this accident and determine the probable cause
11 independent of the U.S. Coast Guard. At a future date, a separate
12 report of the NTSB's findings will be issued, which will include
13 our official determination of the probable cause of this accident.
14 If appropriate, the Safety Board will issue recommendations to
15 correct safety problems discovered during this investigation.
16 These recommendations may be -- come prior to the report.

17 In addition, on behalf of the NTSB, I would like to offer my
18 deepest condolences to the families and those effected by this
19 tragic accident.

20 CAPT CALLAGHAN: Thank you, Mr. Barnum.

21 Yesterday, we heard from Coast Guard representatives involved
22 in the Search and Rescue efforts for the *Scandies Rose*, as well a
23 representative from the Coast Guard Office of Search and Rescue
24 and Capabilities.

25 Today, we will hear from survival -- a survival equipment

1 expert, representatives from the Coast Guard National Maritime
2 Center, and from the Office of Engineering Standards, as well as a
3 representative from the Crawford Nautical School.

4 At this time, we will take a brief recess and resume at 0815.

5 (Off the record at 8:08 a.m.)

6 (On the record at 8:15 a.m.)

7 CAPT CALLAGHAN: (Indiscernible) 0815. Hearing's now back in
8 session. We will now hear from Mr. Mario Vittone.

9 Mr. Vittone, Lieutenant McPhillips will now administer your
10 oath and ask you a few preliminary questions.

11 Mr. McPhillips?

12 LT McPHILLIPS: Good morning, Mr. Vittone. Please stand and
13 raise your right hand.

14 (Whereupon,

15 MARIO M. VITSTONE

16 was called as a witness and, after being first duly sworn, was
17 examined and testified as follows:)

18 LT McPHILLIPS: Please be seated. Please state your full
19 name and spell your last name.

20 THE WITNESS: Mario Michael Vittone, V-i-t-t-o-n-e.

21 LT McPHILLIPS: Please identify counsel or representative if
22 present.

23 THE WITNESS: None present, sir.

24 LT McPHILLIPS: Please tell us, what is your current
25 employment and position?

1 THE WITNESS: I am the general manager of Lifesaving Systems
2 Corporation in Apollo Beach, Florida.

3 LT McPHILLIPS: What are your general responsibilities in
4 that job?

5 THE WITNESS: I manage the sale and manufacture of helicopter
6 and maritime safety and rescue equipment.

7 LT McPHILLIPS: Can you briefly tell us your relevant work
8 history?

9 THE WITNESS: For most of my adult life, I was a helicopter
10 rescue swimmer for the U.S. Coast Guard. Following that job, I
11 was a marine accident investigator and vessel instructor for the
12 U.S. Coast Guard, and then I started -- retired in 2013 and
13 developed rescue and safety and survival courses for professional
14 mariners, and then moved to my current job in 2015.

15 LT McPHILLIPS: What is your education related to that
16 position?

17 THE WITNESS: Every course the U.S. Coast Guard taught me;
18 marine instructor course, marine accident investigator course,
19 dozens of professional courses on the equipment itself,
20 (indiscernible) life support equipment courses, courses in victim
21 care and prehospital care of hypothermic victims, (indiscernible)
22 accident victims, trauma victims, and a litany of courses around
23 those -- shorter courses along those lines. It's just care and --
24 the care and rescue of mariners in distress.

25 LT McPHILLIPS: Do you hold any professional licenses or

1 certificates related to your position?

2 THE WITNESS: No, sir. I have -- I had an OUPV license back
3 in the day, but that's the sum of it for that, for --

4 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
5 have some follow-on questions for you.

6 THE WITNESS: Sure.

7 CAPT CALLAGHAN: Good morning. Thanks for joining us this
8 morning, sir. At this time, I'm going to hand it over to
9 Mr. Keith Fawcett.

10 Mr. Fawcett?

11 MR. FAWCETT: Thank you, Captain.

12 BY MR. FAWCETT:

13 Q. And thank you, Mr. Vittone, for being here today, and
14 especially for sharing -- or giving us permission to share a
15 video, which we have created into an exhibit. I will note for the
16 record that we did edit the video a little bit for the time
17 constraints, and also we are focusing on survival suits to enter
18 the raft, and so we excluded a discussion about the wearing of
19 lifejackets.

20 So we are going to pull up exhibits on your monitor; you'll
21 see them, along with the audience. If we need to zoom in or
22 manipulate the exhibit, please just tell us what to do and the
23 recorder, Lieutenant McPhillips, will do that for us, and if you
24 need to take a break at any time, please let us know.

25 A. Yes, sir.

1 Q. So you talked about your career a little bit, but I would
2 like you to give us a little more explanation about your role as a
3 rescue swimmer. We did have the pilot of the aircraft that
4 conducted the rescue of the two survivors, Lieutenant Clark, here
5 yesterday and he talked about the role of the rescue swimmer --
6 and I'm not sure. Did you see his testimony, sir?

7 A. No, sir. I was unavailable yesterday, sorry.

8 Q. Okay. So one of the things he mentioned was that the
9 swimmer, when he was hoisted, he was iced over -- they had to
10 break some ice off of his neoprene suit and they had to clear the
11 ice off his goggles, but could you talk about a little bit, not in
12 great detail, but the role of the rescue swimmer and what goes
13 into the training of a rescue swimmer?

14 A. Sure. The primary role of the rescue swimmer is to leave the
15 aircraft and effect rescue operations that simply can't be done,
16 usually to do with either the type of aircraft or the sea state.
17 You know, before, there was a swimmer program in the Coast Guard
18 that we'd either just send a basket down and the victims would
19 climb in, but because of the *Air Florida* crash and the *Marine*
20 *Electric*, where a cold -- particularly a colder hypothermic
21 patient can't help in their own rescue, they implemented the
22 rescue swimmer program so someone was trained and equipped to
23 leave the aircraft, make their way to the victim and assist them
24 in getting into the aircraft and out of the environment.

25 The training involved is months -- 16, 17 weeks of training

1 in Elizabeth City, followed by aircraft specific training and
2 syllabus emergency medical technician courses. So it takes about
3 a full year from the time the student gets to school until he is
4 qualified or she is qualified in an aircraft to stand duty as a
5 rescue swimmer.

6 (Technical difficulties.)

7 BY MR. FAWCETT:

8 Q. Can you hear me now, Mr. Vittone?

9 A. I can, but I could before so --

10 Q. All right. I'm sorry for the interruption. So is there any
11 particular reason that you stopped being a rescue swimmer? Is it
12 as a result of a particular accident or just burnout in the job?

13 A. It wasn't burnout, I just -- I had always planned to end my
14 career in prevention. I had a longstanding belief that prevention
15 saved more lives than response and I wanted to get into that
16 before I got out, and as soon as I was eligible to apply for
17 warrant officer and go that route, I did. That's all.

18 Q. And one of the terms that Lieutenant Clark mentioned, and
19 perhaps you can speak to that, so the seas during the *Scandies*
20 *Rose* rescue hoist were approximately 30 feet, and the aircraft
21 commander made the decision to keep the swimmer on the hook. Is
22 there another way that you can effect a rescue where the swimmer
23 was released from the hoist hook and he swam to the victims and
24 brought them back to the hook and put them on the hook?

25 A. Yes, there's -- it can be done both ways. One's called going

1 direct. It's a direct deployment where the swimmer stays on the
2 cable to do the rescue, and the other is you can free swim, and
3 it's just the choice of the crew at the time. There's no -- one's
4 not right and one's not wrong. There are just different tools to
5 be used.

6 Q. So in the conditions similar to the *Scandies Rose*, there
7 might be a risk if the swimmer was free swimming where you could
8 perhaps not -- like, if visibility closed in, you might not be
9 able to quickly and effectively recover the swimmer; is that
10 correct?

11 A. It (indiscernible) possibility in terms of it's a risk. I
12 think going direct certainly reduces the risk of losing your
13 swimmer, because, you know, they're tied to the hook and I can
14 understand, particularly in really low vis, high wind, high sea
15 state conditions, where the crew, particularly the pilots, would
16 rather the swimmer stay connected to the aircraft, because it can
17 be hard to get back in close enough to get them if you let them
18 go.

19 Q. So, shifting our focus to your position now, how do you
20 identify a particular product that relates to vessel safety? How
21 do you identify that, and then how do you create -- in the
22 briefest terms, how do you create a product? Give me -- can you
23 give me an example of something that you have identified a need
24 for and then created a product that would benefit safety of
25 mariners?

1 A. Sure. We just -- it's (indiscernible) driven by regulation
2 if a product is, like, a life ring or an EPIRB, for example.
3 That's driven my regulation. They're required to exist, and so
4 you make one. The last thing that we made was a floating water
5 light or a floating marker light, and the need we identified was
6 that the technology and the electronics has improved, but the
7 strobes necessarily hadn't, and so the requirement to get approval
8 for the strobes that operates for 24 hours or 18 hours at full
9 brightness, and we knew that the electronics could flash it for a
10 brightness for days and weeks, and so we created a new floating
11 water light. That's one example.

12 We design and modify all the time different rescue harnesses
13 and rescue baskets, (indiscernible) for -- and that's often
14 customer driven. You know, I'd like a (indiscernible) that's
15 shorter or longer or that has the ability to protect the patient
16 better, and we engineer those -- so we engineer those solutions.

17 So it's either customer driven or regulation driven, and
18 every now it's you have a good idea driven, but that's rare.

19 Q. So I'm going to walk you through some phases of an emergency,
20 and I'm going to ask you to make some comments to questions I
21 direct. So the first one is, preparing for an emergency onboard a
22 vessel, and I want to ask you about -- first of all, you have
23 conducted training for crews --

24 A. Yeah.

25 Q. -- for emergencies, correct?

1 A. Yes, sir.

2 Q. Okay. So how important are the drills and training to
3 prepare for emergencies?

4 A. I think they're -- 90 percent of the purpose is actually
5 going through the motions and doing it. You can have a procedure
6 or have a checklist, but if you're -- if you don't have the muscle
7 memory to go through that procedure engrained in yourself, it gets
8 a lot harder to remember under pressure. It's not about the
9 procedure. It's about your ability to recall and act on the
10 procedure under pressure. And, certainly, an actual emergency at
11 sea gets quite pressured, and so the drills, that's how swimmers
12 and pilots do it. They drill a lot so that while they're under
13 the pressure of actually doing a rescue, they just repeat their
14 drills and repeat their trainings.

15 I'm certain the rescue swimmer on this case didn't stumble a
16 lot of time thinking about when he released his (indiscernible)
17 and when -- what the signals are to leave the aircraft. He had
18 done that so many times it was just like walking or riding a bike
19 to him. It just happened, and the same is true for mariners. If
20 they don't practice man-overboards, if they don't practice with
21 their equipment, with, in this case, immersion suits or life rafts
22 -- if you don't have experience with it at sea, in 30-foot seas
23 isn't the time to learn.

24 Q. So let's expand on that a little bit. Looking at the
25 northeast coast of the United States and Alaska maritime region,

1 same thing with the Pacific Northwest and the cold water and the
2 harsh environments, is there anything that's even more important
3 in the training and the drills?

4 A. Well, the equipment itself has to be spot-on, and you have to
5 have it and it has to be the right equipment and it has to be --
6 you know, in the case of immersion suits, they have to be your
7 size immersion suits. They come in sizes. They equipment has to
8 be well-maintained. So you have to know how to use it through
9 drills and procedures, and it has to be good equipment. I'm
10 saying -- go ahead.

11 Q. No, you go ahead, sir. I'm sorry.

12 A. I'm saying the whole -- you know, once the boating turns into
13 a mayday call, it ceases to become boating and now it's survival
14 and all rescues -- all maritime accidents are about time;
15 extending the time the mariner can survive while waiting for
16 rescue and reducing the time it takes an asset to get on scene to
17 rescue them. And training and equipment extend the mariners'
18 time, and often training and equipment will reduce the time it
19 takes for an asset to get on scene to (indiscernible) rescue.

20 Q. So we've heard testimony that the *Scandies Rose* had two
21 recently inspected life rafts. Both life rafts, the capacity for
22 the rafts exceeded the number of the crew that was carried on the
23 *Scandies Rose* on the accident voyage. Do you think that's a good
24 marine practice?

25 A. It's (indiscernible). Two's better than one, and I can tell

1 you from experience, if it's a six-man life raft, you don't want
2 to have six people in it. It's not a comfortable ride. You can
3 fit six. It's typically about buoyancy. It's not about how
4 comfortable and easy it will be to survive in it. You and I
5 together in a six-man raft would be quite cramped, so six of us
6 would really be -- we'd be jammed in there. So it's -- I'm a fan
7 of larger rafts than I need, and I'm also a fan of redundancy. So
8 I -- having two rafts is better than having one and having a
9 larger raft than you need, to a point, is better in my way of
10 thinking.

11 Q. So would it increase the likelihood that one raft would
12 definitely make it to the surface if the vessel sank, if the other
13 raft got entangled and didn't break free of the vessel for some
14 reason.

15 A. Well, it's exactly 100 percent more chance that it'll work,
16 right? So it's a whole other raft, so, yes, sir. You know,
17 there's also reasons why both of them wouldn't let go, you know,
18 depending upon the condition. Icing is a big one that's often not
19 considered. If the hydrostatic release or the raft is covered in
20 ice, its ability to let go of the boat is hindered. That's also
21 true with the EPIRB. You know, they're designed to let go, but
22 they're not designed to let go and float free if they're covered
23 in ice, and not designed to let go and float free if the boat
24 sinks sideways or pitch pulls or ends up top down. That would
25 affect everything's ability to float free. And, you know, the

1 life raft has to escape everything -- it might be entangled, but
2 it has to be able to operate, and so, you know, having another one
3 is just a second chance to get that done, but it's not unlikely
4 that both would go off and it's not unlikely that neither one
5 would go off given the right conditions, which is usually when
6 boats go down.

7 Q. So, Lieutenant McPhillips, if you'll pull up Coast Guard
8 Exhibit 074. And while he's doing that, this is a recommendation
9 from the sinking of the El Faro, which was an American flag steam
10 ship that sank in 2015. And on page 3, there is recommendation,
11 which is recommendation 12, and it indicates: It is recommended
12 that the Commandant direct a regulatory initiative to require that
13 all personal flotation devices on ocean going commercial vessels
14 be outfitted with a personal locator beacon.

15 And then I'll ask you, Lieutenant McPhillips, to go to page 6
16 now and look at item 70. Item 70 is from the National
17 Transportation Safety Board and they made a conclusion that
18 providing all persons employed onboard vessels in coastal, great
19 lakes and ocean service with personal locator beacons would
20 enhance their chances of survival. From your position as a
21 survival system expert, can you talk about how a personal locator
22 beacon would improve the survivability of people in the water?

23 A. Well, first of all, I read that report when it came out, and
24 when I read those two lines, the ones from NTSB and the
25 recommendation, I stood up and shouted, yes, finally. It is -- if

1 -- again, if you think in terms of the saving of time, there's
2 nothing made. There's no piece of gear out there that would
3 reduce the time to rescue like a personal locator beacon, one
4 that's on you. There's one in my lifejacket. There's one in the
5 rescue swimmers' lifejacket. So the swimmer has one on him. He's
6 a professional mariner of sorts.

7 But there's -- it is the greatest advance in maritime safety
8 in the past 100 years for rescue, and the cost has come down and
9 I'm -- it has the ability to often tell the rescue and
10 coordination center exactly where that person is. All rescues end
11 the same way with -- all searches end the same way. All search
12 and rescue cases end with somebody getting their eyes on somebody
13 else and the EPIRB giving you an exact location. It narrows the
14 window that the rescuer has to look to get their eyes on that
15 person, essentially taking that search part out of search and
16 rescue and -- I don't know why it took so long to get that
17 recommendation. I don't -- I'm not sure if it's the first time it
18 was recommended, but since they've dropped into the
19 (indiscernible) \$100 category, I don't know why that there's any
20 reason not to do that.

21 There's training involved. There's some set-up involved.
22 It's not just enough to have it with you. The sailors on the
23 *Cheeki Rafiki*, if you remember from a few years ago,
24 (indiscernible) sank and their PLBs went off two or three times
25 and then stopped transmitting. I think that's because personal

1 locator beacons, unlike EPIRBs, don't float by themselves in a
2 position that they'll transmit. They're -- some are designed to
3 float, but if the antennae touches the water, they don't transmit.
4 And so the *Cheeki Rafiki* -- if you have the PLB on your
5 lifejacket, but you don't have a way to secure it to the
6 lifejacket to keep the antennae up and out of the water, then you
7 have to hold it out of the water and you can only do that for so
8 long if the water's cold.

9 So it comes with -- it's not just enough to have the PLB in
10 the lifejacket. It's got to be able to be affixed to the
11 lifejacket, and then you're going to have to implement drills and
12 training in the basic survival -- the BST training, the Basic
13 Survival Training for mariners, to teach them how to operate that
14 thing. But I -- that's absolutely my favorite new regulation if
15 they can make that happen.

16 Q. So you might be able to offer some clarity on a term that was
17 used in previous testimony. One of our witnesses recommended that
18 fishing vessel crews take BST training, and that's Basic Safety
19 Training. Can you elaborate just a little bit on what that Basic
20 Safety Training is? And the point I'm trying to make is that the
21 various entities offer some level of training for fishermen, but
22 the Basic Safety Training is a different type of training. Can
23 you basically explain what that is?

24 A. Well, the BST is typically five days, and there's a not light
25 amount of hands-on. They actually get into a raft in the water,

1 which is huge. It's always an eye opener for mariners who haven't
2 done it before. You think you'll just climb into the raft, and
3 then you put them in the water and say, okay, go ahead and do it,
4 and it never works out the way they think it's going to. And so
5 that -- and there's firefighting and there's some basic medical
6 and there's training about the EPIRBs and the radios and the
7 survival equipment that's on a vessel, but I think it's the
8 hands-on nature of that course or the in-water portion of that
9 course that makes it truly valuable. Again, this is a drill.

10 I did hear some testimony from the life raft maintainer that
11 was talking about how training with a raft is one thing, but you
12 really have to train with your raft. You have to know what's in
13 your raft. I always recommended to mariners that when their raft
14 is up for annual inspection, that they take the crew down to visit
15 -- because you always -- the raft's always in this can, but when
16 you see it out and inflated, know where that knife is and take a
17 tour of the raft so you're not in the dark in the cold trying to
18 figure out where things are. There's booklets in the raft,
19 there's signage in the raft, and I promise you you're not going to
20 be reading it at midnight. You know, it's not going to be visible
21 in the way you're -- you're not going to be reading the
22 instructions.

23 And so BST would help solve some of that mystery for
24 commercial fishermen. If they haven't been in a raft, it would
25 allow them to get into one and figure out how to do it. It's not

1 often -- even the way the rafts are set up -- if you're going to
2 show the video I think you are, you know, the boarding ladder has
3 always been a thing you don't want to use. There's a boarding
4 ladder on rafts and if you stop on them, you're not going to get
5 into the raft, which is counterintuitive; it's supposed to be a
6 boarding ladder. So depending upon you start out, it may make
7 things better or worse for you, and the only way you'll know it is
8 to try it, and then use an alternate way to get into the raft.
9 That they'll teach you in BST usually.

10 So I know there's a balancing act between cost and
11 practicality, but I -- but personally (indiscernible) training at
12 BST that would allow them to understand devices that they use. It
13 would certainly help more of them survive these things. The ocean
14 has no idea whether they're a tugboat person or a commercial
15 fisherman or any other mariner. It doesn't know what kind of
16 mariner you are. Once you're in the water, it's -- it plays by
17 the same rules for everybody so --

18 Q. So we're going to bring up that video in a moment so you can
19 elaborate, but I just want to make sure I cover something. For a
20 vessel that's going into a harsh environment, such as the Alaska
21 maritime environment with notoriously rough seas, ice and so
22 forth, would you say that it's important that those mariners pay
23 particular attention to radio antennae, electrical connections
24 for antennae and other important communication tools to make sure
25 they're ready and serviceable in that environment?

1 A. I don't know if it's more important for them, sir; I just
2 know that they have a better -- given the environment, they have
3 extra factors that make those things easier to break, and, again,
4 mostly I'm pointing to ice and just the stress on -- the stress of
5 that environment. You know, a commercial fishing vessel certainly
6 has a much tougher day at sea than a tugboat here in Tampa Bay,
7 and so it's easier for them to maintain antennae here in the bay
8 than it would be up off the Aleutian chain.

9 And so it's important for both, no matter where they're
10 sailing, that environment tends to beat up the vessel a lot more,
11 and so I -- it's one of those accidents that happens at the dock.
12 You know, if they don't maintain the gear before they leave, then
13 not much they do when they're out there is going to help them out.
14 So that's a yes and sort of a no at the same time, but -- to your
15 question, but that's a rough environment on equipment and monthly,
16 weekly, pre-sail check lists to look at all of those things make
17 mariners safer, and so they should do it, whether they're in
18 Alaska or here, but certainly in Alaska you've got a greater
19 chance of ruining your gear just by going to work.

20 MR. FAWCETT: So now we'll shift our attention to Coast Guard
21 Exhibit 072, which is a training video, which is called Life Raft
22 102, and you were kind enough to share that with this MBI. We're
23 going to show you a segment and ask you to elaborate if necessary.

24 (Exhibit 072, Liferaft 102 Training Video v2, plays.)

25 MR. FAWCETT: We're going to back that up and start that

1 again and make sure the sound's on for everybody.

2 BY MR. FAWCETT:

3 Q. So I was just going to say, while we're waiting, Mr. Vittone,
4 did you produce this video?

5 A. That was produced by Boaters University. I wrote the course
6 and taught it there with Mike Carr. That's Michael Carr. That
7 was a part of a larger course I developed called Basic Offshore
8 Safety and Survival. That was sort of the (indiscernible)
9 professional mariner and (indiscernible).

10 (Exhibit 072, Liferaft 102 Training Video v2, continues.)

11 MR. FAWCETT: Thank you.

12 BY MR. FAWCETT:

13 Q. In that -- just for the record, in that video, it was
14 difficult to see what the raft that was deployed on the ocean
15 surface, there was a long, white line coming from it. And this
16 video will be posted for the public at the conclusion of today's
17 hearing. But that's the sea anchor and drogue and how important
18 is that, Mr. Vittone?

19 A. Well, it just -- it changes the way the vessel rides and it
20 sort of slows it -- a raft is a big sail area, and so there's a
21 lot of sail area on a raft and the wind will blow it and make it
22 move, and you want to move as little as possible, and the sea
23 anchor also -- helps predict which side of the raft the seas are
24 going to hit. So if I can drag one side of the raft, I can keep
25 that side of the raft to the oncoming sea, and it's almost always

1 on the opposite side from the door so that if there are some
2 breaking waves, they'll hopefully break on the closed side of the
3 raft or the side without a big opening with which to dump more
4 water in. So they become important -- they're usually packed to
5 self-deploy, but not always, and so that's, again, one of those
6 things where you -- if you have some training on your raft up
7 front and you know you want to get that thing out there, then
8 you're not just sitting there looking at it.

9 The sum of that video was *Bounty* rescue, and during the
10 *Bounty* hearings, they testified that there was things on the raft
11 that they were afraid of. Like, they didn't know what it was so
12 they didn't want to touch it, and so that's why that can be a
13 problem if you're not trained up on what's in your life raft.

14 Q. So, for the record, the *Bounty* was a replica, a tall ship,
15 that sank off the Virginia capes during a hurricane. Lieutenant,
16 if you could pull up Coast Guard Exhibit 098. This is -- we've
17 shown this previously with testimony for Mr. Simmons. This is a
18 short video that shows, in particular, the actual life raft that
19 the -- one of the two actual life rafts that were similar to the
20 *Scandies Rose* survival equipment.

21 I'm not going to play the video, but I'm going to ask
22 Lieutenant McPhillips to start the video and stop -- that's just
23 fine right there, sir. Now, this raft is equipped with a boarding
24 platform, and if you'd just advance for just a moment, Lieutenant,
25 and now stop. So what we see are some orange and white straps

1 that are attached and affixed to the boarding -- the inflation
2 tubes, and then I the extreme lower-left corner, you'll see a
3 horizontal yellow strap and a white object, which is the boarding
4 platform. Could you talk a little bit about that in terms of is
5 that adequate? Do we need to change the boarding platform to
6 accommodate -- and we're talking in particular the wearer of a
7 survival suit

8 A. Well, the object of the platform is to give them something to
9 step up on. I saw that video. That's the portion of the
10 testimony I saw, and they used to be inflatable, or there was a
11 time Zodiac and other manufacturers had an inflatable
12 (indiscernible) and I didn't like that because the flotation was
13 something to climb up onto. And, like I said, the rafts are very
14 tough. They're really hard to puncture. So I don't know if they
15 got away from inflatables because it was less expensive to make or
16 -- I have not been on one of those suspended platforms.

17 And so they're adequate so long as I can, with my 220 pounds,
18 get my knees up on it and kneel on it and not have it fold under.
19 If the platform folds under when one or two people are on it, then
20 it's not adequate, and -- because it will fold under and then
21 they're in a fight -- and then it actually pulls their
22 (indiscernible) under the raft and what they think they're
23 supposed to do to step on that stuff ends up getting them in
24 trouble.

25 Again, back to the *Bounty* crew, they -- in their estimation,

1 they think it took them 30 minutes to get in the raft. They gave
2 up for a while and just hung on the side because they couldn't get
3 in it, and I suspect it's because they were stepping on the ladder
4 trying to get in it and they finally just got mad enough --
5 somebody got mad enough to make it in and pull the rest of them
6 in.

7 But these are modern rafts that aren't intuitive. You know,
8 it's not intuitive to not step on the thing that says, step here,
9 and so I don't know whether that's good or not. Put it in the
10 water and I'll tell you in three minutes, you know, by standing on
11 it. So it's important, if there's a boarding support system,
12 whether it's a ladder or a -- it has to be solid. It's got to
13 support weight on it's own. I should be able to free stand on
14 that thing, and if I can't, it's more in the way than it's not.

15 Q. So I just noticed something. If you could, Lieutenant
16 McPhillips, will you pull that back up and go to that
17 approximately position on the slide -- on the video please? So
18 you notice on the white strap and the yellow strap, there's
19 extremely strong nylon webbing or some other type of synthetic
20 webbing, but then there appear to be two buckles.

21 A. Yeah.

22 Q. I hadn't noticed those before. Could those buckles
23 inadvertently fail or could they be disengaged so that swim -- the
24 boarding platform might not be as affective?

25 A. They could be. Those are plastic (indiscernible) either

1 nylon or there's other plastics that are used to make it, and
2 those are (indiscernible) -- because they're packed in a raft so
3 they're not worried about sun exposure too much, but they're just
4 -- you just pinch them and they come open. So if that's something
5 I'm grabbing, I could pinch it and open it. It's just -- if I
6 grab that on both sides, it'll open. They just got two little
7 bayonets that clip in there and pop out. They're remarkably
8 strong. Like, believe it or not, it would take about 100 pounds
9 to break one of those, but if you grab them, you can undo them
10 quite easily. That's the only thing I -- but I imagine they're in
11 there for adjustment.

12 Q. Okay, so shifting away. We've already discussed this life
13 raft has some thermal protection and it has -- in the canopy and
14 the floor. Turning your attention to the survival suits or the
15 immersion suits, are there any limitations for those suits from an
16 either industry perspective or Coast Guard perspective that could
17 be improved at the actual suits?

18 A. The suits are pretty good. There's an outfit down in Puerto
19 Rico, of all places, that -- with warmer water that -- tried to
20 invent one, and you'll see them at trade shows where they'll be
21 laying in an ice bath for the entire trade show. They're
22 massively thick. Thickness equals warmth, and that's -- I hated
23 it. I tried to get in it and took me half-an-hour to get in it in
24 a pool. So there's always a tradeoff. I think the immersion
25 suits are fine, but they don't -- I'd like to see them have more

1 flotation, particularly around the legs and around the -- behind
2 the neck. Some of them have an inflatable pad on them. The
3 Imperials have this little inflatable and you can inflate the --
4 which will keep your head up out of the water more.

5 I'd like to see -- you know, you put -- people looking for
6 you at night will use forward looking infrared and a mariner flat
7 out disappears in an immersion suit on infrared. The only thing
8 you can see of the mariner in an emergency on infrared is usually
9 his face that's sticking out of the immersion -- it's the only
10 part that's warmer because the outside of the immersion suit's the
11 temperature of the water. And so there's some tradeoffs with the
12 things.

13 I'd like to see them have more flotation, whether it's a CO2
14 inflatable or there are just more close foam on the side to keep
15 the mariners' legs a little higher. Pressure is bad. So if
16 they're straight up and down, they can see better and that's
17 great, but the pressure on their legs if they're straight up and
18 down means those appendages are going to get colder faster. It's
19 about keeping -- they have to heat the water up that's in the
20 suit, and there will be water in the suit.

21 The suit has to fit very well. I think the biggest danger
22 with immersion suits is they don't fit. Mariners are all
23 different sizes and there's a boat full of mediums or adult larges
24 or adult universal. They call it a universal size. The universal
25 is not universal. If you're 5'6" and you put on a universal suit

1 and jump in the water, you might drown in it because your head's
2 going to go below -- inside the immersion suit and water's going
3 to go in. So it can be -- if you're wearing a too-large immersion
4 suit, it really can be the things that kills you if you jump in
5 the water with it if it doesn't fit right.

6 A really small person in a too-big suit is terribly
7 dangerous, and so that has to be addressed. And too often it's
8 like, hey, okay, there's 12 mariners on the boat so there's 12
9 immersion suits and they're all different sizes and the big guys
10 can't get into his at all and the small person's going to have
11 their head at the chest when they jump in the water. So it's more
12 about fit. They're not one size fits all despite the universal
13 label on them. And, again, you find that out at BST when they
14 make you put on an immersion suit and jump in the water. You go,
15 man, this universal doesn't fit me. Hey, boss, I need the small.
16 That's how you find out.

17 So that's my recommendation on immersion suits. Again, it's
18 fine gear, but it has to be the right gear for you and you have to
19 train on it.

20 Q. So I'll note for the record, and we are going to talk to the
21 folks at the AMC and the North Pacific Vessel Owner Association
22 training that they do provide hands-on training as part of their
23 training so -- so my question -- the manual dexterity of the
24 typical survival suit, whether it's got the three fingers, meaning
25 you have some dexterity, or the -- there's sort of a mitten type.

1 How much manual dexterity would I have? Could I go to a VHF radio
2 and turn to a particular radio channel, or could I -- the radios
3 also have a little, red, plastic cover, which, if I lift that
4 cover and I stick my finger in the hole, I can push a button which
5 makes a unique alert to the Coast Guard that transmits my
6 position. I don't have to even say anything; I just push that
7 button. Do I have enough dexterity to do that in a survival suit?

8 A. I doubt it very seriously depending on the suit. Some of
9 them have palms that open up; you can get your hand out of it.
10 That's so you can have the dexterity. But those full mitten
11 types, you're not hitting a small little button on your PLB with
12 that mitten. You might use your teeth to do it, but you better
13 know where it is. But I doubt you're going -- it's a big
14 five-millimeter neoprene mitten, so it's what you do if you want
15 to take away dexterity.

16 It's part of the solution and part of the problem. I have no
17 had -- I can get the radio knob to turn with mine. I can get
18 dexterity to turn a radio knob and talk. I could probably flip
19 that and maybe jam enough of the neoprene in there to press the
20 DSC button. You're talking about the Digital Selective Calling,
21 DSC, alert. But, again, you have to add in night, cold, cold
22 incapacitation, which is a problem, whether you have the glove on
23 or not, so, you know, if you're in the water for ten minutes
24 without an immersion suit, they're not pressing the button on a
25 radio. Their hands aren't going to work anymore up in that part

1 of the world.

2 Q. So looking at the Imperial suit, I believe that was the suit
3 that was carried aboard the *Scandies Rose*, do you know if they
4 have the flip open type so your hand is free?

5 A. I don't think they do. I've got one in the garage. I don't
6 think they have the flip open in the stand Imperial -- you know,
7 it's about they cost more. When they get nicer, they cost more.
8 So the more options, they go up. But it's not a requirement that
9 you can get your hand out. That might be a nice requirement.
10 Because they keep your hand warm enough to operate, you know, 15
11 minutes after you abandon ship, but if you can't use your fingers,
12 then it doesn't matter. I think it's just the -- not the lobster
13 claw, but the glove hand -- the neoprene glove hand.

14 Q. So looking at an accident scenario, if I'm operating a
15 vessel, any vessel, I think I -- I think -- would you agree with
16 me that it would be a painful choice to decide to keep my hands
17 free and use the radio to make a distress call or push the Digital
18 Selective Calling alert button and do those kind of things, as
19 opposed to putting on a survival suit to prepare for abandoning
20 ship?

21 A. Well, I don't think there's any reason in the world if you're
22 deciding to put on your immersion suit that you haven't already
23 pressed the DSC button or made the call. I don't -- you know, the
24 *Scandies Rose* seemed to have destabilized and very quickly
25 everyone had to get in their immersion suits, and that's just

1 horrible, but I know that I would do it. I would call mayday, hit
2 the DSC, light off the EPIRB, and then get in my immersion suit
3 and I'm telling everybody every way I possibly can and getting in
4 the water. I wouldn't get in the water in an immersion suit with
5 my arm free.

6 It's possible to get into an immersion suit from the water,
7 like get in the water with an immersion suit and climb in it.
8 It's horrible and it hurts and it can be daunting, you'll warm
9 back up, but it takes practice, and it takes a whole lot of calm.
10 I wouldn't want to do it in 30-footers, but I wouldn't enter the
11 water with my hands out, so I would've -- you know, I suppose if I
12 -- you know, if you had to, you can -- if it fits right, you can
13 free your own arm in those things and then once you're in the
14 water and get to it, but you're going to onboard some whatever
15 when you open it up to do that, so that's going to be a tradeoff
16 and a tough one.

17 Q. So just basically to rephrase, so it would be critical to do
18 those radio calls, do the mayday, get out the -- light off the
19 EPIRB if it's, say, in the wheelhouse and make sure it's tossed
20 out into the ocean if that's a good choice, and then, in limited
21 time, put on your immersion suit, correct?

22 A. Well, you know, there's no perfect answer, sir, for every
23 situation. If there's time to do that, that's what I'm doing. If
24 I wake up and the boat's upside down, I'm jumping off. I'm
25 getting on my immersion suit and hoping someone else did all that.

1 But, yeah, the -- if I was making a quick reference guide and if I
2 was making a red book checklist, and I have done, the first thing
3 you do is call mayday. If you can't call mayday and you want to
4 call mayday, then you get to your EPIRB and light it off.

5 I prefer taking it with me as opposed to throwing it over
6 because we're going to drift at different rates and I don't want
7 it to drift -- I want it to drift at my rate, so it's coming with
8 me, whether I'm in a life raft or in my immersion suit. The
9 ship's EPIRB is coming with me. If I have an EPIRB, it's going
10 off as well. I get this question about one a month: should I
11 turn the EPIRB off after a few hours to save the batteries? No.
12 light them all off. If I have five EPIRBs and a life raft with
13 five guys, I'd light off five of them. You know, and then work on
14 staying warm.

15 Q. So in a typical training world, not training classes that
16 you've put on, but training classes that you might know about, is
17 there -- are there any training classes that teach people who are
18 going to be rescued what to do and understand how to communicate
19 with the rescue forces that are coming their way?

20 A. I don't know. I think AMC might talk about it. I know in
21 BST they try and talk about it in different courses, but it's --
22 aside from distress signaling, which is going to be EPIRBs or DSC
23 or calling mayday or (indiscernible), beyond that, once the
24 rescuers get there, they'll tell you what to do, or you won't need
25 to hear it, one of the two. If the rescue swimmer shows in your

1 raft and starts dragging you out of there, you're going to do what
2 he or she says.

3 I don't know that -- I'd like to see more training for
4 mariners on how to communicate with Coast Guard assets that arrive
5 on scene when it's not this urgent man overboard. You know, if
6 everyone's in the water in a life raft, then there's not much need
7 for talking at this point. They're going to come take care of it.
8 It's (indiscernible) someone lost an engine or you're taking on
9 water or you're going to get a rescue swimmer to come down because
10 of a medical emergency. There should be more training about how
11 to communicate with the assets then.

12 There's some things to do with distress signaling with flairs
13 that they don't teach, but I teach, a lot of people teach, I think
14 AMC does as well, but don't just pull out a flair and light it.
15 Make sure that you're -- there's someone -- you see someone you
16 want to signal. Don't flair into the blind. You're usually just
17 burning up a flair. Those kinds of distress communications could
18 be trained on a little more.

19 But as far as what to do if you're in a life raft -- there's
20 been cases (indiscernible) in '95 swam up on a life raft in
21 30-footers off -- 250 off in the Atlantic and surprised the guys
22 in the raft. The helicopter was hovering over the raft and they
23 didn't know it because it was too windy, and he scared them to
24 death. He jumps into the raft and just frightens all three of
25 them because they didn't know anyone was there. So, you know,

1 they didn't know a helicopter was there to talk to, but the rescue
2 went off fine without that communication.

3 So, again, I'm really stuck on those two things: how do I
4 keep the mariner alive longer, and how do I get there faster? So
5 what regulations can we put in place that would achieve both of
6 those. I think the EPIRB -- the personal EPIRB is one, drills and
7 training is another. Both of those things get the rescuers there
8 faster. Making sure that an immersion suit fits, that they know
9 how to get into their raft, increases the time they can wait.

10 Q. So both -- or Lieutenant Clark, the helicopter pilot was
11 talking yesterday in his testimony and he spoke about the first
12 raft being empty. The co-pilot glanced out and he saw one of the
13 survivors -- he didn't know it at the time, but he saw a light
14 being moved and flashed in their direction from side to side and
15 he knew that wasn't the blinking light on top of the raft or the
16 raft dipping below the surface of the sea. Are there any other
17 signaling devices that might be considered -- you know, we talked
18 about the parachute flairs; we talked about the smoke flairs;
19 (indiscernible) constant brightness flairs that, unfortunately,
20 drip burning hot material in front of them. Any other technology
21 that might improve the survivability and the location of people in
22 rafts?

23 A. Flashlights. They're -- my favorite rescue signaling device
24 is a flashlight. I don't know if he was waving a flashlight, but
25 it's not an international distress signal, but a waving flashlight

1 will turn an aircraft. They last for a really long -- a flair
2 only lasts for 30 seconds. The light end of a flair lasts for 30
3 seconds and if I don't see it, that's gone, and like you said, it
4 drips liquid hot material out the end of it and could hurt you and
5 hurt your raft. I think they're a device whose time has come and
6 gone, and I would trade every flair on my boat for three
7 waterproof flashlights in my raft. And I guess (indiscernible)
8 and a heat -- a couple of heat packs.

9 I like the -- the smoke end of a flair is a really good night
10 signaling device because it's not smoke, it's really hot smoke,
11 and so every Coast Guard aircraft that's searching, and almost
12 every aircraft in the world now, is searching with infrared and
13 that orange smoke is hot orange smoke and it creates a big, long V
14 pointing back at who lit it off. It still through really hot
15 dripping prosperous, and I don't like that about it, but a
16 flashlight, as a requirement -- that's what's in my lifejacket: a
17 PLB, a radio and a flashlight, and for reasons I don't want to get
18 into, a way to start a fire. But the flashlight will turn the
19 aircraft. I suspect that's what he was doing, waving a flashlight
20 or a ChemLight or something.

21 Q. So are Coast Guard approved flashlights for inclusion of life
22 rafts, are they adequate, or should they be improved to include,
23 like, an automatic SOS signal or a strobe feature or anything like
24 that?

25 A. I don't think so. Again, if an assets out there looking for

1 you, they're not going to see a flashlight not flashing SOS and
2 go, oh, well it's not SOS so I'm not going to go check that out.
3 They're going to go check it out whatever it is. It just needs to
4 be a really good flashlight, a good waterproof flashlight that's
5 bright, and the LED lights are brighter and brighter. So a really
6 bright flashlight.

7 It doesn't matter how the mariner waves it. If he points it
8 at the aircraft, they're going to the light, whether he waves it,
9 doesn't wave, SOSes it, strobes it. Strobes are nice because
10 they're passive. So I can take a strobe light, put it on the roof
11 of the raft or put it outside the raft, and it'll signal for me
12 for -- I can be inside the raft not knowing the helicopter's there
13 and they will have seen the light, and so that's a passive signal.
14 But as an active signal, a flashlight is, I think, the best not
15 required piece of gear I've ever heard of.

16 You know, if you have an EPIRB -- because the EPIRB gets them
17 really, really close, but they still have to get their eyes on
18 you, and so the flashlight's great. It just reaches out for miles
19 and tags somebody, and it doesn't matter whether it's an SOS
20 strobing. Just a waving flashlight pointed at the aircraft or
21 boat and that's the direction they're coming next.

22 Q. So I'm getting towards the final area of our conversation
23 here. So despite the fact that the Coast Guard and other rescue
24 forces are well-equipped and highly trained, there still can be
25 extreme risk to the crew, either on ships, boats or aircraft, and

1 the same is true for commercial fishing vessels and any vessel.
2 So (indiscernible) risk, we've talked about it many times in these
3 hearings, and it's such a simple word.

4 And what I'd like you to do, Lieutenant McPhillips, is pull
5 up Coast Guard Exhibit 075. And while he does that, this is an
6 artist's rendering of the *Selendang Ayu* and a Coast Guard
7 helicopter. And so what happened in this accident was a large
8 boat carrier grounded north of the Aleutian chain. That was the
9 *Selendang Ayu*, and this was 2004. The Coast Guard had put
10 extensive resources into the rescue operation. They had a cutter
11 there, equipped with a flight deck, somewhat similar to the Coast
12 Guard cutter *Mellon*, and in this artist's rendering, you see a
13 helicopter at the bow of the ship about to hoist ten people
14 aboard, and a large wave struck the ship and it came up and hit
15 the helicopter. The helicopter plunged into the water and six
16 people were killed. The Coast Guard crew survived, the aircrew
17 survived, and there was one other survivor.

18 Are you familiar with that accident, sir?

19 A. Yes, I am. Yeah.

20 Q. And did you know any of the flight crew of that accident?

21 A. I think I knew all of them. I knew the rescue swimmer and he
22 graduated school not too long before I was in Elizabeth City, but
23 I knew that crew and the case and read the mishap reports and --
24 so I'm familiar with it, yes, sir.

25 Q. So the picture in the lower right is the aircraft that had

1 washed up on the beach, and we had mentioned -- again, I want to
2 give you an opportunity to talk about muscle memory and training.
3 So the flight crew, first of all, they were in a better position
4 to get out of the aircraft, but they all survived, as did one
5 person. So do you think it was the increased training -- and I
6 know commercial fishing vessels can't train to the level of the
7 Coast Guard, but can you speak to why those crew might have
8 survived?

9 A. Well, one is the training and two is the equipment. Unlike
10 the people they put in the back, the crew was all wearing dry
11 suits, and so when they ditched and they're instantly immersed in
12 cold water, the first thing that happens in cold water is
13 immersion shock, which is gasping and -- uncontrolled gasping and
14 hyperventilating, which doesn't happen if you're in a dry suit
15 because it's protecting most of your skin. That reaction is
16 caused by the assault of cold water on every square inch of your
17 skin, and the greater skin contact and the greater the cold, the
18 greater the response. So the six survivors who came off the boat
19 not in dry suits would have had a dramatically different
20 experience in entering the water than the flight crew.

21 And then you had in the flight crew's training. They
22 practice -- first of all, they get out of the aircraft, they enter
23 the aircraft every day, and so they know how to get in and out of
24 the aircraft. Plus, they train on how to ditch and the pilots
25 were equipped -- I don't think the flight mechanic ever put his

1 escape breathing device in his mouth. He was just at the door and
2 went out, but the pilots had to use their escape breathing device
3 to get enough air to get themselves out, and, of course, the
4 mariners they put in the back didn't have those things. So those
5 two things, and if I had to pick one, it's the dry suits first and
6 the training second is what helped them survive.

7 Q. So you mentioned dry suits. Can you give us, if you know,
8 the price difference between a dry suit for a particular
9 individual versus a survival suit?

10 A. A survival suit is a couple hundred bucks; a dry suit's
11 1,000. And you can't wear a dry suit all the time. The pilots
12 can wear them -- it's a balancing act, okay? And so a mariner
13 working on a boat could essentially wear a dry suit, but then he
14 doesn't -- so he or she's protected if they have to enter the
15 water for any reason, but they're going to die of heat -- they're
16 going to have a heat stroke problem if they're just working. And
17 so they're restrictive.

18 So the crew can fly in them because they control the
19 temperature of the aircraft, and they have a limited -- they fly
20 for eight hours at the most, right? And then they're on the
21 ground. So you can handle it for eight hours. You can't work on
22 the deck of a boat for 12 or 8 or every day. I don't know that
23 it's an effective -- small boats, small crews, again, on rescues,
24 we'll wear dry suits, but they're not working as hard as a work-
25 boatman is, and so -- and they're dry suits, not warm suits.

1 So I can put the dry suit shell on, but I have to put on
2 undergarments if I'm going to use it in the water, and then I'm
3 increasing my heat posture when I'm not in the water. And so
4 they're a real balancing act to (indiscernible) and they're an
5 order of magnitude more expensive.

6 Q. So you would not recommend that a dry suit be carried for
7 emergencies in lieu of a survival suit that would be stowed so
8 it's immediately accessible for an emergency situation?

9 A. I wouldn't, sir. Not because I don't think they're a better
10 device, but the maintenance of those devices is complex, the seals
11 are complex, and it's hard enough to get them to maintain the
12 immersion suits that are really easy to maintain. You have a
13 complexity of wrist seals and neck seals and dry zippers that
14 really have to function well. I have to lubricate the zippers. I
15 have to (indiscernible) clip seams and have to -- it'd be a
16 monthly inspection or, at least, every six -- and then getting it
17 on in under a minute is not happening. So that -- getting it on
18 in a real sea is probably out the window, you know?

19 And so -- and unlike an immersion suit, if I get a half-liter
20 of water in my dry suit, I reduce its ability to insulate me by 30
21 percent. If I get water in my immersion suit, it's designed to
22 have water in it and it's okay. I'll heat it up because it's
23 insulated well. So it's a much more forgiving device than a dry
24 suit of a leak or from water intrusion. My insulation in a dry
25 suit is the liner that has to stay dry. If it gets wet, it's no

1 longer insulating me. Now I'm being insulated -- the only barrier
2 between me and the cold water is a thin layer of plastic really.

3 So it's a -- they're a lot more complex and there's a lot of
4 tradeoffs there. the reason why boat crews and helicopter crews
5 use them is the organization affords that level of complexity and
6 maintenance and training and -- and if I break the neck seal, I
7 take it to the shop and they give me a new one and so I think --
8 it seems intuitive that, well, it's a dry so it's better, and it
9 is, but for sure, in a long enough timeline, someone will have
10 died in a dry suit that wouldn't have in an immersion suit because
11 of water intrusion.

12 MR. FAWCETT: So, Mr. Vittone, those are all my questions. I
13 do want to thank you again for your willingness to participate and
14 I'll turn my questions over to Captain Callaghan. Thank you
15 again, sir.

16 THE WITNESS: Thank you, sir.

17 CAPT CALLAGHAN: And thanks again, sir, for joining us and,
18 at this time, I'm going to turn over questions to our colleagues
19 at the National Transportation Safety Board.

20 Mr. Barnum?

21 MR. BARNUM: Thank you, Captain, and thank you very much,
22 Mr. Vittone. Very informative presentation and also information
23 you have, so it's great.

24 BY MR. BARNUM:

25 Q. One question, sir. Obviously, we're looking at icing very

1 closely in this accident. Mr. (indiscernible), the other day,
2 touched on this with icing accumulation on some of that survival
3 gear, and I believe you did as well on the life rafts, and then
4 particularly EPIRB. Are you aware of any mitigation devices or
5 methods to help combat that icing on, in particular, the life
6 rafts and the EPIRBS?

7 A. There's anti-ice compound, but, sir, you have to actively use
8 it. You can spray anti-ice or -- silicon spray works pretty well.
9 Anything that keeps the ice from sticking. So on the -- but you'd
10 have to be covering the device in something that wants to
11 deteriorate it otherwise, either a petroleum product or silicon.
12 It's (indiscernible) where they keep these things. If they
13 keep -- you don't keep -- you'll see a lot of times they'll keep
14 the EPIRB and the life raft up high on the roof of the house,
15 where it's least accessible to knock the ice off of it, but it's
16 also the best chance it has of floating free because it's on the
17 top and clear of everything else.

18 And so that's a tradeoff. There's anti-ice compounds that'll
19 make it easier to knock the ice off and make it less likely to ice
20 up, but, again, you're going to making this tradeoff of covering
21 my gear in something I don't necessarily want to cover it with,
22 but I'm just doing it because it's cold today, it's windy and I'm
23 icing up.

24 Q. Have you heard of any artic models or any heated brackets or
25 heated blankets or anything --

1 A. I haven't, sir, but that doesn't mean there aren't any. I'm
2 in a different world. I'm -- I've been in helicopter rescue work
3 for 30 years and that's (indiscernible) is those things can be
4 made. I guess, again, it has to be really robust to survive that
5 environment. You know, heaters and current and wires not made out
6 of -- you know, made out of something that corrodes in that
7 environment. I think (indiscernible) in a lab and four months
8 later it's just this thing tied to the life raft that's not
9 working anymore.

10 So it's a tough one. I think more of those -- I don't know
11 what the answer is. I'm not a commercial fisherman. I don't know
12 how often the boat terribly ices up. I just -- you know, whether
13 there's a way to implement weather (indiscernible) or weather
14 restrictions, I have no roughly idea. It's not my world of work,
15 but I don't -- technology and the Bering don't usually mix very
16 well in that way, and so they just have to watch it.

17 I wouldn't keep the EPIRB on top of the house. I think the
18 EPIRB's best chance of getting off the boat is me taking it with
19 me, and I wouldn't worry too much about whether it's going to
20 float free. It's a really bad day, it's the first time you
21 realize you had a problem is the EPIRB went underwater, and so I
22 would rethink that. I wouldn't put them at a place where I can't
23 get my eyes on them to see that they're iced up or not. That
24 would be a good 85 percent solution to that problem is making sure
25 I can see the life raft and see the EPIRB and (indiscernible).

1 MR. BARNUM: Mr. Vittone, thank you very much. That's all
2 the questions I had.

3 THE WITNESS: Thank you.

4 CAPT CALLAGHAN: Thank you, Mr. Barnum.

5 And now, sir, I'm going to shift over to our parties in
6 interest, counsel for the two survivors.

7 Mr. Stacey?

8 MR. STACEY: Good morning, sir. Can you hear me all right?

9 THE WITNESS: Yes, sir, I can.

10 MR. STACEY: Wonderful. Thank you very much for your work,
11 and thank you very much for your focus on prevention to try to
12 ensure that all survivors that unfortunately have to go into the
13 water come back. I applaud you for that, and encourage you to
14 keep working as hard as you have been on that in the future, and I
15 have no questions for you. Thank you, sir.

16 THE WITNESS: Thank you, sir.

17 CAPT CALLAGHAN: Thank you, Mr. Stacey.

18 Shifting over to counsel representing vessel owners,
19 Mr. Barcott?

20 MR. BARCOTT: Thank you, Captain.

21 Thank you, Mr. Vittone. Can you hear me all right?

22 THE WITNESS: Yes, sir, I can.

23 MR. BARCOTT: We appreciate your testimony here today. You
24 bring real-world experience to some of these things, and it was
25 really helpful for me to hear your responses to some of

1 Mr. Fawcett's questions. I don't have any specific questions for
2 you, so thanks so very much.

3 THE WITNESS: Thank you, sir.

4 CAPT CALLAGHAN: Thank you, Mr. Barcott.

5 And, sir, so, again, we want to take the opportunity to thank
6 you, sir. This has been very good for us, very enlightening. I
7 certainly appreciate you sharing some of the information here, and
8 also sharing the videos that you had produced prior to so we could
9 use those as exhibits and help provide those education
10 opportunities as part of this hearing as well.

11 Sir, we want to take the opportunity to thank you for your
12 career or dedicated safety to life -- you know, to the safety of
13 life at sea, so not only in your previous career, but something
14 you continue to do now. And so, you know, a lot of people
15 continue to benefit from your service to mariners out there. So
16 thank you for that.

17 THE WITNESS: Yes, sir.

18 CAPT CALLAGHAN: At this time, sir, we are -- you are now
19 released as a witness from this formal hearing. Thank you for
20 your testimony and cooperation. If we later determine that the
21 Board needs additional information from you, we'll contact you
22 direct.

23 If you have any questions about the investigation, you may
24 contact the the Investigation Recorder, Lieutenant McPhillips.

25 THE WITNESS: Thanks, Captain.

1 CAPT CALLAGHAN: Thank you very much, sir. I appreciate your
2 time today.

3 THE WITNESS: Yes, sir.

4 (Witness excused.)

5 CAPT CALLAGHAN: Time is now 0928. This hearing will not
6 take a recess, scheduled to start back at 0945; however, that may
7 shift to 1000, and, if so, we will provide that and display the
8 update on live feed. So we will now go to a recess.

9 (Off the record at 9:28 a.m.)

10 (On the record at 9:59 a.m.)

11 CAPT CALLAGHAN: The time is now 10 o'clock and this hearing
12 is now back in session. We'll now hear from Captain Kristen
13 Martin from the National Maritime Center.

14 Captain Martin, Lieutenant McPhillips will now administer the
15 oath and ask you some preliminary questions.

16 LT McPHILLIPS: Good morning, Captain. Please stand and
17 raise your right hand.

18 (Whereupon,

19 KIRSTEN R. MARTIN

20 was called as a witness and, after being first duly sworn, was
21 examined and testified as follows:)

22 LT McPHILLIPS: Please state your full name and spell your
23 last name.

24 THE WITNESS: My name is Kirsten R. Martin, M-a-r-t-i-n.

25 LT McPHILLIPS: Please identify counsel or representative if

1 present.

2 THE WITNESS: Yes, represented by Lieutenant Commander
3 Matthew Pecoske.

4 LT McPHILLIPS: Counsel, please state and spell your last
5 name, as well as your firm or company relationship.

6 LCDR PEKOSKE: Lieutenant Commander Matthew Pecoske,
7 P-e-k-o-s-k-e, Coast Guard Judge Advocate and counsel to Captain
8 Kirsten Martin.

9 LT McPHILLIPS: Thank you, sir.

10 Captain, please tell us what is your current employment and
11 position.

12 THE WITNESS: I am currently serving as the commanding
13 officer of the Coast Guard National Maritime Center.

14 LT McPHILLIPS: What are your general responsibilities in
15 that job?

16 THE WITNESS: The Coast Guard National Maritime Center issues
17 all merchant mariner credentials and documents to U.S. merchant
18 mariners. It's the sole source for U.S. mariners to get a
19 license.

20 LT McPHILLIPS: Can you briefly tell us your relevant work
21 history?

22 THE WITNESS: Yes, I have had multiple tours in our Coast
23 Guard's Prevention mission. This includes operational tours and
24 commercial -- focused on commercial vessel inspections in New York,
25 New York, Buffalo, New York and San Francisco, California, as well

1 as multiple headquarters tours where we draft our policies and
2 work on regulatory projects, et cetera, working in the office of
3 commercial vessel compliance, and also the office of law
4 enforcement.

5 LT McPHILLIPS: What is your education related to your
6 position?

7 THE WITNESS: So, for this job, there are no prescribed
8 educational requirements in terms of degrees required for being
9 the commanding officer here. I am not -- I'm also not a licensed
10 mariner in terms of I do -- I myself do not hold a merchant
11 mariner credential, but it's really the background required is
12 knowledge of vessels, knowledge of mariners, knowledge of their
13 operations and how they interact in our marine transportation
14 system.

15 LT McPHILLIPS: Do you hold any professional licenses or
16 certificates related to your position? Please explain if so.

17 THE WITNESS: I do not.

18 LT McPHILLIPS: Thank you, Captain. Captain Callaghan will
19 now have follow-up questions for you.

20 CAPT CALLAGHAN: Good morning, Captain, and thanks for
21 joining us here this morning, or I guess afternoon out there. I'm
22 going to turn it over to Commander Karen Denny, who's going to
23 initiate with some of the questions this morning.

24 THE WITNESS: Okay, great.

25 EXAMINATION OF KIRSTEN R. MARTIN

1 BY CDR DENNY:

2 Q. Good morning or afternoon, Captain. Thanks again for being
3 with us virtually today. We appreciate that. So using this
4 platform, this virtual platform, we will be able to share
5 exhibits. You provided us in advance with a presentation on the
6 NMC, the National Maritime Center. So if you -- as you present,
7 if you want us to advance, please ask Lieutenant McPhillips, the
8 recorder, to just go ahead and advance the slides. For the
9 benefit of the public, we've been asking everyone to attempt to
10 minimize use of Coast Guard acronyms and just use plain speak as
11 much as possible.

12 So, ma'am, I'm going to let you go ahead and talk to us a
13 little bit about the National -- the NMC and make your
14 presentation and then we'll go ahead and have some follow-up
15 questions.

16 A. Okay, sounds great.

17 Q. Lieutenant McPhillips, if you could please pull up Exhibit
18 109, which is the presentation for Captain Martin.

19 A. Yes, and I might, by default, use one acronym routinely and
20 that is the NMC, so NMC does stand for the Coast Guard National
21 Maritime Center.

22 And if you could go to the next slide.

23 So, in short, our -- the NMC mission is really to both
24 effectively and efficiently issue credentials to fully qualified
25 mariners, with the overall goal being the safety, security,

1 economic viability of our nation and our global marine
2 transportation system. So I do say effectively and efficiently,
3 meaning we want the right mariner to have the right credential in
4 the right amount of time. So we are focused on serving the
5 mariner and making sure we not -- we balance that service with
6 ensuring they meet all the requirements to hold and operate under
7 that license or credential.

8 Next slide please.

9 So a little bit about our center's operations. We really do
10 have a wide range of operations. We have over 320 employees
11 located at 20 outlying locations to carry out the Coast Guard
12 mission as it relates to the documentation and licensing of
13 seamen.

14 So credential production, that is literally just creating the
15 book. If folks aren't familiar with that, this is what our United
16 States Merchant Mariner Document Credential Book looks like. It's
17 a passport-style book and these are made at our facility in West
18 Virginia. You'll see our org chart in a few slides ahead of this,
19 but we have a host of subject matter experts who, day in and day
20 out, do this work, and it really is focused on the entire breadth
21 of both training for mariners, and then also the testing of
22 mariners in terms of competence, et cetera, and then finally, the
23 issuance. So the range of operations you see here are very broad
24 in terms of, you know, the highest level.

25 So we are looking at mariners for safety suitability, their

1 ability to hold that credential and act in accordance with, you
2 know, the authority within that credential. We do look at them
3 for medical fitness. We look at them for professional competence
4 and professional capabilities. We also look at course approval;
5 so training that leads to a credential. We looking at training
6 and training providers that provide that for United States
7 mariners. We create exams at our center and those exams are
8 issued at our regional exam centers. The training location's
9 outside of West Virginia, and I did not mention that earlier. The
10 National Maritime Center is located in West Virginia.

11 And then there is a lot of documentation required to both
12 submit an application and create that credential and then maintain
13 the mariner's file. So documentation, records management is a
14 large part of what we do. We also maintain our merchant mariner
15 licensing and documentation database. So this is the Coast
16 Guard's enterprise system for retaining mariner information.

17 And last, but not least, we do have a pretty robust customer
18 service operation as well.

19 Next slide.

20 So a little bit about our organization, and I'm happy to take
21 questions now if folks aren't familiar with the Coast Guard
22 organization as a whole. So I did mention the main office for
23 NMC, if you kind of think of us as a hub and spoke, the main
24 office is in West Virginia. We are a Coast Guard headquarters
25 unit, meaning my chain of command, the NMC chain of command, is in

1 Washington, D.C. I report directly to a CG-5PS, and that is the
2 director of commercial regulations and standards, Mr. Jeffrey
3 Lantz, and Mr. Lantz reports to CG-5P, the assistant commandant
4 for prevention policy, Rear Admiral Timme. We have a sister
5 office at Coast Guard headquarters, the Office of Merchant Mariner
6 Credentialing. So the NMC really is the implementing side of the
7 Coast Guard's program, meaning we'll receive any of the
8 applications, we're giving the tests, we're creating those
9 credentials. The Office of Merchant Mariner Credentialing is
10 focused more on regulatory updates and changes, issues related to
11 policies, trends coming through IMO and changes on the
12 international front that would eventually, you know, affect United
13 States mariners.

14 Next slide.

15 So this shows our organizational structure. Like I said, we
16 do have a pretty large staff. We have 320 folks and this gets
17 into a little bit more detail in terms of all the operations that
18 are carried out within our six main divisions. So I am military
19 obviously, Captain U.S. Coast Guard, serving as the commanding
20 officer. We have a small number of military staff at the unit,
21 seven to be exact. The rest are comprised of federal employees,
22 GS employees, and also contract employees.

23 About 12 years ago, the Coast Guard centralized the
24 authorities to issue credentials in West Virginia. That was known
25 as centralization. Prior to that, those OCMI, what we call OCMI

1 authorities, or Officer in Charge, Marine Inspector authorities
2 were situated out at operational units out at sectors who had the
3 ability to issue credentials locally. But due to a variety of
4 reasons, the Coast Guard centralized that program, centralized
5 those authorities so the primary authority -- OCMI authority to
6 issue mariner credentials in now in West Virginia.

7 So within our six divisions, division one is a Regional Exam
8 Center Operations Division. So, again, we have 20 outlying
9 offices throughout the CONUS, also OCONUS and Hawaii, Alaska, Guam
10 and Puerto Rico, and, again, a number of offices throughout our
11 continental United States. So they oversee all of the work going
12 on there. Pre-COVID, that is where a mariner would walk in
13 face-to-face to discuss applications, to pay fees, and then also
14 to take exams. Currently, post-COVID, most of those face-to-face
15 transactions related to customer service and fees is now done
16 remotely via the phone or using websites, et cetera, but mariners
17 still do report to regional exam centers for testing and for the
18 issuance of those examinations that are required, at times, to
19 gain a credential.

20 NMC 2 is our mariner Training and Assessment Division. So we
21 have over 300-plus mariner training providers located throughout
22 the United States. Any training that's leading to a license or an
23 endorsement on a merchant mariner credential will be, in most
24 cases, Coast Guard approved, and that unit does all the approvals
25 for all the training that is conducted. Like I said, over 300

1 trainers and over 2,000, you know, approved courses that the Coast
2 Guard has approved, leading toward merchant mariner training.
3 They also do assessment, meaning the exams. They're creating the
4 exam questions, they're creating the actual exams themselves, and
5 then they're working closely with our regional exam centers in
6 terms of getting those exams out to the regional exam centers for
7 the mariners. We're still a little bit behind technology. We
8 still work in a paper-based environment when it comes to
9 examination, but we've figured out ways to work through that in
10 COVID environments.

11 NMC 3 is really our wheelhouse. I won't get into it too
12 much, but it's HR, it's budget. It's all the stuff that the NMC
13 needs to execute its core mission.

14 So NMC 4, Mariner Information Division operates a fairly
15 robust website. So if you're looking for information, you can go
16 to our website and get that. They maintain that. They maintain
17 the mariner files. They maintain (indiscernible) our merchant
18 mariner licensing and documentation database, and they also manage
19 our call center. We have a robust call center to deal with the
20 many, many queries we get on a day in, day out basis. We have
21 over 208,000 U.S. merchant mariners at this time. We pull numbers
22 annually, and I've been at the unit for about five years now, and
23 we've hovered right over that 208- to 210,000 active U.S. merchant
24 mariners. And when I mean active, I mean they have -- they do
25 have a valid credential.

1 NMC 5 is our Mariner Evaluation Division. They're looking at
2 mariners from two different perspectives. One, safety and
3 suitability, looking at mariner's past law enforcement, driver
4 records, et cetera, and making those decisions is someone suitable
5 to hold a Coast Guard issued merchant mariner credential. And
6 then our professional qualification evaluation branch, they'll
7 look at all the professional qualifications that a mariner will
8 hold or made to meet if they're looking at upgrading or obtaining
9 a higher level credential. When I say professional
10 qualifications, they're looking at their service, what types of
11 vessels did they serve on, the tonnage of those vessels. They're
12 looking at any courses that they've taken in terms of the training
13 that's required for a credential. They're looking at the amount
14 of time someone's spent at sea, their sea service. So they're
15 really looking at those competencies; what -- when they are
16 serving on a vessel, what capacity did the mariner serve. Those
17 all lead to maintaining a credential or usually upgrading or
18 getting a higher level credential.

19 And then last is our Medical Evaluation Division. They're
20 looking at mariners to make sure they are fit for the credentials
21 sought. So we have a doctor. We have -- that division in
22 particular is led by an occupational medical specialist, a -- you
23 know, a board certified PhD doctor, and we have a number of
24 physician assistants and then a robust contract team of medical
25 (indiscernible) that work in that division as well.

1 Next slide. Okay. Did we skip one? We went two ahead. I
2 think we're at the right place. Perfect.

3 So we already mentioned these. These are our regional exam
4 centers and monitoring units, those kind of forward facing
5 offices, which, again, with COVID, maybe not as forward facing as
6 they were, you know, over a year ago, but just to get a sense of
7 kind of the breadth of the operation. So, again, if a mariner was
8 taking an exam, that's where they would go, that's where they
9 would report.

10 Next slide.

11 So this, it just gives you a very basic overview of the
12 application process. So if a merchant mariner or a want-to-be
13 merchant mariner was applying for a U.S. credential, this is the
14 basic process that every mariner would follow. So they would
15 start with applying for TWIC, Transportation Worker Identification
16 Card. They would submit the required forms to us, and there's two
17 different forms, one for the actual NMC for a merchant mariner
18 credential, and then one also for the medical certificate. And I
19 didn't point that out earlier, but every credential book also has
20 a little envelope in the back for the merchant mariner medical
21 certificate. So these little exam centers do receive our
22 applications, which now are, knock on wood, all electronic, and
23 when I say electronic, I just mean they're a PDF. We're looking
24 towards pretty dramatic IT enhancements on the horizon, but we
25 still are pretty much in a paper, and then when COVID hit, a PDF

1 environment.

2 So mariners will submit applications through the regional
3 exam centers. They'll get an initial review, then they will come
4 up to West Virginia as part of our application in processing, and
5 then all of those evaluations that I spoke about earlier, the
6 medical, the professional qualifications, and then also the safety
7 suitability will occur, and ideally, all the requirements have
8 been met. There are fees; fees have been paid. Or if an exam was
9 required, you know, exams are complete and passed. And, ideally,
10 you know, everything is good to go and that credential is printed
11 and then, obviously, sent back to the mariner.

12 Next slide.

13 So 2020 I don't think was normal for any of us with COVID,
14 and we definitely saw a pretty significant drop in applications
15 overall at our unit. This kind of just gives you a broad brush on
16 the scope of our operations, what we do in a day. Pre-COVID, in a
17 normal year, we would issue over 60,000 merchant mariner
18 credentials each year, and a corresponding 60,000 medical
19 certificates each year. So a very robust operation. There is
20 never a dull day in West Virginia, that's for sure. We're always
21 working on some unique issue related to some unique mariner. But
22 that really is the general overview of the National Maritime
23 Center and our operations.

24 And I think the next slide is just the closeout slide. So I
25 will leave it at that, and look forward to any other questions you

1 may have.

2 Q. Thanks, Captain. We really appreciate that PowerPoint to
3 give us a sense of what the National Maritime Center does. I do
4 have some follow-up questions, but I wanted to ask you -- thanks
5 for showing us the credential and what that looks like.

6 CDR DENNY: We're having some technical difficulties, so I
7 think we're about to take a seven-minute recess to work out some
8 issues on our end, ma'am.

9 THE WITNESS: Okay.

10 (Off the record at 10:22 a.m.)

11 (On the record at 10:41 a.m.)

12 CAPT CALLAGHAN: Okay. It is now 1041. The hearing is back
13 in session.

14 So, Captain Martin, just so you're aware, we've kind of
15 switched over. So this is -- the Zoom will show as recording and
16 then it'll be posted to livestream later as we've got a technical
17 difficulty with livestream. So I'll turn it back over to
18 Commander Denny.

19 CDR DENNY: Thanks, Captain.

20 BY CDR DENNY:

21 Q. And thanks, Captain Martin, for your patience. I was just
22 saying I appreciate the presentation that you gave, and I did have
23 some follow-up questions. You showed us an actual credential,
24 which was great, and I was hoping that you could please elaborate
25 on the process. You had a slide, it was slide 7, that talked

1 about it in overarching terms, but can you talk a little bit more
2 about the specifics of a credential? For example, how long is a
3 credential good for from issuance until there's a need for
4 renewal? And then I also have some other follow-ups.

5 A. Yes. So, in general, credentials are good for five years.
6 So you would have that credential -- once it was issued, the
7 validity time would be five years, and the same applies, in
8 general, for your medical certificate. Sometimes there's other
9 conditions that a mariner may have that the medical certificate
10 will not be the full five years. They might have underlying
11 conditions, et cetera, that requires a waiver. Waivers are -- it
12 could be a single-year waiver, it could be a multi-year waiver.
13 But, in general, five years for domestic. If we start talking
14 international, it gets a little different, but five years.

15 Q. Okay. So for the purpose of, I think this questioning, we'll
16 stick with domestic for sure. So, Captain, in terms of the
17 investment that it takes for a person who is looking to get a
18 credential, what are we talking about in terms of that
19 individual's investment for training, for example? Let's say
20 they're trying to get a -- for a small commercial vessel.

21 A. So, I mean, it really would vary. You can -- you don't
22 always need training. You can get, basically, on-the-job
23 experience. So if you got what we call entry-level credential,
24 which is really -- there is no endorsement, there's no officer
25 endorsement on it, you're able to be an ordinary seaman, a

1 (indiscernible) or steward. You're basically applying for your
2 TWIC, you're getting your medical application in, your Coast Guard
3 application, and paying the evaluation fee and the issuance fee,
4 which is right around \$145 for those. So if it's an entry-level,
5 it's -- again, no endorsement, the cost is not that great. But I
6 don't want -- it is not free. There are some fees.

7 Obviously, when you look at adding training and going to,
8 say, a commercial training provider, there are costs incurred
9 there. But some -- many times, mariners can just get experience.
10 They can serve on vessels. They can capture their seat time that
11 they have spent on vessels and use that as part of the entry-level
12 credential requirements.

13 And it definitely is -- you know, obviously, it's a building
14 block, you know, to go from an entry-level (indiscernible)
15 endorsement to master or chief engineer unlimited. You know,
16 those are very broad gaps in the skills, competencies required for
17 those endorsements. If you look at (indiscernible), they cover
18 the licensing and documentation of merchant mariners and seamen.
19 It's -- there are a lot of different credentials. We have a wide
20 variety of subject matter experts that can get really the details
21 on the level of credential and, you know, most of them are based
22 on tonnage. Tonnage of vessels is one of those markers that
23 really delineates the requirements that are behind a credential,
24 as well as the waters that that mariner is going to be operating
25 in.

1 But it really does vary. If you -- as soon as you start
2 increasing the level of endorsement, the level of credential. If
3 you're going to do it purely in training, those dollars will add
4 up in terms of the amount of money an applicant would have to pay
5 for a school, and there are options where you can do all training.
6 It's called course, in lieu of exam. So instead of getting the
7 Coast Guard exam, you could take a training course and it would --
8 basically, you would not have to take our Coast Guard exam. Those
9 are capped at 200 tons basically and below.

10 Any of the more (indiscernible) level credentials, you have
11 to take a Coast Guard exam. But, again, our fees are -- they are
12 -- I don't have it exactly, as you can tell. I can provide that
13 easily, but I'd say our fees are pretty (indiscernible) to get
14 that actual book issued, it's a \$45 fee.

15 Q. So just for a little bit of clarifications, you had
16 mentioned, you know, the very entry-level credentials, but a
17 person with the entry-level credentials couldn't necessarily
18 operate that commercial -- hypothetical commercial vessel, right?

19 A. (Indiscernible) ordinary seaman (indiscernible), you're
20 really entry-level into that ship, and those are, you know,
21 (indiscernible) that are in a larger -- you know, a larger vessel.
22 But you're usually not even involved in the direct operation of
23 things. You're helping cleaning, you're helping support the crew
24 and some of the crew requirements. But, yeah, it's very as it
25 sounds, entry level. You would not be on the bridge operating the

1 vessel. That's correct.

2 Q. Yes, ma'am. So, ma'am, I'd like to focus actually on a
3 scenario to think about in terms of the investment that needs to
4 be made by an individual. What if that person was going to
5 operate a small, let's say, water taxi in a major harbor like
6 Seattle, for example? Would they need some type of Coast Guard
7 credential to do that job?

8 A. So depending, again, on size of the vessel (indiscernible),
9 they would probably -- you know, assuming it's an inspected
10 passenger vessel, and then, again, depending on the tonnage, yes,
11 that person would need a credential. It would be a master
12 credential, again, based on the size of the vessel and the number
13 of people that are onboard. So (indiscernible) master 100, 100
14 gross tons, so a master 100 gross tons is a common entry-level
15 credential that someone could get. That is one where you could do
16 a course in lieu of exam. In terms of getting that training and
17 not taking the Coast Guard exam, you would still need some
18 operational experience to help support that, but that is a common
19 entry-level credential.

20 Q. Okay. So you mentioned the different sub-directorates of the
21 National Maritime Center, and you specifically talked about I
22 believe it was NMC 6 that talked about medical sufficiency. How
23 does the Coast Guard ensure that people are medically fit to work
24 on vessels?

25 A. Yeah, so it's two pronged, medically and physically fit.

1 There are vision requirements. There are hearing requirements.
2 There is basically -- mariners will take their application form to
3 their physician of choice and the physician will work -- fill the
4 application out, basically documenting conditions, whether that's,
5 you know, the wide range of any type of health (indiscernible)
6 condition that an individual could have, medications that someone
7 is on. There is, basically, screen for is someone physically able
8 to do the job. (Indiscernible) environment -- vessel environment
9 (indiscernible) strong enough to do certain things, physically fit
10 enough to be able to do certain things on a vessel because of the
11 configuration of ships, of vessels. So that's basically that
12 screening that happen with the mariner and then the mariner's
13 physician. And then those are reviewed by our staff at National
14 Maritime Center.

15 And then if a mariner already has a credential, we will look
16 historically to see if there's changes in condition. You know, if
17 someone (indiscernible), you know, five years ago and then they
18 come back and there's a lot of (indiscernible) physician to just
19 ensure that the member is fit. Also, vice versa, if they had a
20 lot of problems and then they came in to renew and they had a
21 clean bill of health, again, we would normally go back to that
22 servicing physician and have a conversation where the physician
23 would make sure, you know, that something wasn't missed on the
24 application, because, again, we want to ensure that mariner's
25 serving are fully, 100 percent ready to do the jobs and the

1 demanding jobs that are out there.

2 Q. Captain, what would happen if a person, the applicant,
3 submitted their application and their medical paperwork and that
4 person had a heart condition? What would happen within NMC 6 and
5 the people reviewing that?

6 A. So, again, we have several layers of review. There's medical
7 screeners, contract medical screeners. We have physician
8 assistants on board, and then there is our, you know, board
9 certified occupational medical specialist, you know, our doc. So
10 in any (indiscernible) screener see a change in condition or there
11 is something that needs a higher level of review, that's exactly
12 what happens. So (indiscernible) can be reviewed by physician
13 assistants.

14 Certain other conditions have to come all the way, you know,
15 up to Dr. Torres-Reyes, who leads that division, for that
16 determination. But it would be screened, and, you know, we're
17 looking at those to ensure that, again, the mariner is medically
18 fit -- is physically able and medically fit to perform the job,
19 and we know these jobs are safety sensitive positions and we do
20 our due diligence to make sure that those mariners are 100 percent
21 ready to serve.

22 Q. Okay. So different example, if -- let's say I was applying
23 for a credential, a mariner's credential, and I had a prescription
24 for near-sightedness, would I be able to get a Coast Guard
25 credential or would I get flagged medically for example?

1 A. So if there's items related to vision, or if there's items
2 like I mentioned earlier, hearing -- ships, engine rooms, you
3 know, these are loud environments and if someone's served for
4 years on a ship, there's a good chance they're going to experience
5 some level of hearing loss. But we would look at the condition
6 and then go, is it correctable.

7 So, again, if it's hearing, you know, can the mariner wear
8 hearing aids? Is there some enhancement that will allow them to
9 serve? Same thing with vision. Correctable vision is something
10 that we routinely deal with, so, again, they're going to get a med
11 cert, but on that med cert, it's going to clearly state, mariner
12 must wear -- mariner needs to wear glasses. You know, it might be
13 a simple fix, but it would be prescribed on that medical
14 certificate.

15 Q. Okay. Thank you for that clarification. I'm going to go
16 down this line just a little bit more. What about if a mariner,
17 an applicant, was taking prescription medication? Is that
18 something that's going to be flagged or is that something that's
19 authorized, for example a sleep aid that's prescribed? And then
20 the follow-on question is what about if it's over-the-counter?

21 A. So a mariner should always provide all prescribed medicines
22 that they are taking on their application because we need to
23 evaluate that, right? We've learned from past incidents that if
24 you have two different medicines and -- there's complexities when
25 you layer a series of medicines, one on another. So our doctors

1 will -- or our medical teams will look at what position is the
2 mariner in, what are the safety, you know, sensitive duties that
3 the mariner is performing, what is the medication, and can they
4 still do their work and take that medication. So there's many
5 times where we're dealing with a mariner, and then, again, we're
6 going back to that physician.

7 We rely heavily on the medical documentation presented to us.
8 So our staff will look and talk with the servicing physician to
9 ensure that the mariner can serve. Because especially as folks
10 age, and, again, if you're -- if you've worked a lifetime in the
11 marine industry, it's a tough environment. You're going to get
12 some bumps; you're going to get some bruises. So you may be, you
13 know, taking some medicines, but our teams will make sure that
14 safety is not compromised.

15 Q. So that actually segues a little bit into, like, the physical
16 fitness of the individual. You mentioned that you -- is it fair
17 to say that you rely heavily on that physician -- the individual's
18 physician to determine if the mariner has the physical dexterity
19 to operate? For example, operate a water-tight door or to rescue
20 somebody. Are you relying on that physician to attest to that?

21 A. There -- in the actual medical application forms, it explains
22 basically the physical requirements that a mariner needs to be
23 able to perform. So there are very specific on-the-job things
24 that -- you know, if you're part of a firefighting team and you
25 need to don equipment and then, you know, put on a self-contained

1 breathing apparatus and be able to go fight a fire, those are
2 physically demanding activities, and there -- the medical form
3 explains that to the servicing doctor so they can really evaluate,
4 you know, the patient that they see in front of them. Hey, can
5 this person operate a water-tight door? Can this person carry
6 loads of X amount of pounds up and down ladderways on a ship? You
7 know, can they perform some of these very physical job duties that
8 are present on a vessel?

9 UNIDENTIFIED SPEAKER: It's 2 o'clock.

10 CDR DENNY: Okay. I don't know what that was, but apparently
11 it's 2 o'clock somewhere.

12 BY CDR DENNY:

13 Q. So, ma'am, in terms of that physical, is that one of the
14 expenses that is required for the applicant to pay for
15 individually, or is that part of the overall fee that they pay?

16 A. So the physical itself would be -- you know, the mariner
17 would pay for that physical. Currently, there is no fee related
18 to the actual medical certificate issued by the Coast Guard. So
19 that -- but, again, yeah, they would use their own -- you know,
20 whether it's primary care or however their healthcare is
21 organized, they would use their own servicing physician and then
22 submit that in, but there's no Coast Guard fee for that. There is
23 a Coast Guard fee for the credential book itself, but not for the
24 medical certificate.

25 Q. Okay. Thanks, Captain. So could you talk to us a little bit

1 about how the Coast Guard ensures that vessels are drug- and
2 alcohol-free places where credentialed mariners can work safely?

3 A. So a part of -- normally, part of our application process is
4 to have proof of a drug test. So that would be one of the things
5 that we're looking for in the application. So in terms of it's a
6 requirement to get the credential to be -- you know, to provide
7 proof of a clean drug test.

8 Q. Ma'am, could you talk a little bit in general terms about
9 what types of tests people might have to submit?

10 A. In terms of the types of drugs being tested for or --

11 Q. The types of drug tests. Like, can it be any old drug test?
12 Does it have to be DOT certified?

13 A. Yes. It would be a DOT certified lab or medical drug test
14 provider.

15 Q. So, generally, what would happen if a mariner working
16 offshore had two heart attacks? Can you tell us what would happen
17 if he held a credential for a vessel less than 200 gross tons and
18 that situation happened? How would the National Maritime Center
19 be involved?

20 A. So the scenario is a mariner is on a vessel less than 200
21 gross tons and has two heart attacks. Is the mariner required to
22 even have a credential --

23 Q. Yes, ma'am, in this scenario.

24 A. So, one, we would need to be notified. There is a self-
25 reporting mechanism for mariners to notify the Coast Guard

1 about changes in medical fitness. So, ideally, the mariner would
2 relay this information to us, because that could have very
3 significant impacts to their ability to hold a medical
4 certificate. We would need to find out more information about,
5 you know, what happened in terms of the -- two back-to-back heart
6 attacks are fairly significant health events. So, again, that
7 would require us to talk to the mariner, again have that mariner
8 connect with their servicing physician, and we would be looking at
9 that more closely.

10 Q. Thanks, ma'am. So I'm going to shift us a little bit to
11 competency and talking about mariner competency and how the
12 National Maritime Center is involved in that. How do you check or
13 verify that a person is maintaining their competency with the new
14 types of equipment or changing technology? Is there a mechanism
15 for that?

16 A. So that's maybe two different prongs. A lot of changes in
17 technology, which I think we're seeing quite a bit of, right?
18 Like, hey, we're talking about autonomous vessels, et cetera, or
19 just all the changes in IT that we're seeing, cyber, et cetera, on
20 ships. So some of those broader changes are going to be --
21 there's going to be -- regulations need to change, right? Like,
22 there is a set standard in 46 C.F.R. Part 10 that says, here's
23 what the Coast Guard is going to look at in terms of required
24 topics from mariner exams, whether that's a deck endorsement or an
25 engineering endorsement.

1 Those topics need to keep up with the changes in technology.
2 So for (indiscernible) changes in technology, whether it's
3 engineering or it's navigational technologies, we need to make
4 sure that the items that we're examining mariners is keeping up
5 with that pace.

6 Q. So you mentioned 46 C.F.R. Part 10. When is the last time,
7 roughly, that that's been updated?

8 A. I would probably be speaking a little bit out of turn because
9 that's more of the Office of Merchant Mariner Credentialing, our
10 headquarter sister office, that does that. I know -- you know,
11 we've been in a little bit of a nonregulatory environment for the
12 last four years, so in terms of broad changes to that, I know that
13 has not happened. We see -- again, we're implementing the policy
14 and regulatory changes that really are created in the Office of
15 Merchant Mariner Credentialing back within the CG-5PS.

16 Q. Thanks, Captain. So to shift back to competency, you
17 indicated in your presentation that, you know, you have a
18 sub-directorate that assesses those trainings and also kind of, is
19 it fair to say, audits or decides what's accredited or approved.
20 Have there been cases where people get, quote, grandfathered to
21 give them credit for a lifetime of marine operation experience?

22 A. I'd have to think of that one a little bit, so give me a
23 minute. I mean, there's always -- whenever there's new regulatory
24 changes, you know, with the Coast Guard at least, in my
25 experience, there's -- many times there's some sort of grandfather

1 clause. If you're looking at changing -- say it's changing
2 certain equipment on a vessel, many times, you know, hey, if you
3 had this equipment and it was already installed, it's good for the
4 lifetime of the equipment because -- just to allow folks that
5 opportunity to gear up for a new requirement. So in terms of
6 licensing for the personnel, I can't think of anything off the top
7 of my head where we would grandfather someone's competency, but I
8 would have to just look into that (indiscernible) --

9 Q. Okay, that's fine. So I kind of want to talk a little bit
10 about suitability for credentialing. Pretty basic, does a
11 credentialed mariner have to be a U.S. citizen?

12 A. So for certain officer endorsements, you do, yes. For
13 others, you do not. So we look at citizenship, and then we also
14 look at criminal record, convictions, national driver registry.
15 We -- again, we want to make sure that person is (indiscernible)
16 suitable to hold the credentials being sought.

17 There's a whole section in there that talks about
18 convictions, and, you know, sometimes folks need to -- there's an
19 assessment period applied, meaning they cannot apply right away
20 due to the nature of the conviction. So we work closely with our
21 DHS partners in terms of getting information as part of the TWIC
22 application process to make sure that, again, we're giving this
23 credential to someone who really is suitable to hold, and then
24 obviously, act under the authority of the credentials.

25 Q. So, ma'am, what would be the affect to a person in terms of

1 credentialing for -- if you guys found that said applicant was
2 driving under the influence or had a fairly serious criminal
3 conviction? How would that impact that person's ability to get a
4 credential?

5 A. So the -- as I mentioned, there is a table of assessments and
6 it literally applies basically years that we can take into account
7 when we're looking at a mariner's background. (Indiscernible)
8 there is, on the application form itself, a mariner's duty to
9 identify convictions. Sometimes mariners do not identify those
10 convictions, but we find out as part of our safety and suitability
11 checks.

12 So there's a table. We apply, you know, the table. If
13 there's something more egregious, they could be denied, but you
14 always -- the table's basically our framework for using some
15 judgement and also talking with the mariner. We always look at
16 the mariner as -- that they do have that ability, right? Like, to
17 provide someone a credential is to provide someone a way to earn a
18 living, a way to support their family. To deny someone, you know,
19 we take that seriously when we really take that opportunity away,
20 especially if they've been holding a credential. But there are
21 rules, there are standards, and we will look at those assessments
22 and apply the required time.

23 Q. So is there a way for an applicant to be able to appeal that
24 determination? You mentioned that there's judgement used. Is
25 there a way for them to appeal that determination that's made?

1 A. Yes, there are multiple -- actually multiple levels of appeal
2 for a mariner. So upon the initial application, the mariner -- if
3 they were denied or say they were getting a four-year -- you
4 cannot apply for four years if that was the assessment time given,
5 that's done at a level below me.

6 So, one, the mariner -- the next step is what we call
7 reconsideration. The mariner would send the reconsideration
8 request to me, and, again, I would take an independent look
9 because I would never have seen that decision that was made
10 earlier. That's at a lower level. And then above me is -- the
11 mariner would appeal to CG-5PS, so to my direct chain of command.
12 That appeal would go to the director of commercial regulations and
13 standards.

14 Q. Okay. I'd like to kind of pull us out into a higher level in
15 terms of just overarching issues. We've heard testimony from
16 other Coast Guard witnesses about a database, MISLE, the Marine
17 Information for Safety and Law Enforcement System. Does that
18 National Maritime Center use this database in processing mariner
19 credentials?

20 A. So we will -- we have our own database, Merchant Mariner
21 Licensing Documentation database, but we will look in MISLE if --
22 to see if there's any indicators of -- if there's anything that,
23 you know, is related to a mariner accident, mariner conduct, or
24 something that was captured within MISLE that, again, is separate
25 from our database. So, yes, there are times when we will use

1 MISLE.

2 CDR DENNY: Ma'am, I'm going to need 30 seconds. We are
3 having some more technical difficulties. Give me just one minute.

4 (Background conversation.)

5 CDR DENNY: Thank you very much for your patience, ma'am.

6 BY CDR DENNY:

7 Q. So would the system that you're using, does it have
8 associations between the mariner and the person that, like --
9 would it have an association with the mariner or person, and do
10 you guys check, you know, Coast Guard boardings or accidents to
11 see if that association between the application is there? You
12 know, if they were involved in pollution incidents or other
13 casualties.

14 A. So that is something that -- there's no direct connection
15 between MMLD and MISLE. As, you know, I'm sure you're aware, some
16 of our Coast Guard IT systems are not purpose built for what we're
17 using them for today. So there are no direct connections. If we
18 are aware of something, there's an ability for us to put notes in
19 there in our MMLD system, and so we will put, basically, a
20 documentary note about something. There are times where we are,
21 you know, working with suspension and revocation staff related to
22 revoking a credential.

23 So we work closely with the folks that use MISLE. We can use
24 MISLE. We're allowed. You know, we have access. But the two
25 systems are not connection in what I would say is an efficient

1 way. So there's no immediately notification if something happened
2 in MISLE that it would feed over into MMLD.

3 Q. Would you say that additional resources to upgrade the
4 systems to have better connectivity would help the Coast Guard in
5 identifying suitability for potential mariners?

6 A. I think it would streamline, yes, the data that -- again,
7 that investigative data related to accidents that in MISLE,
8 connecting that back to MMLD. Yes, without a doubt.

9 Q. And is it a fair statement to say that -- so because you have
10 the two different databases, would every credentialed mariner be
11 in the MISLE system?

12 A. I don't think they are now because I think that is a -- if a
13 mariner's going to be entered into MISLE, because it's not an
14 automatic feed, it had to be hand entered by someone using MISLE.
15 So I doubt there's 200,000 entries into MISLE for every, you know,
16 credentialed U.S. merchant mariner. If there's, again, an
17 accident or some type of case involving a credentialed mariner, my
18 understanding is that that has to get hand entered in
19 (indiscernible) of a mariner reference number, in our credential
20 and in our system, and that is a key piece of information that
21 would need to get over to MISLE, because if they just said mariner
22 John Smith was involved in a grounding and corresponding pollution
23 spill, you know, we need to know which John Smith over in our MMLD
24 system.

25 Q. Okay. So is it fair to summarize that if we had a situation

1 and I, as an investigator, needed to go into MISLE, I have access
2 to MISLE, and I could look up the mariner. If he was already
3 plugged in, could I see his information based on his credential?
4 Could I see his medical conditions or see if he was required to
5 wear glasses or -- you know, hypothetical situation, but could I,
6 as a MISLE user, be able to connect said mariner back to those
7 potential medical conditions?

8 A. I believe there's a -- there's certain information that is
9 there, but it's very limited. I don't think you would get a full
10 -- I don't think you would get the full picture that we see in our
11 system.

12 That is an area where I would like to clarify a little bit
13 because, again, I don't have my MISLE account. I haven't had it
14 for quite some time, but I would rather clarify that, but I know
15 there are some limitations in terms of the IT transfer between the
16 two systems.

17 Q. A little earlier in the testimony, you know, I asked if a
18 person who operated a small passenger vessel, a hire -- a water
19 taxi for hire in Seattle, if they would be required to have the
20 credential, and we talked through it. I want to talk about vessel
21 types and validation that would -- you know, I just want to
22 validate whether or not they would be required to have a
23 credential to operate said vessel, said platform.

24 So towing vessels. Let's start with that. Would a person
25 operating a towing vessel be required -- an inspected towing

1 vessel, would they be required to have a merchant mariner
2 credential?

3 A. So can I take a quick chat with counsel quick?

4 Q. Yes, ma'am.

5 CDR DENNY: Mr. Pecoske, I can see you, but I don't have
6 Captain Martin. Are you guys okay?

7 LCDR PEKOSKE: Yes, ma'am. We're all set. Captain Martin
8 should be popping up -- there she is.

9 THE WITNESS: Yeah, thanks.

10 CDR DENNY: Awesome.

11 THE WITNESS: So going back to your question, in general,
12 certain operators of towing vessels, yes, would be required to
13 have a credential. Those are some of our newer regulatory rules
14 that have been established and we would be, you know, looking at
15 those applications just like any other application. Again, there
16 are provisions for tonnage, where the vessel operates, what the
17 vessel's operation is focused on. It really drives those
18 requirements to whether, you know, a credential is required, a
19 licensed operator is required, or not.

20 BY CDR DENNY:

21 Q. How about a platform like a ferry vessel, ferry boat?

22 A. So large -- yes. Large passenger vessels without a doubt
23 would require licensed operators, licensed mates, engineers, et
24 cetera.

25 Q. And then tank vessels?

1 A. Yes, yep. Tank vessels.

2 Q. How about small passenger vessels, like dive boats?

3 A. So there's -- you can have operators of uninspected passenger
4 vessels, and then, yes, also (indiscernible) vessels but those do
5 require a licensed (indiscernible) handled at that local
6 (indiscernible) level, in terms of, you know, the member. You
7 always need the master, but then how many mates -- you know, how
8 many other positions that are identified on a vessel certificate
9 of inspection. The manning aspects are handled more locally.

10 Q. So, ma'am, you mentioned uninspected passenger vessels. So
11 what about small, uninspected, sport fishing boats? Would they be
12 required to have something like an operator of an uninspected
13 passenger vessel, like an OUPV under 100 tons with six passengers
14 for hire?

15 A. So for a sport fisher that is a passenger vessel would still
16 have OUPV operator.

17 Q. And that -- and, again, so that requires some level of
18 credentialing and training and -- okay. So how about larger
19 fishing vessels over 200 tons?

20 A. Over 200 tons, there'll be license requirements. Again, it
21 would be focused on the COI, Certificate of Inspection. Pretty
22 much everyone needs a master and then some of those other specific
23 ones. There are some unique, you know, tenders. There's a few
24 provisions for differences and those are outlined in policy
25 related to the Mariner Safety Manual, but, in general, if you're

1 talking of larger vessels, commercial trade, of that size, they
2 will have licensed masters, mates, engineers.

3 Q. So then how about the smaller commercial fishing vessels
4 under 200 gross tons?

5 A. So there are some current regulatory exemptions that
6 basically allow for vessels under 200 gross tons to not be
7 required to have some of the positions that, you know, we talked
8 about on others ones; having the master, having the mate, having a
9 chief engineer, or a first engineer.

10 Q. So, ma'am, the *Scandies Rose* is a commercial fishing vessel
11 that was under 200 gross tons, and it then, by the things that we
12 just discussed, would not have been required to have any
13 credentialed mariners with any requirements for training in terms
14 of the credentialing that we just talked about; is that a fair
15 statement?

16 A. That's correct.

17 Q. Ma'am, would you be able to give us some background history
18 on why commercial fishing vessels under 200 gross tons don't
19 require any kind of credential to operate on the water, you know,
20 off the United States or in coastal waters of the United States?

21 A. So I've been in my job five years and since I've been here,
22 there haven't been any initiatives focused on credentialing of
23 those mariners of that size of vessel. In terms of my Coast Guard
24 experience, which I'll kind of rely on heavily here, I know in the
25 past that that's been looked at.

1 There's a lot of forces when it comes to changing
2 regulations, you know, putting in new requirements for licensing.
3 We talked about grandfathering of certain -- you know, for
4 equipment upgrades earlier, and I know that that has been looked
5 at in terms of other regulatory initiatives, but I couldn't say
6 why those standards weren't put in place. Sometimes the cost is a
7 factor, looking at actual cost to obtain a credential or any cost
8 to the industry. You know, if certain segments are, you know,
9 maybe barely making enough to survive and then here's another
10 government regulatory cost.

11 Another avenue is to look at that -- I think you've already
12 heard from the fishing vessel safety coordinator and the staff
13 from Coast Guard headquarters. We have a merchant mariner
14 personnel advisory committee. So they're a federal advisory
15 committee that helps guide our operations whenever we look at new
16 regulatory requirements, and there's a corresponding merchant
17 mariner medical personnel advisory committee that does the same
18 things as it relates to medical.

19 So -- and I know in my tenure, you know, this issue in
20 particular has not come up. There are avenues for that
21 discussion, and there is a regulatory process that would look at
22 that and go, is it economically viable. What's the cost? What's
23 the cost for the industry? And whenever lives are lost, it's a
24 very tough question to look at and make some of those decisions.

25 Q. Okay. Captain, thank you so much for your candid answers,

1 and also for your patience with our technical difficulties on this
2 end.

3 CDR DENNY: Captain Callaghan, those are all the questions
4 that I have at this time, sir.

5 CAPT CALLAGHAN: Thank you, Commander Denny.

6 And thanks, Captain Martin, for hanging with us through some
7 of the technical difficulties.

8 I am now going to pass it to our colleagues at the National
9 Transportation Safety Board.

10 Mr. Barnum?

11 BY MR. BARNUM:

12 Q. Hi, Captain Martin. Bart Barnum, NTSB. Thanks for appearing
13 today; great information. Appreciate it. Just two follow-ups
14 from Commander Denny's line of questioning. Throughout your
15 presentation initial phase there, you mentioned COVID several
16 times and the challenges that you've experienced with that with
17 the multiple regional exam centers and the face-to-face. I was
18 just curious -- I mean, you had also mentioned that there's about
19 300 of these approved training providers nationwide. Have you
20 gotten any feedback from them?

21 I know these mariners, in order to keep up their credentials
22 -- credentialing, need recurrent training and training to do so.
23 They potentially might not be able to receive that training if
24 there's a closure of a training facility. Have you heard from any
25 of your providers? What is the Coast Guard doing to alleviate

1 some of these problems that potentially might be happening because
2 of COVID?

3 A. Yes, so we've been actively working with our mariner training
4 providers since this all started. So normally an approval is good
5 for five years. So we've look at extending the approval where
6 appropriate. We've gone to electronic testing, when we've never
7 had electronic testing before. We've gone to electronic delivery
8 of training materials, meaning give (indiscernible) just like
9 we're doing in this hearing versus a brick and mortar, you know,
10 we're in the school and the teacher is right there and everyone is
11 in the same room.

12 So we've really tried to be as flexible as possible with
13 those training providers so the training can still occur, one;
14 that folks that need that training can get it, because you kind of
15 couple COVID with the things that the states -- right? So, hey,
16 we have our national requirements, but in that COVID environment,
17 you have a state saying, hey, no commercial operations at all for
18 my state, or limiting gatherings to six people. So what does that
19 mean for a class size? So we've been really keeping good lines of
20 communication and actively working with them.

21 There has been a lot of allowances issued in the Marine
22 Safety Information Bulletin related to COVID-19 specific things,
23 related to credentials. We've extended credential expiration
24 dates. Normally, a mariner has about a year to test. We've
25 broadened some of those days because we were closed -- the

1 regional exam centers were closed for March to September of last
2 year. So we've provided some leeway for mariners as a whole and
3 training providers to kind of get them through this last year that
4 we've all lived through.

5 Q. So as we're talking about the mariners aboard these smaller
6 commercial fishing vessels not required to be credentialed, but
7 they are required to have a certified drill inspector, at least,
8 one on board. Assuming that instruction happens at one of these
9 training providers, where does the NMC come involved with that
10 whole certified drill instructor course? Are they -- do they
11 issue any kind of credential or how does that work?

12 A. (Indiscernible) for the drill instructors. We don't have a
13 huge number of those, and -- but we have issued Coast Guard
14 approvals for schools to do those drills to be a certified drill
15 instructor.

16 Q. Okay. So the school is actually issuing the certificate?
17 It's not actually going through any sort of review at the NMC or
18 anything?

19 A. So we issue the school approval, and then the school issues
20 the certificate to the student. Yes, sir.

21 MR. BARNUM: Thank you. That's all the questions I have for
22 you, Captain Martin, and as a credentialed mariner myself, I would
23 really like to appreciate your human resources department there at
24 NMC. They are fantastic, so thank you.

25 THE WITNESS: Right, thank you.

1 CAPT CALLAGHAN: Thank you, Mr. Barnum.

2 Captain Martin, I'm going to shift now over to our parties in
3 interest, so to counsel for the two survivors.

4 Mr. Stacey?

5 MR. STACEY: Thank you, Captain Callaghan.

6 And thank you very much, Captain Martin, for your testimony
7 today. I have no questions for you. Thank you.

8 CAPT CALLAGHAN: Thank you, Mr. Stacey.

9 Now shifting to counsel for vessel owners, Mr. Barcott.

10 MR. BARCOTT: Thank you for your testimony this morning,
11 Captain Martin, very informative presentation. At this point, we
12 have no questions for you. Thanks again for your time this
13 morning.

14 CAPT CALLAGHAN: Thank you, Mr. Barcott.

15 And, Captain, I've got just a couple follow-up questions from
16 Mr. Keith Fawcett.

17 BY MR. FAWCETT:

18 Q. Captain, thank you for your time. A couple of clarifications
19 for us please. When you mentioned safety sensitive position, are
20 you speaking about a -- the steering of a vessel or operating the
21 throttles and controls?

22 A. In general, yes. The -- all of those positions -- you know,
23 basically, of the master chief, you know, your licensed crew,
24 they're always focused on safe operations. So, yes, sir.

25 Q. So in your opening presentation in the beginning, you talked

1 about the Marine Transportation System. Is there an official --
2 and I'm not asking you to get it, but is there a policy or
3 regulation that defines that system?

4 A. That is a good question. It's just a term that I have used,
5 I think we all use, in the industry and affiliated with the
6 industry, but I don't know if that is defined in regs. I would
7 assume so that it's out there, but I can't say for sure, sir. I
8 would have to follow-up on that.

9 Q. And does that include commercial fishing vessels as part of
10 the Marine Transportation System, or were they excluded?

11 A. Again, not having that definition in front of me, but from my
12 experiencing, anyone that's operating out in the environment is
13 part of it because there -- if it's engaged in commercial activity
14 -- I know commercial activity is part of the MTS, as is, you know,
15 vessels, all the waterways that are maintained and part of our
16 nation's MTS, as well as port facilities, et cetera. It is a
17 broad and encompassing system. I just don't know if it's actually
18 defined in regulation, sir.

19 Q. So I just have two more questions. One is Commander Denny
20 spoke about drug testing. So there's four types of drug testing
21 that can confront a merchant mariner. They could be
22 pre-employment, also -- and I'll throw that into the notification
23 of the Coast Guard that they have a test so they can get their
24 credential. Then there's random testing. There is post-accident
25 testing, and there is testing for cause.

1 For any of those circumstances, could a marine mariner use a
2 Amazon style drug testing kit to comply with those regulations, or
3 is it much more rigorous than that?

4 A. Sir, they're normally using, you know, licensed facilities
5 for those purposes that are approved -- DOT approved facilities or
6 SAMHSA approved facilities for those testimony requirements.

7 Q. So my follow-up question is all of use over-the-counter
8 medications, and I'll give you an example, there's a product
9 called ZzzQuil, which is a sleep aid. You know, the engine is
10 noisy, you've got to get to sleep as fast as you can so you take a
11 product like that. Can a licensed merchant mariner, when they're
12 working on a ship or vessel of any type, take that type of
13 over-the-counter medication?

14 A. A ZzzQuil?

15 Q. Yes, a sleep -- something that would make you fall asleep. I
16 mean, the operation of a vessel, you're operating 24 hours a day,
17 and you need to spring out of the rack and you need to answer
18 alarms and so forth. So from a Coast Guard policy perspective, do
19 you know if that's prohibited?

20 A. I do know that that isn't prohibited, as long as it -- you
21 know, they're still able to perform their duties.

22 Q. And so they need to talk about that in their mariner physical
23 when you list all of the drugs prescribed and over-the-counter
24 medications, even vitamin supplements; would that be correct?

25 A. I would need to check to make sure that that is all

1 encompassing. I know the prescription medicine definitely is part
2 of that. I just -- I can't recall off the top of my head if the
3 over -- if all of the over-the-counter is also on there.

4 Q. Thank you very much, Captain. I appreciate it. I appreciate
5 your time.

6 MR. FAWCETT: And I'm finished, Captain.

7 CAPT CALLAGHAN: Thank you very much, Keith.

8 Captain, I want to take the opportunity to thank you for your
9 time and your patience, particularly as we kind of struggled
10 through some of the technical difficulties on our end. Again, I
11 echo Mr. Barnum's sentiments. It -- just the value of what you
12 all provide there at the National Maritime Center is hard to state
13 in this short period of time, so we certainly appreciate the
14 effort there, and, again, we just want to thank you for taking the
15 time, not only to share some of this information with us, but to
16 help further educate the public through this venue on some of
17 those requirements and some of the differences between vessel
18 types and the like. So thank you very much.

19 At this time, you are now released as a witness to the formal
20 hearing. Thank you for your testimony and cooperation. If at a
21 later date we determine that the Board needs additional
22 information, we'll contact you through counsel. If you have any
23 questions about this investigation, you may contact any member of
24 the Marine Board of Investigation.

25 Thank you, again, Captain.

1 THE WITNESS: No, thank you.

2 (Witness excused.)

3 CAPT CALLAGHAN: The time is now 1144. This hearing will now
4 go into recess and resume at 1300 as scheduled.

5 (Off the record at 11:44 a.m.)

6 (On the record at 1:05 p.m.)

7 CAPT CALLAGHAN: Time is now 1605. This hearing is now back
8 in session. I want to quickly clarify for the record that, due to
9 the technical difficulties experienced earlier, a portion of that
10 testimony from Captain Martin was recorded and will be posted on
11 livestream later today.

12 Correction, it's 1305. And so we'll now hear from Mr. Sirkar
13 from Coast Guard headquarters.

14 Mr. Sirkar, Lieutenant McPhillips will now administer your
15 oath and ask you some preliminary questions.

16 (Whereupon,

17 JAIDEEP SIRKAR

18 was called as a witness and, after being first duly sworn, was
19 examined and testified as follows:)

20 LT MCPHILLIPS: Please state your full name and spell the
21 last name.

22 THE WITNESS: Jaideep Sirkar. Sirkar is spelled with 6
23 letters, S-i-r-k-a-r, Sirkar.

24 LT MCPHILLIPS: Please identify counsel or representative if
25 present.

1 THE WITNESS: Lieutenant Commander Matt Pecoske.

2 LT McPHILLIPS: Counsel, please state and spell your last
3 name, as well as your firm or company relationship.

4 LCDR PEKOSKE: Lieutenant Commander Matthew Pecoske,
5 P-e-k-o-s-k-e, U.S. Coast Guard Judge Advocate (indiscernible)
6 counsel to Mr. Jaideep Sirkar.

7 LT McPHILLIPS: Mr. Sirkar, please tell us what is your
8 current employment and position.

9 THE WITNESS: Good afternoon. I am a supervisory naval
10 architect and the chief of the Naval Architecture Division at the
11 U.S. Coast Guard headquarters. This division is one of four
12 divisions within the Office of Design and Engineering Standards.
13 The Office of Design and Engineering Standards through the senior
14 executive for -- who is the director of Commercial Standards
15 reports to the Coast Guard flight officer who is the assistant
16 commandant for prevention policy.

17 LT McPHILLIPS: Thank you. What are your general
18 responsibilities in that job?

19 THE WITNESS: In this job I am responsible for managing a
20 staff of naval architects in the development of rules,
21 regulations, policies, standards for naval architectural
22 applications for the U.S. Coast Guard in its role as a regulator
23 in the commercial shipping industry.

24 LT McPHILLIPS: Can you briefly tell us your relevant work
25 history?

1 THE WITNESS: Yes. My professional career as a naval
2 architect started about close to 40 years ago with about 9 years
3 of experience as a practicing naval architect with ship design
4 (indiscernible) in the areas of ship stability, ship structures,
5 stability software development for various U.S. Navy, U.S. Coast
6 Guard and commercial customers.

7 Subsequently, for the past 30 years I have been employed as a
8 civilian at the U.S. Coast Guard, first as a staff naval architect
9 developing regulations and then as a regulatory program manager
10 and currently as a supervisory naval architect; a position that I
11 have held for the past 11 years.

12 LT McPHILLIPS: What is your education related to your
13 position, sir?

14 THE WITNESS: I have a bachelor's degree in naval
15 architecture and marine engineering from the Indian Institute of
16 Technology. I have a master's degree in naval architecture and
17 marine engineering from the University of Michigan. I also hold a
18 master's degree in computer science from Johns Hopkins and a
19 master's degree in national resource strategy from the Eisenhower
20 School of the National Defense University.

21 LT McPHILLIPS: Do you have any professional licenses or
22 certificates related to your position?

23 THE WITNESS: I do not.

24 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
25 have follow-up questions for you.

1 CAPT CALLAGHAN: Mr. Sirkar, thank you for joining us today.
2 We greatly appreciate your time and your patience as we work
3 through a few of the difficulties we're having on this end. Sir,
4 I'm going to pass it to Lieutenant Commander Michael Comerford
5 who's got some questions for you, sir.

6 EXAMINATION OF JAIDEEP SIRKAR

7 BY LCDR COMERFORD:

8 Q. Good afternoon, Mr. Sirkar. All my questions today are going
9 to be related about the work of the United States Coast Guard in
10 the realm of safety of commercial fishing vessels.

11 Thank you for being on the line with us today and attending
12 the hearing virtually. If at any point we ask a question that you
13 do not understand or cannot hear because of technological issues,
14 please do not hesitate to say so and we will repeat or rephrase
15 the question as necessary. We have been having some technical
16 difficulties earlier this morning so if we do lose you temporarily
17 we'll take a short recess to reestablish communications. So
18 please work with us on that today.

19 A. Yes.

20 Q. Using the Zoom platform today we have the ability to share
21 exhibits virtually. The recorder, Lieutenant McPhillips, will put
22 any necessary exhibits up on your virtual desktop. If we do so
23 and you need to point anything out on these exhibits, do so
24 verbally to the best of your ability and Lieutenant McPhillips may
25 highlight certain areas based on your directions. And if they

1 need to be adjusted just let us know. If the area -- if you -- if
2 we do use any exhibits, please take your time to refresh your
3 memory as necessary or acquaint yourself with the information.
4 And also, in our community, we have a lot of acronyms so for the
5 benefit of the public if you could minimize your use of acronyms
6 and use as much plain language as possible, we would really
7 appreciate that today.

8 So I'd like to start off today, Mr. Sirkar, could you just
9 give us a little bit of background on what your office does on a
10 general basis for stability low-line and regulations for vessels
11 in general?

12 A. Yes. Our office provides the technical advice and the
13 technical support that is required in drafting regulations,
14 guidelines, policies related to ship stability, ship structures,
15 low lines. That, in general, is our role and our responsibilities
16 pertaining to commercial vessel safety.

17 As I had mentioned before, in our office we have four
18 divisions so it is not just the naval architecture division that
19 provides that technical advice and technical support. The other
20 divisions as well, with various other technical areas and
21 technical subject matter experts in the fields of electrical
22 engineering, mechanical engineering, fire protection engineering,
23 life-saving equipment and so on.

24 Q. And as for clarity, I hope I word this accurately, but
25 (indiscernible) how would you describe your customer base? Are

1 you working more for the -- assisting local Coast Guard offices or
2 are you working directly with naval architects submitting plans
3 for vessels or (indiscernible) regulations, divisions? Could you
4 help describe that a little bit?

5 A. Yes. The customer base for our division and our office is
6 quite varied. Our division, our office, we do not conduct plan
7 reviews so we do not have direct interaction with those who submit
8 plans in order to have them reviewed by the Coast Guard to
9 determine compliance with the regulations. As the office, and as
10 the division, developing rules, regulations, standards, policies
11 and guides.

12 Our customer base include Coast Guard field offices, the
13 industry who is being regulated and needs support and answers
14 related to possible interpretations within the regulations or
15 within the guidance, and of course, other parts of the industry
16 that are directly affected by the regulations and by our policies.
17 So the industry at large and Coast Guard field offices, we have
18 other customers within the Coast Guard, as well, in addition to
19 field offices, various units within the Coast Guard headquarters
20 organization, such as the Office of Commercial Vessel Compliance.
21 We would be working closely with them to interact in providing
22 technical advice or technical counsel related to these different
23 subject areas.

24 Q. And you mentioned (indiscernible) guides, policies,
25 regulations, could you discuss in what forms those generally take?

1 A. Yes. The development of regulations would have essentially
2 two forms. One is within our Code of Federal Regulations, 46
3 C.F.R. and 33 C.F.R.. That is one form. The other form is where
4 we interact with our counterparts in other countries. When I say
5 our counterparts I mean other federal regulators or the equivalent
6 in other countries in various international forums such as the
7 International Maritime Organization, IMO, in the development of
8 international rules, regulations, policies, guidelines for the
9 form, if you will, that is developed at IMO. So those are the two
10 areas: the 46 C.F.R., Code of Federal Regulations, 33 C.F.R., and
11 our activities at IMO where we develop international codes,
12 conventions, guidelines, and policies.

13 When it comes to other non-regulatory actions, they may take
14 the form of what we call Navigation and Vessel Inspection
15 Circulars, NAVICs; they may take the form of policy letters issued
16 under the -- issued from headquarters, various types of policy
17 letters with interpretations and guidance; they could take the
18 form of information bulletins or marine safety alerts. So these
19 are some of the other forms that we would be either developing or
20 providing input to for the development of.

21 Q. So I'm going to circle back to some other questions later,
22 but (indiscernible) fishing vessels, what action -- how much
23 involvement does your office have with respect to commercial
24 fishing vessels for regulations and policies?

25 A. Yes. In the area of fishing vessel safety, once again we

1 would be interacting very closely with the Fishing Vessel Safety
2 Program office, which is within the Office of Commercial Vessel
3 Compliance. We would be working closely hand-in-hand with them to
4 provide whatever technical input is appropriate and necessary for
5 the development of regulations or any other policies or guides
6 that may be promulgated by us. By us, the Coast Guard at large.

7 Q. As of right now, are you aware of any policies in the works
8 or guidelines in draft that are being worked on or reviewed for
9 fishing vessels related to regulations?

10 A. I am not aware of any.

11 Q. Thank you.

12 A. We do have -- I'm sorry, let me -- that was not a completely
13 -- that was not a complete answer. I am not aware of any
14 guidelines under development. There is a rule making with the
15 next action undetermined for an NPRM that was published a while
16 ago. We did have interaction with the program office. When I say
17 program office, once again I'm referring to the Fishing Vessel
18 Safety Program Office within CVC, the Office of Commercial Vessel
19 Compliance. We did work with them in the development of that
20 NPRM, but that rule making is currently, currently on hold because
21 of other reasons that -- for other reasons.

22 Q. I guess for the benefit of the public, could you help explain
23 what NPRM is (indiscernible) rule making? And you mentioned --
24 and to follow up with that you mentioned the status of the current
25 rule. Is there any information about why it's in the status that

1 you mentioned?

2 A. Yes. Because there were several, there were several acts of
3 Congress that were signed into law subsequent to the -- subsequent
4 to the passage of the act that required the publication of that
5 NPRM. So we need to take those subsequent statutes into
6 consideration and so we will need to amend, appropriately, the
7 NPRM. So we did need to put that on hold while we assess the next
8 set of actions. And as of right now that is undetermined as
9 published in the regulatory agenda.

10 Q. And for clarity, is your office working on, or monitoring,
11 that notice to proposed rule making in a technical advisory
12 position or are you the lead office per the regulations that might
13 be worked on?

14 A. Our office would not be the lead office for that particular
15 rule making. We would certainly be in a supporting role; in a
16 technical and supporting and technical advisory role.

17 Q. Now I always find that (indiscernible) for the public to get
18 a perspective. When you're working through rule making -- the
19 rule-making process, and your office's involvement in the process,
20 in your personal experiences, what's the -- what's a typical
21 timeline look like for a rule making?

22 A. In general, I would not use the word typical because of the
23 wide variety of rule makings that we have that could be broad in
24 scope or not. And so it is somewhat challenging to call a
25 timeline for a rule making typical. Having said that, the rule-

1 making process is an extremely deliberative, careful, carefully-
2 planned-out process taking into account input from all interested
3 parties through a very disciplined, thorough -- in a very
4 disciplined, thorough manner.

5 And again, governed by other (indiscernible) such as the
6 Administrative Procedure Act that require us, as a federal agency,
7 to make sure that we are providing the regulated public with
8 adequate notice and comment, and that there are no decisions that
9 are being made by the federal agency or by the Coast Guard, in any
10 form -- in any type of arbitrary manner. So we would have to
11 develop a proposal in a very careful manner, together with the
12 appropriate analyses, not just technical but economic analyses for
13 articulating the costs and benefits of a proposed rule and then
14 present that to the public in a completely transparent manner, in
15 order for the regulated public, or any interested party for that
16 matter, to comment on that.

17 And then we would take all of those comments into
18 consideration while we proceed to develop the final rule. And we
19 may take other steps, intermediate steps, in between the
20 publication of a proposal and the final rule. There may be other
21 supplemental notices published in order to respond to specific
22 comments, or if there's new information available modifying or
23 requiring a need to modify the original proposal, then we may take
24 intermediate steps, as well.

25 So again, the process is thorough, deliberative, and careful,

1 and it may take several years. There have been instances of
2 swifter action if the statute has been written in a manner that
3 exempts the Coast Guard from certain administrative requirements,
4 but generally rule making takes years to accomplish.

5 I hope I was able to answer your question without giving you
6 a straight typical number.

7 Q. No, you actually -- I really appreciate the perspective you
8 provide there. And it echoes some of the same comments that
9 Mr. Myers was speaking of the other day. So we really appreciate
10 that. I want to back up just for a minute and kind of go back to
11 some basic things. Could you help us understand a little bit of
12 importance of stability when it comes to, let's say, a fishing --
13 commercial fishing vessel and why it matters? Why do we care
14 about stability for a commercial fishing vessel?

15 A. The stability of a vessel, a fishing vessel or any vessel, is
16 one of the most important -- is of utmost importance and one of
17 the most importance characteristics of any vessel, in particular
18 of smaller vessels like, perhaps, fishing vessels. Why is it so
19 important? It is important because without appropriate stability
20 the ship will not float or it will not float and function in an
21 appropriate manner that is safe for the people on board and that
22 is stable for the functions of the vessel.

23 So inadequate or insufficient stability could -- would kill
24 people, would result in lives lost, in property damage or property
25 loss, including complete loss of vessel. So the ship needs to

1 float in a manner that allows for these outcomes, these horrific
2 outcomes, not to come to pass. Thus, stability of a ship, of a
3 vessel, fishing vessels, is of utmost importance.

4 Q. Now with regards to stability of commercial -- with
5 commercial vessels, are there certain things to evaluate for a
6 commercial fishing vessel or certain aspects of the stability
7 study for a commercial fishing vessel, say operating in Alaskan
8 waters, that would be more critical to the safety of a commercial
9 fishing vessel?

10 A. Yes. (Indiscernible) regions would experience certain types
11 of unique hazards that are unique to that region. In particular,
12 we would expect that there would be some, some exposure to ice
13 accretion or some exposure to weather conditions that are suitable
14 for ice accretion in some, in some manner. Ice accretion is a
15 recognized hazard and under certain conditions could pose a
16 significant threat to the stability of the vessel.

17 There could be other geographical (indiscernible) or
18 geographical unique situations such as wind and waves that govern
19 the -- or that influence the behavior of the vessel and thus
20 perhaps present higher risks or different risks than in other
21 locations. Again, in Alaskan waters cold temperatures, the
22 propensity for ice formation, wind, waves, would be amongst some
23 of the known hazards.

24 Q. In your work, have -- has your office or the offices that you
25 work with, commissioned or initiated any studies related to ice

1 (indiscernible) on commercial fishing vessels in Alaska?

2 A. Our office has not.

3 Q. Now, just from your experiences, how familiar with the
4 stability requirements for commercial fishing vessels in Part 28?

5 A. I'm familiar with them.

6 Q. So a couple things I'm just kind of looking for perspective
7 for (indiscernible) when it comes to ice and wind and waves.

8 These -- because the regulations apply ice for commercial fishing
9 vessel in that area to both sides of the vessel evenly or does it
10 account for offset asymmetric ice loads or anything in those ways?

11 A. The stability regulations assume a uniform distribution both
12 on horizontal surfaces and vertical surfaces on both sides without
13 any special consider -- again, just talking about the regulations
14 -- without any special considerations for asymmetrical formation
15 of ice.

16 Q. And earlier we talked to some professional engineers and the
17 Marine Safety Center. There's a general belief or general
18 practice described for (indiscernible) ice loads for crab pots.
19 They discussed treating it like a shoebox, for lack of better
20 terms. So if you have a stack of pots (indiscernible) top of the
21 pots and the outer side of the pots. Would this be consistent
22 with the regulations are intended or implied for icy conditions on
23 a crab boat?

24 A. Generally, yes. And the reason why I say generally is
25 because we know that crab pots are not a simple box with simple

1 flat, horizontal and vertical surfaces. They do represent what
2 one may call (indiscernible) kind of surface with, with the mesh,
3 if you will, which would allow freezing spray to pass through that
4 hypothetical or theoretical flat surface, vertical or horizontal,
5 allowing that freezing spray to freeze and form ice inside the
6 pot. And that is an obvious physical phenomenon that is very
7 recognized and is a possible less-conservative interpretation of
8 the regulation.

9 The regulation itself is generally silent about how to treat
10 icing on crab pots. And this particular interpretation has been
11 used by many naval architects. And that's the reason I said
12 "generally, yes" but perhaps not sufficiently conservative and
13 possibly open to other types of interpretations where another
14 naval architect may have better data to perhaps model the icing or
15 the ice formation on (indiscernible) crab pots more realistically.

16 Q. So I'm going to have a couple more questions on icing, but
17 you mentioned earlier that you do work with International Maritime
18 Organization?

19 A. Yes, I do.

20 Q. And do you -- are you familiar with Torremolinos Treaty for
21 fishing vessels?

22 A. I am. The Torremolinos Convention followed by the
23 Torremolinos Protocol followed by the Cape Town Agreement of 2012.

24 Yes, I am.

25 Q. So with respect to the evolution of the international regs,

1 has there been any updates or changes to the way icing is
2 considered on the international stage, the international community
3 from the original Torremolinos Convention and Protocol?

4 A. The short answer is no. The Torremolinos Convention
5 Protocol, as amended by the Cape Town Agreement, has maintained or
6 continued to maintain the basic accretion standards from the
7 original guidance that was developed several years prior to the
8 first Torremolinos Convention. So the short answer is no, they
9 remain unchanged.

10 Having said that, the Convention, Protocol, and subsequently
11 the Cape Town Agreement, clearly recognized (indiscernible) there
12 could be conditions where ice accretion would exceed the basic
13 minimum requirements in the regulation. And provide some general
14 guidance as to how to approach the development of such ice
15 accretion standards those that are set in the, in the prescriptive
16 form, the prescriptive numbers.

17 I'm not sure I've completely -- if I've completely answered
18 your question, but I'll stop there and see if there are any
19 clarifications that you seek.

20 Q. Well (indiscernible) are there any discussions in those
21 committees that you're aware of for reevaluating or addressing the
22 icing standards from the widely observed utilizations of ice
23 accretions?

24 A. Some countries have submitted comments related to that, in
25 part because of real life experience where there have been some

1 experience with loss of stability due to icing -- ice accretion
2 well beyond that which is currently required by Torremolinos. So
3 comments have been made, statements have been made by various
4 parties, various countries, about that. Right now there are no
5 real active studies -- at IMO there are no active engagements
6 underway to revise those numbers.

7 Q. (Indiscernible) have you been following the hearing in any
8 way (indiscernible)?

9 A. I have listened to some of the testimony from the naval
10 architects from the industry as well as the naval architects from
11 the U.S. Coast Guard. I have also listened to some of the
12 testimony from one of the former crew members of the *Scandies Rose*
13 as well as some of the captains of similar (indiscernible). So
14 the answer to the question (indiscernible).

15 Q. I think we got a little cut off there. But Mr. McPhillips,
16 can you pull up Exhibit 123? So, Mr. Sirkar, if you were watching
17 you may have seen this picture or heard about this picture being
18 put up. This is a crab pot. We got it from a fishing vessel in
19 Alaska. It weighed about -- kind of cutting to the chase, it
20 weighed about 1,000 pounds dry. Next page, Lieutenant McPhillips.
21 And then after a very hypothetical experiment, a very cursory
22 experiment, they got some ice on this pot and it weighed over
23 3,000 pounds. The (indiscernible) maxed out so we don't know.

24 Now, Lieutenant McPhillips, if you could bring up Exhibit 46,
25 page 2. And while he's bringing that up, my first question is not

1 related to this next picture. Just -- does that, does that amount
2 of change in mass surprise you in any way or would you have
3 comment on that type of growth and weight from ice?

4 A. It does not surprise me. Under certain types of conditions,
5 one could possibly experience this type of extreme ice accretion
6 on crab pots. It is not impossible. It is generally recognized
7 that that could be the case.

8 Q. Now a follow-up here, this is the Coast Guard safety alert
9 1117. Did your office provide any input toward the drafting of
10 this safety alert?

11 A. We worked with the program office that put this out, yes.
12 We, we worked with them.

13 Q. Could you -- from your recollections was there any -- do you
14 recall anything about putting together a safety alert that was
15 interesting to you or kind of stood out from your experiences?

16 A. Again, what we, the Coast Guard, are trying to do with this
17 safety alert is making sure -- making -- trying to conduct
18 outreach to make sure that we inform -- we inform the
19 owners/operators that there are specific hazards that go beyond
20 the minimum regulatory requirement that operators should be aware
21 of and that could sufficiently affect the stability of the vessel.
22 So that is what we were trying -- what we are trying to do, is
23 inform and provide some guidance that this is a hazard, watch out
24 for this, to the extent possible, be aware of the conditions that
25 could cause this type of accretion to occur.

1 Try and avoid this type of situation. Where possible, get
2 recommendations from a naval architect to bound your problem, if
3 you will, what types of loading conditions can sustain what kind
4 of icing such that you're not at risk of becoming unstable. So
5 that's the, that's the message that we want to put out there.

6 Q. Now, Mr. Sirkar, in this photo here -- and this is exactly
7 what I was going to hone in on -- on this vessel, if you look, the
8 icing up on the floor, port side of the bow, is very heavy and
9 it -- it gradually decreased the amount of ice until, like, the
10 last pots near the house are a lot less than ice (indiscernible)
11 on the port side.

12 We've heard several testimonies about ice building up
13 asymmetrically. And even on the Coast Guard 378 (indiscernible)
14 cutter that responded in the search and rescue case discussed how
15 ice built up -- can build up on one side of the vessel, heavier
16 than the other. Could you talk how this would impact the
17 stability of the vessel?

18 A. Yes. So asymmetric ice formation -- well, first of all ice
19 formation to the displacement of the vessel, thus lowering its
20 freeboard, increasing its draft overall, and raising the center of
21 gravity, the KG, both of which, in combination has a deleterious
22 effect on the stability. Beyond that the asymmetric nature of the
23 accretion would cause a certain amount of permanent list, if you
24 will, that could again, if there are downflooding points that are
25 relatively close to the water line, when the vessel is rolling, if

1 she already has a permanent list, that could further endanger the
2 safety of the vessel.

3 So increased draft, higher center of gravity and a certain
4 amount of list, not to mention possibly trim if there's asymmetric
5 loading for and aft, not to mention asymmetric loading in a
6 transverse direction. So you could have some undesired listing
7 and undesired trimming effects, as well. So all of that put
8 together makes for, again, reduced stability characteristics of
9 the vessel.

10 Q. (Indiscernible) dynamic stability evaluation?

11 A. No. The current regulations do not generally directly take
12 into account dynamic stability. Our stability regulations are a
13 -- in a manner of speaking, have built into them some simplified
14 quasi-static, not really dynamics, effects of motions of the
15 vessel.

16 Having said that, recently the International Maritime
17 Organization has promulgated guidelines to evaluate dynamic
18 stability of vessels. And these are not regulations; these are
19 recommended interim guidelines that perhaps in the near future we
20 will have a better understanding of dynamic stability than what we
21 already do. Short answer, no, we do not take into account
22 directly dynamic stability.

23 Q. Now, if you had that vessel that we showed you where the
24 amount of icing on the pots, real briefly, how does -- how do the
25 regulations account for wind for that vessel and what's -- what

1 would you expect to happen with wind on the vessel? And I'm going
2 to -- I'm going to clarify that. I'm going to make the scenario
3 that ice built up on the port side of the vessel because the
4 prevailing conditions were coming from the port side of the
5 vessel.

6 A. So there are, there are sort of multiple questions built into
7 your question, really, the way I interpret it. First of all, in
8 the one part of your question, I think what you have asked me is
9 what is happening with the stability of the vessel in the presence
10 of wind. But the other part, I think, is how do you -- how do
11 you, how do you reconcile that type of a situation with what is in
12 the regulation. I think if I sort of try to interpret that in my
13 words would that be what you are asking me?

14 Q. More or less, that's a pretty good way to reword it, yes.

15 A. So before I give you a direct answer -- and I will -- let me
16 explain that a regulation in general is not, in this case in
17 particular, was not intended to reflect worst-possible scenarios
18 in extreme conditions of ice and wind. What was envisioned was a
19 certain minimum, basic standard that could provide for some
20 additional stability, impact stability, and perhaps with that
21 basic standard there would be some awareness that if we were under
22 other circumstances, under extreme circumstances, that there would
23 need to be actions taken.

24 Some type of de-icing or some other operational methods or --
25 in the first case or in the first instance, to try and prevent

1 that type of an ice formation to occur in the first place. There
2 would be some either preventive action or some actions in response
3 to that formation of ice for removal of the ice.

4 So that is what the regulations that was promulgated -- that
5 were promulgated in 1991 were envisioned to accomplish. So it's a
6 basic, minimum standard to provide a certain degree of safety for
7 ice accretion, not really addressing -- not intended to address
8 extreme conditions.

9 So that is -- so there is no, there is no -- I wouldn't
10 really call it an attempt to reconcile regulations with extreme
11 hazards. We cannot -- it would perhaps be physically -- let me
12 rephrase that. For every pound of ice that I add to my
13 regulation, that's a pound of cargo -- either a pound of crab,
14 pound of cod -- that I'm removing from the vessel. So there comes
15 a point where, if the regulations are so extreme in nature that we
16 would not be able to justify having such a regulation. It would
17 result in an unacceptable, unviable situation; a condition that is
18 simply not viable. It would not -- no longer be a functional
19 vessel, a functional fishing vessel.

20 So we have to take that into consideration when looking at --
21 we have to take that perspective into consideration when looking
22 at these extreme scenarios and if we do find -- I would look to,
23 with great interest of the analysis conducted by the board to see,
24 you know, what was or what were the causal factors for this
25 particular casualty and how perhaps we should be studying -- or

1 what we should be studying in our existing regulations.

2 Of course, these types of extreme scenarios as shown in that
3 photograph, give us pause and make us think long and hard about
4 the adequacy of our regulations. Having said that, going back to
5 my earlier point about the process, we have to consider and
6 respect the process and take measured effective steps.

7 Regarding the second part of your question: if I place that
8 vessel in a scenario where I have that kind of ice formation with
9 a 50, 60 knot wind off the port bow. You know, I can't predict --
10 you know, I don't know; I haven't run the numbers, but that's a
11 pretty severe -- extremely severe scenario and, you know, it's
12 hard to tell what the loading condition is from that photograph.
13 If she happens to have any kind of cargo on board, in addition to
14 that extreme ice formation, with the wind then we are in -- most
15 likely in very serious trouble.

16 Q. You mentioned when the regulations were written, and I recall
17 from your background for your work -- were you involved or
18 monitoring the regulations being written for fishing vessel
19 standards in the early 90s, late 80s?

20 A. I personally was not, no. At that time, I was not directly
21 working on fishing vessel stability, at the time the 1991
22 regulations were being developed and written.

23 Q. And then I want to --

24 A. I'm sorry; let me complete my answer. My office was; I was
25 not. I'm sorry to interrupt you, please.

1 Q. No, thanks for the clarification. I was just wondering if by
2 chance you were personally involved or just the office. So thank
3 you. Now, with that being said, we've heard from a couple
4 captains during the hearing and one resonated with me stating that
5 he wouldn't break ice until a certain point. If they were to
6 evaluate the regs, would that type of operational consideration be
7 evaluated in the ice regulations for a fishing vessel, the input
8 from captains on their operational observations or comfort or
9 practices in these certain waters?

10 A. I'm sorry; I'm not sure I quite follow your question. I
11 mean, I did understand your point about the captain not taking
12 action until a certain point in time when the ice accretion
13 exceeded some level. I understand that point, but I'm not sure I
14 understood, understood your question.

15 Q. Let me rephrase, and hopefully this is a little clearer. If
16 there was a regulation project to reevaluate a certain vessel, a
17 certain type of vessel's ranks -- and we're going to keep it to
18 fishing vessels -- and something like ice accretion was a
19 discussion point for the new regulations, what things would be
20 considered by your office, typically, for a new icing standard?
21 So again, today it's a little over an inch -- you know, in that a
22 little-over-an-inch range. Would it be studies or would it be
23 input from mariners or a conglomeration of inputs?

24 A. Thank you for clarifying. I understand the question. So if
25 we were consider reviewing the ice accretion standards, we would

1 get involved in -- again, studying first the existing literature,
2 because there's a vast amount of existing literature on ice
3 formation, on all sorts of vessels -- fishing vessels, Coast Guard
4 vessels, naval vessels -- the list goes on.

5 So we would first make sure we have a firm handle on all of
6 the existing information out there. And then, given that
7 information, then we would engage with the industry and with other
8 theoretical or other analytical studies, we would engage in
9 formulating appropriate analytical studies bolstered by experience
10 and perhaps with some model tests, as well. (Indiscernible)
11 information from experience, from experienced (indiscernible) and
12 fisherman. Perhaps supplemented or bolstered with some model
13 testing.

14 Q. Okay, thank you.

15 LCDR COMERFORD: Captain Callaghan, if we could take -- we'd
16 like a five-minute recess if you can.

17 CAPT CALLAGHAN: (Indiscernible) take a five-minute recess
18 and resume at 10 after. Is that okay with you, sir?

19 THE WITNESS: Yes, of course.

20 CAPT CALLAGHAN: (Indiscernible) recess.

21 (Off the record at 2:04 p.m.)

22 (On the record at 2:11 p.m.)

23 CAPT CALLAGHAN: The time is now 1411, hearing is now back in
24 session, and we'll go back to Lieutenant Commander Comerford.

25 BY LCDR COMERFORD:

1 Q. Thanks again, Mr. Sirkar. First question to circle back
2 around to one thing earlier. You mentioned the Coast Guard's
3 intent for outreach to the fishing vessel operators, owners, and
4 things like safety alerts, 1117 being tools that the Coast Guard
5 used for outreach. We've asked a few captains during this hearing
6 if they've seen Safety Alert 1117. Would it be (indiscernible)
7 hearing that none of them recognized Safety Alert 17 [sic] in any,
8 any way?

9 A. Well, that's obviously not very good. I mean, we have to
10 certainly make sure we reach our intended audience and if that is
11 what we hear then we have to reevaluate our methods of
12 communication, our methods of outreach. So I really don't have
13 much more than that. If we're not reaching -- if our voices are
14 not heard then -- or if we're not communicating with each other
15 then that's not good.

16 Q. I've got to imagine there's got to be a good amount of
17 effort, amount of time, that goes into those safety alerts. Is
18 that something that's made overnight in your office or is that a
19 lot of thought and time to develop these resources?

20 A. Again, it's not overnight. And there would be many parties
21 involved. There'd be the program office; there would be our
22 office, the Office of Design Engineering Standards; possibly even
23 the Office of Investigations that would be involved, perhaps even
24 our Public Affairs office. So there are many parties involved
25 that would be involved in publishing or putting out these outreach

1 documents.

2 You know, again, they are available so we just need to keep
3 -- we just need to keep up the drum beat, shall I say, to make
4 sure that the folks out there are aware that the Coast Guard has
5 these different channels of communication open and this is how to
6 tune in, if you will.

7 Q. And then -- I'm going to kind of circle back to another thing
8 you said. You talked about the minimum standard for the stability
9 for fishing vessels and some discussion on whether or not there
10 needs to be other considerations by the professional engineers
11 doing the evaluations -- would you expect a professional engineer
12 to be empowered to hold a higher standard to a vessel, such as a
13 commercial fishing vessel?

14 A. Well, a professional engineer, again, should advise the
15 owner, to the best of his/her ability of all the reasonable
16 hazards and risks and the reasonable envelope, if you will, within
17 which given the non-operating scenarios for that particular
18 vessel, the operating safe envelope that would give the master and
19 the owner enough information to exercise prudent seamanship.

20 And power to -- the PE, the professional engineer, would not
21 be -- you know, they wouldn't have any authority to stop or
22 prevent the owner from conducting certain operations. But it
23 would be -- it would be incumbent upon the professional engineer
24 to provide that complete scenario, the complete picture to the
25 owner and the stability instructions to the master.

1 Q. Would there be any incentive for a professional engineer or
2 naval architect firm to conduct an extra asymmetric icing
3 evaluation or add an extra half-inch to icing standards? Or would
4 there be issues with that for their firm?

5 A. Well, again, the way I would approach the roles and
6 responsibilities of a professional engineer in this context,
7 again, it's somewhat similar to the answer I just gave, which is
8 giving enough information so that appropriate decisions can be
9 made that if certain conditions of ice accretion and/or wind
10 and/or other environmental conditions are exceeded within certain
11 expected loading scenarios of the vessels, then you could be
12 compromising the stability.

13 So it's not saying I am going to give you stability
14 instructions with three inches of uniform ice on the deck and two
15 inches of ice on the port side and one inch of ice on the
16 starboard side, and I'm going to restrict you to those conditions,
17 I don't think that would be, or should be, the professional
18 engineer's approach. Rather, it could be that this is the minimum
19 regulatory standard, but if you experience ice beyond that
20 standard you are safe under the following loading scenarios and
21 you are not under these scenarios.

22 If that -- if those instructions can be put down in a manner
23 that are straightforward, easy to follow, easy to understand, then
24 perhaps that is a feasible, technically reasonable, approach.

25 Q. I'll actually segue a little bit on what you said here. A

1 couple things we have heard through the hearing are most
2 commercial fishing vessels do not have licensed captains. They
3 have limited or no stability training in their professional
4 careers. If they have, they may be introductory, basic courses.

5 There's one thing in the regs that's interesting about the
6 stability instructions. It has some verbiage of items that could
7 be included in the stability instruction and they list them as may
8 requirements, the instructions may have X, Y, Z based on the
9 request of the owner/operator. It's language to that effect. Are
10 you familiar with these regulations for the fishing vessels, the
11 stability instructions?

12 A. You're referring to the stability instructions to the
13 (indiscernible). Yes, I am.

14 Q. Would you believe it's expected for a owner/operator or
15 captain to know what would be the best information to ask for in
16 the stability instruction, if they have not had any training, or
17 formal training, on stability?

18 A. I would not.

19 Q. Thank you, Mr. Sirkar.

20 LCDR COMERFORD: Captain, at this time, this is all the
21 questions I have.

22 CAPT CALLAGHAN: Thank you, Lieutenant Commander Comerford.

23 Mr. Sirkar, I'm now going to turn it over to colleagues at
24 National Transportation Safety Board.

25 Mr. Barnum?

1 MR. BARNUM: Thank you, Captain.

2 BY MR. BARNUM:

3 Q. Nice to see you, Mr. Sirkar. Bart Barnum, NTSB. Thank you
4 for talking to us today.

5 A. Good afternoon.

6 Q. I don't have any follow-up questions. Commander Comerford
7 hit most of the topics I was going to ask you about, sir. One
8 follow up -- I guess you were talking about the Torremolinos
9 Protocol or Convention Protocol and then the Cape Town Agreement.
10 I guess that was the progression. Do you have any insight on
11 what, what problem -- how did that come about? Why did the
12 discussion of icing start? Was there, like, a shipwreck, and
13 notorious shipwreck that sank because of ice accumulation or was
14 there a fleet of vessels? How did that get on IMO's radar?

15 A. I can only give you a somewhat general answer. There were
16 fishing vessel casualties that seemingly were caused or had a
17 significant -- had ice accretion as a significant causal factor in
18 the 60s, in the early- to mid-60s. And at that time IMO -- it was
19 not called IMO at that time. It was called I-M-C-O, IMCO, at that
20 time.

21 One of the -- one or more, actually -- the two subcommittees
22 -- a committee on stability and a committee on fishing vessel
23 safety -- decided that this particular subject needs to be
24 investigated and started -- so IMCO at that time started this
25 discussion and invited various countries to bring to the table

1 whatever guidance and regulations they may have at that time to
2 the table for further discussion. And there were several
3 countries that did just that.

4 And so, those discussions were held, again, in part because
5 it was recognized that ice accretion could be a causal factor in
6 many casualties. That information was brought to the table, it
7 was discussed and debated, and those standards were put in place
8 and stand to this day, largely unmodified.

9 Q. Understood. Yeah, and you'd mentioned that earlier --
10 largely unmodified and that there hadn't -- any real active
11 studies by IMO or other countries that you knew of. But you did
12 say there was some comments that had been made. Do you know in
13 what respect or who was making these comments or what were they?
14 Were they fishing vessel fleet or are they countries; do you
15 recall?

16 A. I am just aware of Poland. I had been informed that there
17 are other countries, but I'm personally aware that Poland has
18 commented on the possible inadequacy of the ice accretion
19 standards. And perhaps just to correct my earlier statement,
20 there have been reports published regarding ice accretion on
21 different types of vessels.

22 And some -- I really can't call them studies, but there has
23 been some data that has been gathered and there are papers that
24 have been published related to ice accretion. So it's not -- if I
25 said no studies have been conducted since Torremolinos, that's not

1 a, that's not a completely accurate statement. There have been a
2 lot of papers published. There's a lot of data out there
3 regarding ice accretion rates and ice accretion standards.

4 Q. Has the -- has yourself or anyone in the Coast Guard had a
5 chance to review these studies or have you reviewed them
6 technically or looked at them?

7 A. We have them. We have not reviewed them in any kind of
8 systematic, methodical manner. We have a lot of these studies,
9 but the short answer to your question is no. We have, we have
10 read many of them, but we have really not analyzed, studied and
11 systematically collated the data from these reports and papers.

12 Q. So do you think that anything that you've seen -- I
13 understand you haven't analyzed them completely -- but have you
14 noticed anything within those reports that may be more accurate
15 than what the regulations are currently provide for ice
16 accumulation?

17 A. I have not seen anything that jumps out really. Again, what
18 is -- why do you recognize is that extreme conditions are not
19 reflected in the basic standards in the regulations. That is
20 widely recognized. There does not seem to be any form of firm,
21 specific, well-thought-out proposals to change those standards, at
22 least not that I have -- from the studies I have read or the
23 papers that I have read; I haven't seen any.

24 Q. So fully understanding your position there that these
25 regulations aren't intended to be for extreme conditions, you

1 know, we've spoken to a lot of captains this week and it appears
2 that this icing is pretty common in these parts of the world. In
3 fact, the regulations are pretty specific in defining what area
4 that this icing calculation should be applied to. So I would
5 argue that the regulations do agree that this is probably some
6 level of extreme in this area.

7 And we've also talked to the National Weather folks, a
8 representative from the National Weather Service, who states that,
9 you know, these heavy freezing sprays conditions, for example in
10 January, were forecasted 40 times. So you know, in my view this
11 is a pretty standard, standard weather, standard scenario, these
12 heavy freezing sprays, potential icing conditions in this area.
13 Do you think that there -- do you think that the Coast Guard, you
14 know, could consider this in possibly, maybe defining their
15 extreme area a little better?

16 And I don't know if I formed that in the correct question or
17 not, but there does appear to be a disconnect between what the
18 regulations apply for a minimum and what actually is being seen in
19 the Bering Sea and Aleutian Islands?

20 A. Yes. And again, thank you for the question. Certainly, we
21 can look at the areas, in particular, from the information
22 provided by the National Weather Service, the specific areas that
23 perhaps are not directly addressed in the regulations. You know,
24 if the analysis used to indicate that icing may have been a causal
25 factor in this, in this casualty.

1 But going back to my earlier comment about the regulatory
2 process and the philosophy behind most design regulations -- not
3 just ice accretion, but most design regulations, typically do not
4 take into account extreme scenarios. Extreme hazards are not
5 protected against -- through the design standards in the
6 regulation. That is generally a true statement for most design
7 standards in regulations.

8 Q. Right, understood, but would you agree with me that icing in
9 itself is an extreme condition?

10 A. There could be extreme scenarios for ice accretion, yes.

11 Q. Okay.

12 A. But not all ice accretion is extreme.

13 Q. Right, yes. Okay. Well, thank you very much, Mr. Sirkar, we
14 appreciate it.

15 MR. BARNUM: That's all the questions I have, Captain.

16 CAPT CALLAGHAN: Thank you, Mr. Barnum.

17 Mr. Sirkar, I'm now going to go to our parties in interest,
18 to counsel representing the two survivors, Mr. Stacey.

19 MR. STACEY: Thank you, very much, Captain.

20 We have no questions for your, sir. Thank you for your
21 testimony.

22 CAPT CALLAGHAN: Thank you, Mr. Stacey.

23 And now to counsel representing the vessel owners, Mr.
24 Barcott.

25 MR. BARCOTT: Thank you, Captain.

1 BY MR. BARCOTT:

2 Q. Mr. Sirkar, I'm Mike Barcott. I represent *Scandies Rose*.
3 And you're talking about a topic that I have a deep and long-
4 standing interest in so I'm looking forward to our conversation
5 here. And I'm going to jump around a little bit so if you're not
6 tracking where I -- where I'm asking a question, please let me
7 know.

8 You talked about the Torremolinos Convention and how that was
9 incorporated into the regulations. Can you tell me -- and you
10 used the term porosity to refer to crab pots -- am I correct that
11 the icing regulations that currently apply, do in fact apply 16th
12 of inch on vertical surfaces of ice and 1.3 tenths on horizontal
13 surfaces and it just the outside surface? There is nothing in the
14 regulations to account for the fact that with porous crab pots,
15 water gets inside and inevitably becomes ice inside; do I
16 understand this correctly?

17 A. Yes, you do.

18 Q. Are you aware of any studies that take into account the fact
19 that crab pots are porous; they're not a solid surface?

20 A. I am not aware of any studies specifically for icing on/in
21 crab pots.

22 Q. So we're here with the Marine Board, but there's an audience
23 watching this and I'd like you to help me educate them a little
24 bit. You saw that crab pot that was on the *Polar Star* with in
25 excess of a ton of ice in that crab pot. If that crab pot is up

1 on the top of a stack of crab pots, could you explain that the
2 impact weight up high has, versus weight down low, on stability?

3 A. Weight up high increases or raises the center of gravity of
4 the vessel, thus reducing the stability characteristics of the
5 vessel, making it less stable.

6 Q. And an example I sometimes use to explain this concept is if
7 anyone has ever stood up in a canoe they understand the adverse
8 impact of weigh up high on stability. Is that an analogy that
9 generally describes this?

10 A. Yes, it does. That is a very good analogy.

11 Q. Okay. So if, rather than one pot on the deck of the *Polar*
12 *Star*, there were 30 pots on the top of a stack of crab pots, and
13 each of those 30 pots gained a ton of weight that would add 60,000
14 pounds of weight up high on the stack, right?

15 A. Yes.

16 Q. And that would be equivalent to adding roughly 60 more crab
17 pots up on top? That's what that ice would be the equivalent of?

18 A. Yes.

19 Q. And would that weight also impact the righting arm of the
20 vessel?

21 A. Yes, it would.

22 Q. And would asymmetric weight, ice accumulating on one side or
23 the other, impact the righting arm?

24 A. Not directly, no.

25 Q. Would you explain what the impact on the righting arm would

1 be, not precisely, but in general terms, with the equivalent of 60
2 additional crab pots put up on top of the stack?

3 A. Again, I couldn't give numbers without a specific loading
4 condition. It would significantly -- assuming it's relative to
5 the rest of, the rest of the weights, it could significantly
6 reduce the righting arm.

7 Q. Which would have what effect on the vessel?

8 A. Which again would reduce the stability characteristics; it
9 would reduce the righting energy. When the ship was rolling it
10 would reduce the propensity of the vessel to come back up. It
11 would increase the roll period, making it thus -- resulting in a
12 less stable vessel.

13 Q. Right. And so to the public -- actually, let me just finish.
14 We have heard a couple skippers describe that when their vessel is
15 icing up, they've noticed that it has a slower roll, more sluggish
16 roll. Is that part of what you're describing here?

17 A. Exactly.

18 Q. Okay. And if, if there is less righting energy, does that,
19 in lay terms, mean there's less of a tendency of a vessel to right
20 itself once it rolls over?

21 A. That is correct. Which means, in practical terms, if there
22 are other energies or other sources acting on the ship, on the
23 vessel, such as (indiscernible) that with a higher righting energy
24 it could have righted itself, now perhaps with the reduced amount
25 of righting energy from the external other forces (indiscernible)

1 external energies it perhaps has reduced that amount and maybe
2 either incapable of righting itself or hanging to a point where
3 exposure to downflooding becomes a secondary, secondary hazard.

4 Q. I'd like to pick up on the discussion you had with Mr. Barnum
5 of the NTSB. You've called some of the severe ice, for example
6 the photographs you've seen, as extreme conditions. My clients
7 fish in extreme conditions; that's what they do. So that they are
8 clear in understanding these regulations, would it be accurate to
9 say that the current regulations do not address the accumulation
10 of ice in extreme conditions?

11 A. The current regulations require a certain amount of ice
12 accretions for all reasonable loading conditions that the vessel
13 might see. The regulations do not take into account such extreme
14 formations of ice of such magnitudes of ice accretion such that
15 all of the possible loading scenarios of the vessel can satisfy
16 the required stability characteristics. This rather large --
17 these rather large formations of ice that we have seen photographs
18 of would not be considered in the -- are not considered in the
19 regulations in order to meet the stability standards.

20 Q. So I'd like to highlight if I can the things that crab
21 fisherman face that are not factored into the current regulations.
22 And tell me if I have it right. Do I have it right that the
23 current regulations make no allowance whatsoever for the fact that
24 ice might accumulate on one side of the vessel more as opposed to
25 evenly around the entire vessel?

1 A. So I would not completely agree with that statement and this
2 is why.

3 Q. Okay.

4 A. The regulations were written to provide a great deal of
5 flexibility to the operator and owner and we have placed a great
6 deal of -- implicitly we have placed a great deal of
7 responsibility on the qualified individual as required in the
8 regulation to inform the owner and the master of all reasonable
9 scenarios that the vessel might experience. Explicitly is
10 asymmetrically icing addressed in the regulations? No.

11 So I cannot completely agree with your characterization, if
12 you will, that the regulations do not take that into account.
13 They're implicit that to avoid additional prescriptive
14 requirements that may be appropriate for one type of fishing
15 vessel but completely -- but perhaps not appropriate for
16 (indiscernible). We have left that flexibility up to the
17 qualified individual, the master, and the owner.

18 But the answer to the explicit question, do the regulations
19 themselves that talk about ice accretion, do those regulations
20 account for asymmetrical accumulation of ice, beyond what perhaps
21 a naval architect maybe should tell the owner. No, but the
22 regulations also do not prevent the qualified individual from
23 telling the owner what is prudent in terms of loading scenarios
24 under various upgrading and weather conditions.

25 Q. Where does that responsible party -- and I assume you're

1 talking about the naval architect who would do the stability,
2 study the incline studies -- is that right when you say
3 responsible party?

4 A. Qualified individual, yes.

5 Q. Qualified individual. So where does that person go, to
6 understand in any level of detail, the impact of asymmetrical
7 icing? Where's the data on that?

8 A. Again, that data is not in the regulation.

9 Q. Is that data anywhere, as far as you know?

10 A. Again, there are studies out there. There are
11 owner/operators who have experience and who have years and decades
12 of experience and they have experience asymmetrical ice accretion.
13 So given -- and again, not in a rigorous scientific or rigorous
14 technical manner, there is -- there is information out there that
15 naval architects could glean from that could provide data for
16 reasonable, reasonable instructions to take into account ice
17 accretion beyond that which is explicitly stated in the
18 regulations.

19 Q. Same question with regard to accretion of ice inside the crab
20 pots, on the netting on the coils of line, on the pots inside the
21 stack -- do the regulations account for that ice?

22 A. Explicitly, no.

23 Q. Now you mentioned that there is -- you have to respect the
24 process when new rules have been promulgated, but would you agree
25 that before rules are promulgated relating to something like this,

1 there should be data gathered; this should be a data-driving
2 process?

3 A. Absolutely, yes. And again, I will qualify that answer with
4 when there is a reasonable expectation or a reasonable basis for
5 believing that there needs to be something specific that one --
6 when I say one, I mean the federal agency that -- the Coast Guard
7 could be doing, in amending a given regulation. If there's
8 reasonable basis to believe that, then absolutely yes. There
9 would have to be data gathering, studies, and work done prior to
10 any form of proposal being put out there.

11 Q. Absolutely. And would you agree that at present, other than
12 anecdotal evidence, people who have been in industry for years,
13 there is no hard scientific data on the impact of ice inside crab
14 pots, as it relates to vessel stability?

15 A. I have not seen any specific to crab pots.

16 Q. Okay. Thank you, Mr. Sirkar. Those are all the questions I
17 have. We appreciate your time today.

18 MR. BARCOTT: Thank you, Captain.

19 CAPT CALLAGHAN: Thank you, Mr. Barcott.

20 And Mr. Sirkar, I just have some follow-up questions from
21 Commander Denny.

22 Commander Denny?

23 BY CDR DENNY:

24 Q. Mr. Sirkar, thank you for being here today. I do have some
25 follow-up questions because we circled back a couple of times

1 about the minimum standard, what's in the regs for icing, the
2 minimum standard -- and again, it would be up to the qualified
3 individual to inform the owner/operator of other conditions or
4 stuff that -- conditions or scenarios that may be outside of that.
5 I -- do we allow marine inspectors to apply additional standards
6 to, let's say, a small passenger vessel, an inspected passenger
7 vessel?

8 A. I'm sorry, I -- when you say additional -- when you say
9 marine inspectors applying additional standards, I'm not quite
10 sure.

11 Q. Sure, let me clarify. So let's use a small passenger vessel
12 inspected under Subchapter T. There are regulations for all kinds
13 of things in Subchapter T, all kind of various areas. Do we allow
14 a marine inspector to go outside of what is in the regulations in
15 Subchapter T and apply something in addition that might be more
16 prudent? Would we just allow them to apply that to a vessel
17 inspected under Subchapter T?

18 A. No, we would not.

19 Q. Okay. And I'm not trying to put words in your mouth, but is
20 it fair to say that's kind of what we're asking PEs to do?

21 A. Not really. We're not asking PEs to apply a standard beyond
22 the standard that is required. First of all, the inspector -- the
23 marine inspector inspects to the regulation. The PE would conduct
24 the analysis to make sure that the regulations are met for all
25 loading conditions.

1 But when it comes to stability instructions to the master it
2 would not be unreasonable to expect that there would be
3 appropriate advice given to the master that addresses, in somewhat
4 simple, straightforward manner, what conditions could possibly be
5 unsafe. So we're not really asking the PE to come up with
6 additional standard or to impose additional standards, but merely
7 inform the owner and the master of what is reasonably within the
8 bounds of the regulation and what is reasonably safe for a
9 specific vessel and that vessel's operating scenario.

10 Q. So -- okay, let me shift a little bit. Sir, after the loss
11 of the *Destination* a few years ago, did your office recognize the
12 issue -- the unique issues surrounding pot icing and that icing
13 might, in fact, be an issue on pots? Was there any action taken
14 from your -- with (indiscernible) after the *Destination*?

15 A. So there was no regulatory action the (indiscernible) taken
16 after the report of the Marine Board was issued. We did review
17 all of the recommendations made by the Marine Board, the various
18 offices, the program office, the Fishing Vessel Safety Program
19 Office, our office, we coordinated and we consulted. We reviewed
20 the recommendations. We did not directly concur with several of
21 those recommendations. We did not amend any of the regulations.
22 We did put out information -- bulletins and we did outreach to the
23 industry providing them with information and alerting them to
24 certain types of scenarios where we could have crab pot icing
25 resulting in -- certain types of crab pot icing.

1 Q. And to your knowledge, sir, has the National Fishing Vessel
2 Safety Advisory Council, or its predecessor since it's just turned
3 in the National FSAC, do you know if it has recommended that the
4 Coast Guard examine stability or icing issues?

5 A. Yes. We have received some recommendations from them. We
6 have put out some response to recommendations. The
7 recommendations included putting additional language in the
8 regulations to address specifically icing on crab pots and icing
9 on top of open deck gear. And again, in response to that we have
10 not amended any regulations. We have put out information to the
11 industry about awareness regarding crab pot icing and crab pot
12 weights.

13 Q. And sir, when you say that you put out information to
14 industry, are you referring to the 1117 alert?

15 A. No, this was subsequent to that. I don't have that in front
16 of me, but I believe it was Information Bulletin 0121.

17 Q. Okay. So just very recently in the last, like, month or two?

18 A. Yes.

19 Q. Okay. And -- I need to bring us back to regulations for --
20 so inspected small passenger vessels there's policies with regards
21 to warm water and cold water delineations, right? So it affects
22 requirements on life-saving appliances. Are you familiar with
23 that, sir?

24 A. Yes.

25 Q. Has there been any consideration to develop standards or

1 policies with respect to various, you know, scenarios -- as we've
2 talked about, various scenarios -- so clearly fishing up in the
3 Bering Sea or up in the northeast where there are more extreme
4 environments, have there been any considerations within your
5 office to develop any of those standards or policies for potential
6 additional restrictions for stability for OCMI's to be able to help
7 interpret the existing regulations?

8 A. No, not at this time.

9 Q. Thank you.

10 CDR DENNY: Captain, sir, that's all the questions I have.

11 CAPT CALLAGHAN: Thank you, Commander Denny.

12 Mr. Sirkar, again, thank you very much for your time today.

13 It's been very informative. It certainly helps to understand not
14 only what your office does and is responsible for, but obviously
15 the regulatory process is not an easy one and comes with a very
16 important balance between what -- as you mentioned earlier, not
17 inducing unintended consequences economically for the folks that
18 are impacted. And what fits one does not always fit everyone that
19 would be impacted by the same regulation. So greatly appreciate
20 understanding what your office does in that regard. Certainly
21 appreciate your time.

22 At this time you're now released as a witness at this formal
23 hearing. We thank you for your testimony and cooperation and if
24 we, at a later date determine that the Board needs additional
25 information from you, we'll contact you through counsel. If you

1 have any questions regarding this information, you may contact a
2 member of the investigation board or the investigation recorder,
3 Lieutenant Ian McPhillips.

4 Again, sir, thank you very much for your time today.

5 THE WITNESS: Thank you, Captain.

6 (Witness excused.)

7 CAPT CALLAGHAN: Okay. The time is now 1458. Our next
8 witness is scheduled to begin testimony at 1615. For any reason
9 we're able to begin sooner we'll update the time displayed on
10 livestream. Until that time, this hearing will be in recess.

11 (Off the record at 2:58 p.m.)

12 (On the record at 3:44 p.m.)

13 CAPT CALLAGHAN: Time is now 1545. This hearing is now back
14 in session. We'll now hear from Captain John Crawford from
15 Crawford Nautical School.

16 Mr. Crawford, Lieutenant McPhillips will now administer the
17 oath and ask you some preliminary questions.

18 CAPT CRAWFORD: Okay, sounds good.

19 (Whereupon,

20 JOHN F. CRAWFORD

21 was called as a witness and, after being first duly sworn, was
22 examined and testified as follows:)

23 LT McPHILLIPS: Thank you. Please be seated. Please state
24 your full name and spell your last name.

25 THE WITNESS: John Francis Crawford, that's C-r-a-w-f-o-r-d.

1 LT McPHILLIPS: Please identify counsel or representative if
2 present.

3 THE WITNESS: Nobody present.

4 LT McPHILLIPS: Please tell us, what is your current
5 employment and position?

6 THE WITNESS: Instructor/partner, Crawford Nautical School in
7 Seattle.

8 LT McPHILLIPS: What are your general responsibilities in
9 that job?

10 THE WITNESS: Teaching and doing a lot of the business work.

11 LT McPHILLIPS: Can you briefly tell us your relevant work
12 history?

13 THE WITNESS: Graduated from Kings Point 1976. Sailed 3rd
14 mate, 2nd mate, chief mate. Then in 1986, I guess it was, I
15 started sailing master for American President Lines and sailed for
16 them as master for about 14 years.

17 LT McPHILLIPS: Do you hold any professional licenses or
18 certificates related to your position? Please explain if so.

19 THE WITNESS: Master (indiscernible) oceans and it's in
20 continuity of -- and all sorts of different certificates from
21 various schools I've had to go to for the company.

22 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
23 have follow-up questions for you.

24 CAPT CALLAGHAN: Captain Crawford, thanks again for joining
25 us today. I'm going to now turn it over to Mr. Keith Fawcett who

1 is going to have the questions for you today, sir.

2 THE WITNESS: All right.

3 EXAMINATION OF JOHN F. CRAWFORD

4 BY MR. FAWCETT:

5 Q. Good afternoon, Captain Crawford. All of my questions will
6 relate to a timeframe leading up to the loss of the *Scandies Rose*
7 that occurred in late December of 2019. We expect your testimony
8 to be relatively short, but if you would like to take a break,
9 please let us know.

10 A. Okay.

11 Q. Sir, (indiscernible) master's license and could you talk a
12 little bit more about what the Crawford Nautical School tends to
13 provide to (indiscernible) and fisherman in terms of training?

14 A. Okay. It's been around for a long time since 1923. It's a
15 family-run business and we teach people -- I guess the bulk of our
16 business is preparing people to take Coast Guard exams and we
17 teach approved courses for certain licenses and do other approved
18 training such as bridge resource management, leadership and
19 management skills, radar. And what we try to do is make sure
20 people get the information that they need and also that they
21 understand the information.

22 Q. So you mentioned the term continuation and (indiscernible) my
23 license is in continuation. Could you explain what that means in
24 terms of a professional (indiscernible)?

25 A. What it means is if you're not intending to go to sea for a

1 while you can put your license into a continuity, which kind of in
2 effect freezes it. And at some point in the future, if you want
3 to take it out of continuity, what you have to do is meet the --
4 any changes that came into place since you put it in continuity.
5 Say, for instance, STCW requirements. I put my license into
6 continuity mid -- I think it was around 2005. So many additional
7 classes have become required and requirements so I'd have to make
8 those things up before I could activate my license again.

9 Q. Would you say that those requirements are pretty stringent?

10 A. Yes.

11 Q. Now, if I was a fisherman, a commercial fisherman, could you
12 talk about the courses that would be available to me, specifically
13 for fisherman, at your school?

14 A. First of all, would be a license as either mate or master
15 fishing, which with us is a little bit more than a month and
16 (indiscernible) where we can give you exam in-house. But what
17 would happen is you'd get the license, you'd also get 100-ton
18 license inspected and the 200-ton (indiscernible) inspected. We
19 also do radar so certain licenses are required to have a radar
20 endorsement.

21 I believe now fishing does not. That gets a little murky,
22 but we do that. And if they're getting STCW certification,
23 courses that we would offer them would be bridge resource
24 management, which actually is included in the regular fishing
25 class, and leadership and management skills. Pretty much

1 everything else they would have to go to other schools.

2 Q. So if I was to get that fishing exam, would I also have to
3 then go out and get a physical, drug test and all the other Coast
4 Guard requirements?

5 A. Yes.

6 Q. And from your perspective at the school, what kind of vessel
7 would I want to have that fishing license for that is a Coast
8 Guard credential?

9 A. For requiring the license aboard it would have to be over 200
10 tons. Under 200 tons you could get the license, hold the license
11 and it's my understanding it would be more to satisfy insurance
12 companies if you're working on something that's say 199 gross tons
13 where you don't need a license, but having the license it would
14 potentially make an insurance company feel better, I guess is the
15 word or words.

16 Q. So I don't want you to name a company or vessel, but can you
17 sort of -- would a typical physical vessel that had a master or
18 with a Coast Guard license under 200 tons, are there any examples
19 that you're aware of, like in the Bering Sea crab fishery or the
20 cod fishing (indiscernible) type of equipment like cod, do you
21 know of any (indiscernible) that is required (indiscernible) to
22 get a Coast Guard license for fishing?

23 A. Insurance companies as such, no. What the students have told
24 me is they get the license and they don't mention what insurance
25 it might be, but it might be the insurance company, it might be

1 the owners who would prefer to have somebody who was licensed. So
2 I can't really answer as to specific insurance companies or even
3 specific owners, but it's a common practice that people who are
4 working on under tonnage fishing vessels would get a license, for
5 nothing else to satisfy their own ambitions and give them
6 opportunities for bigger vessels.

7 Q. So it makes sense. Did anybody mention that it might be for
8 a government charter, that the government requires a license?

9 A. Yes. That happens -- it's been happening more frequently
10 now. We had a student just recently got offered a job with the
11 State of Alaska running a boat and the way he explained it to me
12 was the State of Alaska required him to have -- I thought he told
13 me an inspected license, which would be either the 100-ton or 200-
14 ton license. But that would allow him to meet the terms of the
15 charter with the State.

16 Q. So I want to go back, you mentioned an approved course.

17 A. Yes.

18 Q. If the Coast Guard comes to you, in brief terms could you
19 describe to us what you have to do at the Crawford Nautical
20 School, just in general, to meet that approval process?

21 A. The first thing is we figure out what course we want to get
22 approved. And the approved courses are things that meet licensing
23 regulations, such as radar, or it's in lieu of an exam at the
24 Coast Guard, which is what the fishing -- our fishing course does.
25 And then we write up the course, we submit it to the National

1 Maritime Center, they review it, give us comments on things that
2 we might need to change, and once they're happy they will issue us
3 an approval.

4 After that point, we keep records of the students, their
5 scores. When we submit to the Coast Guard we give them the
6 syllabus and the -- everything that goes on with the course, all
7 the course materials, and then periodically the National Maritime
8 Center will send someone to audit us. They usually audit, not the
9 whole school at once, but specific courses. And they'll look at
10 our records and what we're teaching to make sure that it matches
11 what we submit for approval. And they also get involved in the
12 space available, you know, how many students you can have in a
13 room and things like that. Then, if everything is okay,
14 (indiscernible) any discrepancies they let us know and we fix it.

15 Q. Okay. So now -- assuming I find out about the Crawford
16 Nautical School, I desire to get that fishing license that you
17 just described, and it's a four-week -- is it four- or five-week
18 course of instruction?

19 A. With the fishing it's four weeks and about three or four
20 extra days. And just to let you know, usually the students take
21 longer than that because they need to study for the exams. And so
22 some people -- in general, it takes about six weeks to get through
23 everything by the time you take all the tests.

24 Q. Okay. So let's pretend I'm a student and I'm sitting through
25 that entire training course. Can you give me as much general

1 detail as possible on a couple of topics? What am I going to
2 learn about vessel stability?

3 A. We have -- we devote a full day to stability and then have
4 another day set in the schedule for follow ups. We realize nobody
5 learns stability in a day. So we have the opportunity to go over
6 everything again. And our intent on stability is teaching the
7 principals of stability and then the basic calculations.

8 I must also say that we prepare people for licenses such as
9 (indiscernible) unlimited where the stability exam is very tough
10 and now recently master 500 and 1600 inspected also have very
11 tough stability exams. It's a dedicated exam. We teach those
12 guys and people who are doing the fishing are sitting in in the
13 same class so we don't try to overwhelm them, but they are
14 absorbing, we hope, the same things of trying to teach the higher
15 licenses.

16 Q. So sitting the class, are we going to be seeing a human
17 instructor or is it computer-based, or are you going to use, like,
18 demonstration props where you have sort of a model of a vessel and
19 you add weight top side? Tell me how I'm going to learn this.

20 A. COVID, and not counting that because we're doing things Zoom
21 now, but normally it would be an instructor in person. We have
22 specific stability booklets or books for the student that goes
23 through all the details. We do a lot of drawing on the
24 whiteboards. We do have relatively simple props, which some of
25 them are odd. A metronome, for instance, to illustrate rolling

1 period and its relationship to GM. It's a simple tool that can
2 show that.

3 My sister is the boss and she's going to kill me when I
4 mention this, but we have a lot of, what we call toys, that we try
5 to use, squeaky toys and things like that, where we try to make it
6 so that the people, the students, are understanding the principals
7 without having to dive into -- when I was in school I took two or
8 three quarters of naval architecture; it almost killed me. I
9 don't want to do that to my students, but I do want them to know
10 what's going on.

11 And so we try to make things as simple and practical as
12 possible. We don't have model ships; we don't -- we do have a few
13 videos on stability, only a couple of videos, but mostly it's in
14 class and (indiscernible) props.

15 Q. So shifting to another subject, if I was a student -- this is
16 the timeframe up to the end of December of 2019, once again -- do
17 you teach me about the dangers and risks of a vessel icing?

18 A. Not in too great a detail. So in other words we don't get
19 into how much -- well, we do, but we explain that icing -- how it
20 affects your stability, generally as added weight relatively high
21 on the vessel, out of the entire lectures probably about 45
22 minutes would cover icing. But it's getting covered with other
23 material, so specific to icing not a whole lot of detail on it.
24 And again, this is up to 2019. We've kind of changed that in the
25 past few months.

1 Q. So looking at weather, do you teach basically the students
2 about marine weather and the marine weather environment?

3 A. Yes.

4 Q. How about, do you teach them how to reduce the risks, like
5 risk strategies for, like, handling high seas and swells or do you
6 just tell them about the weather itself?

7 A. Two separate topics. The weather, we go into a lot of detail
8 on that and that's -- dealing with weather itself as far as the
9 techniques or maneuvering, that would be in ship handling.

10 Q. So in your class, would you give or discuss like some of the
11 marine accident reports that the Coast Guard or the NTSB puts out
12 as a training aid? For example, the sinking of the *Destination*,
13 would you use that as a learning moment for the students?

14 A. In the license classes we mention them, we go -- tell them
15 what went on and the problems. We also have a class that we just
16 started up specific to crab boats where we go into detail on --
17 that is one of the Coast Guard reports that we go over is the
18 *Destination*.

19 Q. And we'll talk more about that, that course in a few moments,
20 but do you hand out to your students or distribute it or point to,
21 like, Coast Guard safety alerts or marine safety information,
22 bulletins about vessel safety, like, for example icing or lack of
23 stability or anything like that.

24 A. We give them the means to look them up. We -- if something
25 comes up that is pertinent at the moment we'll print it off and

1 hand it to the students. We may not go over it in class, but
2 we'll give them a lot of information that we may not go into
3 detail in class that they can read up on their own, particularly
4 those things. When they do our classes on regulations we spend a
5 lot of time talking about where you can get information, which is
6 kind of looking at what you were just discussing there.

7 Q. So let's move onto specifically to stability classes that are
8 outside the normal training as part of getting a Coast Guard
9 license, specialized stability. So Mr. Bud Bronson talked about a
10 number of years ago that there was a class that you put on that
11 lasted, I believe he said, a week about stability training. Does
12 that ring a bell?

13 A. I don't -- it might have been -- I've done a number of
14 classes specifically for fishing companies. I don't remember one
15 that was a week long. My father might have taught it. But I know
16 I was doing two- to three-day classes for a couple of big fishing
17 companies.

18 Q. And when was that? Approximate is fine.

19 A. Early 2000s.

20 Q. And what kind of attendance did you get? So you had a two-
21 or three-day class and how many students would you get?

22 A. On those -- on the company classes it was usually shackled to
23 a company seminar for their people. So I would have maybe 30 plus
24 people in the class.

25 Q. Did the companies pay for that or did the individuals pay for

1 that?

2 A. The companies paid for it.

3 Q. So I know that we'll be talking tomorrow to the folks from
4 AMSEA, the Alaskan Marine Education Association. We'll also talk
5 to the folks from the North Pacific Vessel Owners Association.
6 They offer a stability course. Do you offer a similar course?

7 A. A separate stand-alone? We just started that, yes.

8 Q. But prior to late 2019 you didn't have that, correct?

9 A. No, we did not.

10 Q. So this Marine Board did ask the school -- we wrote an email
11 request and we asked if any of the accident bridge crew had
12 attended training at your facility and your response was negative
13 to the best of your knowledge. Would that be correct?

14 A. Correct.

15 Q. So Mr. John Walsh, who is one of the insurance brokers in
16 Seattle, and he's also one of the minority owners of the *Scandies*
17 *Rose*, said that after the accident you got together with some
18 captains and designed a new course for stability. Can you talk
19 about that course?

20 A. Yes, that's the one that -- the recent course that we set up.
21 And with John Walsh and a few other people kind of looked at what
22 they would like -- we're acting as a vendor for them, but what
23 they would like and the subject matter to cover, one of which is
24 more in depth in icing. In fact, I'm looking at the syllabus
25 here, and we spend about half a day or at least about two to three

1 hours on icing.

2 But yes, we worked with him. I wrote the course and we've
3 had a few classes, told everybody (indiscernible) in January, it's
4 an eight-hour class. I think it might be a little bit too short,
5 but we wanted to try it out in the beginning just to see what
6 would work. So I'm thinking it might be better with 12 hours at a
7 minimum.

8 Q. So if you could look -- you were looking at something --
9 could you just give us the bullets, the significant bullets of the
10 contents of the course, just the topics you cover in the 8-hour
11 course, (indiscernible) them off?

12 A. Okay. So we spend a lot of time going over -- in the first
13 day, this is the eight-hour class -- what we did was four or five
14 hours on day one and then come back the next day for another four
15 or five hours. On day one we concentrate on principals of
16 stability and that's pretty much all that first few -- first day.
17 Trying not too much to get into the numbers, but giving them the
18 formulas that they could use to quickly make determinations, such
19 as rolling period, (indiscernible) stability with changes in
20 weight. The second day we spend time going over icing and then go
21 over stability letters.

22 Initially we're asking the students to send us their
23 stability letters for their vessel that we could go over and that
24 became practically a bit awkward. Some people, if they were down
25 here in Seattle, (indiscernible) the stability letter was on the

1 boat in that charter, you know, they couldn't get to it. So what
2 we do now is we've got an actual stability letter for a somewhat
3 standard size crab boat and blanked out all the pertinent names
4 and we go over that. They're pretty much all the same, same
5 format. And we go over that and make sure everybody knows how
6 they can read -- how to read their stability letter. I think
7 that's very important. It's the main information they really
8 have.

9 Q. So is there any other course content that you haven't
10 mentioned?

11 A. Let me see here. We go over some Coast Guard reports. Like
12 I said, we use the *Destination*. We actually use the preliminary
13 hearing on the *Scandies Rose*. And I've been going through the
14 Coast Guard reports and some of the NTSB reports and I keep trying
15 to find things that would be pertinent to the class, and at the
16 same time not too overwhelming in trying to read it. Some of
17 these reports, when you read them, can be a bit overwhelming.

18 Q. So in preparing for any of these courses have you, in recent
19 years, looked over a few stability documents for different crab
20 vessels. And what I want to focus on is, like, the instructions
21 -- prohibitive instructions to the master about loading pots.
22 Have you looked at those different comments?

23 A. Yes, I have.

24 Q. Have you found that the content of the instructions were all
25 (indiscernible) or would they vary like some being more helpful to

1 the master and some being, like, very vague and general in nature?

2 A. Mostly helpful. I'm trying to think of the big ones, if any
3 -- they weren't vague if you had a little bit more grounding into
4 the theory of stability. So the ones that were vague, if you had
5 a better idea of how stability worked, they wouldn't be so vague.
6 But I could see that somebody who didn't have a background in it,
7 might not get an awful lot of information out of that sort of
8 letter. Most of them, though, were fairly clear.

9 Q. So if I was a crab fisherman with no professional education,
10 in other words, no school-house learning like coming to a class
11 like yours or any other of the training things, and I had that
12 stability letter, the fact that they didn't have a lot of
13 information in there, would it be correct to say that it wouldn't
14 really help me?

15 A. Well, it certainly wouldn't hurt to have the information
16 there, but even if you have the background information there's
17 often not enough information to go further. Some of the reports I
18 did read gave details of stuff that, if you were good with math,
19 you could actually figure out information that the stability
20 letter in itself does not cover. My understanding is that the
21 stability letters are attempting to, at a minimum, meet the
22 requirements of the regulations. Some of them did put in
23 information that you could go beyond what the regulations actually
24 call for, but you would have to know how to do it.

25 Q. So you've talked about fishermen and taking the courses and

1 in particular we're talking about Bering Sea crab fisherman and
2 similar fisheries with pots, have you had students from other
3 segments of the fishing industry like the skiff fishermen from the
4 Bristol Bay or anybody else that may have stability issues, have
5 they attended your training classes?

6 A. Yes. In the fishing industry right now we've got two guys
7 who work on big tonnage fishing boats. I think one is a big
8 trawler -- I think they're both big trawlers. People getting
9 experience on -- they were small fishing boats, they get
10 information, but not pertinent exactly to fishing boats. It's a
11 general, general stability.

12 So I don't know how -- actually I don't know if I'm saying
13 what I want to say here. But somebody who works on a smaller --
14 say like a small seiner, something like that, what we teach them
15 for stability is useful, but here's a vessel that probably doesn't
16 have a stability letter and he's just going to have to understand
17 for his vessel what is good and what is bad in terms of stability.
18 Does that make any sort of sense?

19 Q. Yeah, I think it brings up an important point. Have you had
20 any fishermen come into your stability classes that said I don't
21 have a stability instruction or a stability book for my vessel?

22 A. Yes. Those that I'm thinking of are all ones that are
23 smaller. I guess the limit is, is it 79 feet? Less than that. I
24 can't swear to the number, but I think that's what it is, 20
25 meters. But they don't really have much stability information at

1 all for the boat.

2 Q. So the classes that you've taught over the years and the --
3 including the license classes, is there any talk of -- have you
4 talked with any insurance people -- let's exclude the license
5 classes, but for the general classes for the non-licensed
6 commercial fishermen, have you had any conversations with the
7 boating industry about how that might reduce insurance premiums or
8 have some kind of incentive to -- if the individual got the
9 training it would be an incentive to reduce the cost of operating
10 in the insurance (indiscernible)?

11 A. Not -- no. The answer is no.

12 Q. For my final question, the Coast Guard has a series of
13 federal advisory committees. One of them deals with
14 (indiscernible) training. Another one deals with commercial
15 fishing vessel safety. Have you been involved with either of
16 those committees in any way?

17 A. I spent two terms on the navigation safety vessel advisory
18 commission -- committee. And that was in the 200s.

19 Q. Okay. That wasn't -- was that -- that wasn't related to the
20 training of personnel; that was the actual navigation of vessels?

21 A. No, it was related -- I guess it's the -- NAVSAC -- Vessel
22 Safety Advisory Committee -- it's kind of the overall picture was
23 mostly looking at larger picture things, rather than -- I think
24 it's MERPAC that does the training?

25 Q. That's correct.

1 A. So it was looking at -- I mean, some of the stuff we
2 discussed was the wind power plants outside of Boston and rules of
3 the road, things like that. I think it used to be -- before I
4 joined it I think it was also called the rules of the road
5 committee. So that was kind of the scope of things was more
6 general and more particular to navigation systems. One of the
7 things they had us talk about was Loran versus UPS, whether they
8 should keep Loran around. And it was discussion on that scope.

9 Q. So (indiscernible) tonnage (indiscernible) and you're also a
10 professional educator of (indiscernible) personnel of various
11 types. We lost the *Destination* and now we've suffered a loss with
12 the *Scandies Rose*. From either of those perspectives do you have
13 any recommendations to the Board to help improve the safety of
14 commercial fishing operations? And take a moment to think about
15 it. That's going to be my last question.

16 A. From my point of view I would think that a better knowledge,
17 whether it's training or somehow knowledge of weather, including
18 icing, and the stability would be very important. In both of
19 those cases I think -- I can't remember on the *Destination*, but I
20 think both weather and stability were issues. And as I read
21 through those things and some of the other reports, it's not that
22 the people weren't trying hard, it's perhaps that the information
23 that was available to them was not easily digested such as
24 weather.

25 Weather reports, I can read them. I've been doing it all my

1 life so I understand it, but somebody else might look at them and
2 not really understand what a weather map is telling them. And I
3 think there's might be a bit of a gap, with weather particularly,
4 on what they can get from the National Weather Service. So they
5 put out a lot of products and they cover all sorts of different
6 things. My experience is I use everything that's there, but
7 (indiscernible) Transpacific so (indiscernible) Asia it's a whole
8 kind of different world.

9 On the vessel in the Bering Sea, especially a smaller vessel,
10 they probably don't have access to a lot of the information I was
11 able to get in my career. And the information I was able to get,
12 I could understand because I'd been doing it for a long time and
13 looking at those things. But a weather map, for instance, if it's
14 wind speed an understanding of what the wind that's being
15 predicted actually is, might not be clear to somebody reading this
16 thing that hasn't really got the background in it.

17 Wave heights, for instance when they say the wave heights,
18 that's not the highest waves. I can't remember the number, but
19 it's something like two-thirds of the highest -- it's not the
20 highest waves that they give you. I look at it and I know okay,
21 it's going to be big waves. They look at it and they go maybe
22 it's not as big as I think, when it's being predicted.

23 I think a little bit more information or more -- I hesitate
24 to use the word training, but I think people should understand
25 more of what is available to them and understand what -- once

1 they get what's available to them, be able to understand what it's
2 telling them. I guess that's as good as I can do without
3 blabbering too much.

4 Q. Captain, thank you very much.

5 MR. FAWCETT: I'm done with my questions, but Captain
6 Callaghan will have some follow-ups for you. Thank you, sir.

7 THE WITNESS: Okay.

8 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

9 BY CAPT CALLAGHAN:

10 Q. Thank you, Mr. Crawford. Sir, you talked about your
11 experience and just want to -- do you have any of the operational
12 lessons learned that you've used from any icing experiences as a
13 credentialed mariner that you bring to the captains in your class?

14 A. On some of the -- (indiscernible) Seattle to Asia, go through
15 the Bering Sea and a number of occasions we were icing and these
16 are big ships. And I once calculated that I think we iced about
17 3 inches on the side of the ship, the ship 900-plus feet long.
18 And having probably nothing better to do I calculated the weight
19 and it was in the neighborhood of about 200 to 300 tons on one
20 side of the vessel. And okay, that's a lot of weight and it's all
21 up high, except we had a ballast system that we had 400 tons of
22 ballast that we could pump from side to side and we could take
23 care of the list in about 8 minutes.

24 So what I try to tell the students is a big ship, icing -- it
25 is a concern, but it's not a big concern. The smaller the vessel

1 gets the bigger the proportion that that weight of the ice is to
2 the weight of the vessel and, therefore, the greater danger. Big
3 ship usually icing is not a big issue. A smaller vessel it is.
4 And (indiscernible) I tell people that if they don't like ice,
5 fish in the tropics, but I use that example just to point out that
6 they -- on the smaller vessels they have to be more alert to the
7 dangers of icing.

8 Q. Thank you for that.

9 CAPT CALLAGHAN: Sir, at this time, I'm going to pass over to
10 our colleagues at the National Transportation Safety Board.

11 Mr. Barnum?

12 MR. BARNUM: Thank you, Captain Callaghan, and thank you,
13 Captain Crawford for your testimony today.

14 BY MR. BARNUM:

15 Q. Couple follow-ups from Mr. Fawcett for you, sir. What's the
16 name of the course that you offer, the one that you're discussing,
17 the one specific to crab boat stability? I'd just like to know
18 the name so I can refer to it.

19 A. Okay. We call it -- in-house we call it crab stability,
20 but --

21 Q. That's fine.

22 A. -- I think it's stability for crab fishermen.

23 Q. Okay. So stability for crab fishermen, when did you start
24 offering that class?

25 A. I think our first class was in December -- we started putting

1 it together, I guess, around October, September/October.

2 Q. And you've had two separate classes?

3 A. Yes, so far two separate classes.

4 Q. How are they attended?

5 A. We did them on Zoom and so we had, I think it was, two to
6 four people in each one. One thing we've seen, getting more than
7 about six people is unhandy so this class we would like to keep
8 very small.

9 Q. Okay. And you mentioned earlier you have to basically get
10 your courses -- Coast Guard courses approved by the NMC,
11 understanding this one -- this class is offered to
12 non-credentialed mariners, but is it -- did you still reach out to
13 the NMC and have them look at it? Is it something that they --

14 A. We would -- in the future, as time allows us to get to it.
15 We'd probably submit to the Coast Guard to be, not an approved
16 course, but an accepted course.

17 Q. Okay. I just want to talk about money a little bit of cost.
18 You know, you mentioned earlier that you'd, in the early 2000s,
19 offered a course that was well attended by commercial fishermen
20 and it was paid for by the company.

21 A. Yes.

22 Q. My understanding is a lot of these commercial fishermen are
23 independent contractors; they're self-employed; therefore, they
24 would have to be paying out of their own pocket for some of these
25 courses. You know, how much, how much money are we looking at for

1 an expense for these fishermen to take, you know, the crab
2 stability class and then maybe your six-week fishing license
3 course?

4 A. Okay. Something like essentially a one-day class, an eight-
5 hour class, like the stability that's in the neighborhood of about
6 \$250. The longer course -- I'm trying to think here -- I think
7 that's 1200.

8 Q. Okay. So a considerable investment?

9 A. Yeah.

10 Q. We heard earlier that the Coast Guard offers grants, gives
11 money to different schools to establish programs and whatnot. And
12 you know, without going into all your finances, sir, I'm just
13 curious is that something that you guys look at it in soliciting
14 these grants from the Coast Guard?

15 A. We've never had a grant.

16 Q. You haven't had one? Okay, thank you. And I guess my last
17 question -- maybe a couple questions -- how -- speaking of the
18 crab boat stability class, was it well-received by the -- the two
19 times you've put it on by the participants, the students?

20 A. Yes, I got good reviews on it.

21 Q. And how do you judge those, sir, those reviews? Just
22 verbally or they fill out some sort of assessment?

23 A. In this case, I talked to the people in detail over the
24 telephone. And these two classes, they were kind of guinea pig
25 classes trying to make sure the thing worked.

1 Q. So you know, in your opinion, how good were the students? I
2 mean, coming in were you surprised with their knowledge or were
3 you -- did you expect or think they'd know more or how did you
4 judge it, you know, coming in and then concluding?

5 A. Most of them I knew beforehand, and I knew that they had a
6 lot of knowledge. There were one or two who I didn't know and
7 they didn't have a lot of, I'll just put it, textbook knowledge,
8 but they had a lot of understanding of things and they caught on
9 pretty good so that I wasn't surprised by how much people knew,
10 nor was I surprised by how little they knew. People knew
11 sufficient to actually get benefit from the class.

12 Q. Okay. I think I got you there.

13 MR. BARNUM: Okay. Thank you, very much, Captain Crawford.
14 That's all my questions.

15 THE WITNESS: Thank you.

16 CAPT CALLAGHAN: Thank you, Mr. Barnum.

17 Mr. Crawford, I'm now going to go to our parties in interest.
18 I'll start with counsel for the two survivors, Mr. Stacey.

19 MR. STACEY: Thank you, Captain Callaghan, and good
20 afternoon, Mr. Crawford. Thank you for your testimony. We have
21 no questions for you, sir.

22 THE WITNESS: Okay.

23 CAPT CALLAGHAN: Thank you, Mr. Stacey.

24 I'll now go to counsel representing the vessel owners,
25 Mr. Barcott.

1 MR. BARCOTT: Thank you.

2 BY MR. BARCOTT:

3 Q. Captain Crawford, I represent *Scandies Rose* and, of course,
4 her owners including John Walsh. So first of all thank you for
5 getting proactive with John and getting to put this class. We
6 appreciate that.

7 I have a question. You are certainly aware that the Coast
8 Guard, or the regulations regarding icing, assume six-tenths of an
9 inch on the outside of crab pots of ice and 1.3 inches on the
10 horizontal surfaces for icing. Did you get from the students you
11 had in your class, whether they came into your class with the
12 knowledge of that limitation in their stability report?

13 A. What I got from the students was that they theoretically
14 understood that those numbers because (indiscernible) in their
15 reports, was used to make the calculations. I'm not quite sure
16 that before the class that they understood what it actually meant.

17 Q. Okay. And we've looked at stability studies including the
18 one for the *Scandies Rose* and, unless I'm mistaken, those numbers
19 don't actually appear in the report. Have you looked at enough
20 stability reports to know whether those numbers typically are
21 easily extractable from the report or are they buried in those
22 charts and tables somewhere?

23 A. Unfortunately, I think they're buried in either the charts
24 and tables or in blurbs of explanations on how they do the
25 calculations or a reference to 28 C.F.R..

1 Q. Going out of your class, did your students understand those
2 limitations on their stability letter?

3 A. Yes.

4 Q. Okay. Thank you. Those are all the questions I have. We
5 appreciate your testimony here.

6 MR. BARCOTT: Thank you, Captain.

7 CAPT CALLAGHAN: Thank you, Mr. Barcott.

8 Captain Crawford, just have a quick follow-up questions from
9 Commander Denny.

10 BY CDR DENNY:

11 Q. Good afternoon, Mr. Crawford, Karen Denny. Thanks for
12 being here this afternoon. I had a couple of follow-up questions.
13 Sir, in your extensive and professional history, do you have
14 experience sailing in the Bering Sea?

15 A. Yes.

16 Q. Okay. Could you elaborate a little?

17 A. A number of the runs I was on we would (indiscernible) Dutch
18 Harbor and almost every one -- every run I was on that was
19 (indiscernible) from the West Coast to Asia, the short route is
20 through the Bering Sea. So yeah, we'd go through there
21 frequently.

22 Q. Okay, got you. Thanks for that clarification. So I may have
23 misheard you, but earlier in your testimony you said that at first
24 for your stability you had -- you were having the vessel masters
25 bring their vessel's stability letters, but that became

1 logistically difficult because they were separated from their boat
2 and so you used kind of a template one, a redacted one. Is that
3 correct?

4 A. Correct.

5 Q. But you also made a statement that you said that the
6 stability letters are all about the same, same format? Is that
7 correct?

8 A. Yes. What I kind of noticed is that what the regulations say
9 they have to have, they're in there so in that regard they're
10 fairly similar. And they usually have the same approach to how
11 the information was given. One or two of the letters went -- gave
12 greater detail, but none of the letters I saw gave less detail
13 than what would be necessary based on 46 C.F.R. Part 28.

14 Q. So I recognize that you've only done two of these, kind of,
15 test courses.

16 A. Yes.

17 Q. Did you notice any stability letters that had the same number
18 of pots for icing and non-icing conditions?

19 A. Yeah, I'd have to look at one of the letters, but yes, I
20 believe that -- how did that go? They gave different pot numbers
21 for different configurations of fuel and ballast and, if I
22 remember and I'm just trying to remember here, that they would
23 give a maximum -- essentially a maximum deck load and the captain
24 would have to determine, okay, if I carry 150 pots and I'm going
25 to ice up, I'm going to exceed that maximum deck load. So he

1 would have to, in his judgment, not take as many pots. And the
2 students I had told me that's what they do.

3 Q. Okay. And then knowing that this is, kind of, in its
4 inception and that you're running these pilots courses, if you
5 will, where you're really honing in on stability, have you
6 considered or have you already partnered with any local PEs or PE
7 firms to give more technical insight to your students on how to
8 understand the stability process from the incline tests to what
9 the stability letters say?

10 A. No. Deliberately, no.

11 Q. Could you elaborate on that?

12 A. We brought in very knowledgeable, talented people to teach a
13 class and unfortunately what happens is they really know their
14 business, but they can't teach. And so, deliberately no is saying
15 we get information from everybody we can but not necessarily get
16 the guy standing in front of the class.

17 Q. Okay, that's fair. So you guys considered it at least. Have
18 you then partnered or reached out to PEs to get redacted stability
19 letters to show comparisons of what stability letters could look
20 like? Like, redacted ones?

21 A. No, we have not. That is -- was an idea and it's probably
22 going to be done in the future, but at the moment we have not.

23 Q. Thanks, Mr. Crawford.

24 CDR DENNY: Captain Callaghan, that's all the questions I
25 have.

1 CAPT CALLAGHAN: Thank you, Commander Denny.

2 Mr. Crawford, thank you very much for your time today. I
3 know, you know, you were able to graciously carve out some time at
4 the end of your day for us and we really appreciate what you can
5 bring to this hearing to better understand some of the options out
6 there for folks operating in this area and some of the new
7 opportunities that you're offering with regards to your stability
8 classes. So really want to thank you for that.

9 At this time you're now released as a witness at this formal
10 hearing. Thank you for your testimony and cooperation. If, at a
11 later date, we determine that this Board needs additional
12 information from you we'll contact you directly. If you have any
13 questions about the investigation, you may contact the
14 investigation recorder, Lieutenant Ian McPhillips.

15 Sir, thank you very much for your time today.

16 THE WITNESS: Okay. You're welcome.

17 (Witness excused.)

18 CAPT CALLAGHAN: At this time I want to thank all of our
19 witnesses for their testimony -- their time and their testimony
20 today. Particularly for their patience as we experienced a number
21 of technical difficulties today. As mentioned earlier, the
22 testimony for Captain Martin from the National Maritime Center was
23 recorded, despite some of our technical difficulties, and has now
24 been posted to livestream.

25 Again, for the record, all exhibits presented today will also

1 be posted to the MBI media website. Also, given the particular
2 discussions surrounding stability today, I did want to point out
3 again that we have posted a video on livestream, just a general
4 training video that goes over the basics of stability for anyone
5 who chooses to review that.

6 And at this time it is now 1644 on March 3rd. This hearing
7 will now adjourn for today and resume at 0800 tomorrow, March 4th.

8 (Whereupon, at 4:44 p.m., the hearing was recessed.)
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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: March 3, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Shelby Marshall
Transcriber



Christy Behlke
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Thursday,
March 4, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: It is 8:00 a.m. on March 4th, 2021, and this
4 hearing is now in session. Good morning, ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard Chief of
6 Prevention for the 11th Coast Guard District. I'm the Chairman of
7 the Coast Guard Marine Board of Investigation, and the presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to view this hearing in
12 person. The Board will receive witness testimony through a hybrid
13 of in-person, virtual, and telephonic means. Members of the Board
14 have been spaced out far enough at the main table to remove their
15 masks while seated, to maximize clarity and minimize disruption.
16 Members are to place masks back on at any time when leaving the
17 table, and whenever approached by another person. I ask that
18 anyone who is unable to maintain social distancing please keep
19 their mask on unless actively speaking into the microphone.

20 Due to the extensive technology used to support this hearing
21 and the potential for unanticipated delays or challenges, I ask
22 that you please be patient with us in the event of any
23 disruptions.

24 The Commandant of the Coast Guard has convened this Board
25 under the authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose* with the
3 loss of five lives on December 31st, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I would like to take this opportunity to express my
6 condolences to the family and friends of the five crew members who
7 were lost at sea. I note again that many of you are watching this
8 hearing on livestream due to the COVID restrictions in place. We
9 appreciate you being with us.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions, and recommendations to
12 the Commandant of the Coast Guard. Other than myself, members of
13 this Board include Commander Karen Denny and Lieutenant Commander
14 Michael Comerford. The legal counsel to this Board is Lieutenant
15 Sharyl Pels. The recorder is Lieutenant Ian McPhillips. The
16 Coast Guard technical advisors to this Board are Mr. Scott Giard
17 and Mr. Keith Fawcett. This Board's media liaison is Lieutenant
18 Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB *Scandies Rose* investigation, is here with us,
22 along with Mr. Paul Suffern.

23 Witnesses are appearing before the Board to provide valuable
24 information that will assist this investigation. We request that
25 all members of the public be courteous to the witnesses and

1 respect their right to privacy.

2 Members of the press are welcome to attend virtually, and
3 provisions have been made during the proceedings to allow the
4 media to do so. The news media may question witnesses concerning
5 the testimony they have given after I have released them from
6 these proceedings. I ask that any such interviews be conducted
7 with full consideration of the COVID mitigation procedures that
8 this Marine Board has established.

9 The investigation will determine as closely as possible the
10 factors that contributed to the incident so that the proper
11 recommendations for the prevention of similar casualties may be
12 made; whether there is evidence that any active misconduct,
13 inattention to duty, negligence, or willful violation of the law
14 on the part of any licensed or credentialed person contributed to
15 this casualty; and whether there is evidence that any Coast Guard
16 personnel or any representative or employee of any other
17 government agency or any other person caused or contributed to the
18 casualty.

19 The Marine Board planned this two-week hearing to examine
20 events relating to the loss of the *Scandies Rose* and five crew
21 members. The hearing will explore crewmember duties and
22 qualifications, shore side support operations, vessel stability,
23 weather factors, effects of icing, safety equipment, operations of
24 the vessel from the past up to and including the accident voyage,
25 and survey imagery of the vessel in its final resting place. The

1 hearing will also include a review of industry and regulatory
2 safety programs, as well as the U.S. Coast Guard Search and Rescue
3 activities related to the response phase of the accident, after
4 notification that the *Scandies Rose* was in distress.

5 The Coast Guard has designated parties in interest to this
6 investigation. In Coast Guard marine casualty investigations, a
7 party in interest is an individual, organization, or other entity
8 that under the existing evidence or because of his or her position
9 may have been responsible for or contributed to the casualty. A
10 party in interest may also be an individual, organization, or
11 other entity having a direct interest in the investigation in
12 demonstrating the potential for contributing significantly to the
13 completeness of the investigation or otherwise enhancing the
14 safety of life and property at sea through participation as party
15 in interest.

16 All parties in interest have a statutory right to employ
17 counsel to represent them, to cross-examine witnesses, and have
18 witnesses called on their behalf. Witnesses who are not
19 designated as parties in interest may be assisted by counsel for
20 the purpose of advising them concerning their rights. However,
21 such counsel are not permitted to examine or cross-examine other
22 witnesses or otherwise participate in the investigation.

23 I will now read the list of those organizations and
24 individuals whom I've previously designated as parties in
25 interest: Scandies Rose Fishing Company, LLC, represented by

1 counsel here with us today; crewpersons Mr. Dean Gribble and
2 Mr. John Lawler, represented by counsel appearing virtually today;
3 and Mr. Bruce Culver, not present at this time.

4 The Marine Board will place all witnesses under oath. When
5 testifying under oath, a witness is subject to the federal laws
6 and penalties for perjury for making false statements under Title
7 18 U.S.C. Section 1001. Penalties could include a fine of up to
8 \$250,000 or imprisonment up to five years or both.

9 The sources of information to which this investigation will
10 inquire are many and varied. Since the date of the casualty, the
11 NTSB and Coast Guard have conducted substantial evidence
12 collection activities. Some of that previously collected evidence
13 will be considered during these hearings. Should any person have
14 or believe he or she has information not brought forth but which
15 might be of direct significance, that person is urged to bring
16 that information to my attention by emailing
17 uscg.scandiesrosembi@gmail.com. This email address will be
18 continuously monitored throughout these proceedings.

19 Mr. Bart Barnum will now say a few words on behalf of the
20 NTSB.

21 MR. BARNUM: Thank you, Captain Callaghan.

22 Good morning. I'm Bart Barnum, Investigator in Charge of the
23 National Transportation Safety Board's investigation of this
24 accident. The Safety Board is an independent federal agency which
25 under the Independent Safety Board Act of 1974 is required to

1 determine the cause or probable cause of this accident, to issue a
2 report of the facts, conditions, and circumstances relating to it,
3 and make recommendations or measures to prevent similar accidents.

4 The NTSB has joined this hearing to avoid duplicating the
5 development of facts. Nevertheless, I do wish to point out that
6 this does not preclude the NTSB from developing additional
7 information separately from this proceeding, if that becomes
8 necessary.

9 At the conclusion of this hearing, the NTSB will analyze the
10 facts of this accident and determine the probable cause,
11 independent of the U.S. Coast Guard. At a future date, a separate
12 report of the NTSB's findings will be issued, which will include
13 our official determination of the probable cause of this accident.
14 If appropriate, the Safety Board will issue recommendations to
15 correct safety problems discovered during this investigation.
16 These recommendations may be made in advance of that report.

17 In addition, on behalf of the NTSB, I would like to offer my
18 deepest condolences to the families and those affected by this
19 tragic accident. Thank you.

20 CAPT CALLAGHAN: Thank you, Mr. Barnum.

21 Yesterday, we heard from a survival equipment expert,
22 representatives from the Coast Guard National Maritime Center and
23 Office of Engineering Standards, as well as a representative from
24 Crawford Nautical School.

25 Today, we will hear from representatives from the National

1 Institute for Occupational Safety and Health, the NPFVOA and
2 AMSEA, as well as Mr. Bruce Culver and Mr. Dan Mattsen.

3 At this time, this hearing will go into a brief recess and
4 resume at 0815.

5 (Off the record at 8:09 a.m.)

6 (On the record at 8:15 a.m.)

7 CAPT CALLAGHAN: The time is no 0815. This hearing is now
8 back in session. We will now hear from Ms. Samantha Case and
9 Dr. Jennifer Lincoln from the National Institute for Occupational
10 Safety and Health.

11 Ms. Case, Dr. Lincoln, Lieutenant McPhillips will now
12 administer the oath and ask you some preliminary questions.

13 LT McPHILLIPS: Good morning. Please stand and raise your
14 right hand.

15 (Whereupon,

16 JENNIFER LINCOLN and SAMANTHA CASE
17 were called as witnesses and, after being first duly sworn, were
18 examined and testified as follows:)

19 LT McPHILLIPS: Please be seated. I need to ask each of you
20 some questions, starting with Dr. Lincoln. Please state your full
21 name and spell the last name.

22 DR. LINCOLN: Sure. My name is Jennifer Marie Lincoln. Last
23 name is spelled L-i-n-c-o-l-n.

24 LT McPHILLIPS: Please identify counsel or representative, if
25 present.

1 DR. LINCOLN: Ms. Jenny Naylor is on the webinar.

2 LT McPHILLIPS: Counsel, please state and spell your last
3 name, as well as your firm or company relationship.

4 MS. NAYLOR: My name is Jenny Naylor. Last name is spelled
5 N-a-y-l-o-r. I'm a senior attorney with the U.S. Department of
6 Health and Human Services, assigned to provide legal counsels and
7 advice to the National Institutes for Occupational Safety and
8 Health. While I'm not appearing as the individual legal
9 representative of Ms. Samantha Case and Dr. Lincoln, I'm here as
10 the legal counsel for their agency, NIOSH, and in support of
11 Ms. Case and Dr. Lincoln's presence officially in this hearing.

12 LT McPHILLIPS: Thank you very much.

13 Dr. Lincoln, please tell us, what is your current employment
14 and position?

15 DR. LINCOLN: Currently I work for the National Institute for
16 Occupational Safety and Health, and I serve as the Associate
17 Director for the Office of Agriculture, Forestry and Fishing
18 Safety and Health at NIOSH.

19 LT McPHILLIPS: What are your general responsibilities in
20 that job?

21 DR. LINCOLN: My general responsibilities is to oversee the
22 research portfolio that NIOSH holds, related to research and
23 outreach and to include workplace safety and health in
24 agriculture, forestry and fishing industries.

25 LT McPHILLIPS: Can you briefly tell us your relevant work

1 history?

2 DR. LINCOLN: Sure. I've worked at NIOSH as an occupational
3 safety and health specialist and injury epidemiologist since 1992.
4 I earned my certified safety professional certification in 1997,
5 and my PhD through Johns Hopkins University in health policy, with
6 a focus on injury control in 2006.

7 I've established the NIOSH Research Program on Commercial
8 Fishing Safety. I'm recognized internationally and nationally as
9 a fishing safety expert, and have provided technical assistance to
10 the U.S. Coast Guard, to the Commercial Fishing Industry Safety
11 Advisory Committee, to the National Transportation Safety Board,
12 and I've testified to Congress.

13 Internationally, I've provided expert consultations to the
14 food and agriculture organizations on fishing nets and safety, as
15 well as how fisheries management policies have affected fishing
16 safety.

17 LT McPHILLIPS: Do you hold any professional licenses or
18 certificates related to your position?

19 DR. LINCOLN: Yes. I have a certified safety professional
20 certification.

21 LT McPHILLIPS: Thank you, Dr. Lincoln.

22 Ms. Case, please state your full name, and spell your last
23 name.

24 MS. CASE: Samantha Laura Case, last name C-a-s-e.

25 LT McPHILLIPS: Please tell us, what is your current

1 employment and position?

2 MS. CASE: I am an epidemiologist with the National Institute
3 for Occupational Safety and Health.

4 LT McPHILLIPS: What are your general responsibilities in
5 that job?

6 MS. CASE: General responsibilities are to support the NIOSH
7 mission and our Center for Maritime Safety and Health Studies. So
8 I, as an epidemiologist, explore patterns and injuries,
9 fatalities, and lesser casualties in the marine industries.

10 LT McPHILLIPS: Can you briefly tell us your relevant work
11 history?

12 MS. CASE: Sure. So I started with NIOSH in late 2014, and
13 since then have worked primarily in commercial fishing safety and
14 health research. I also expand into other maritime industries
15 such as marine transportation. I have my master's in public
16 health degree that I obtained in 2015, and I'm currently a PhD
17 student in the field of safety sciences.

18 I have presented to the Coast Guard on numerous occasions,
19 including formal hearings such as this, and have presented on
20 fishing safety research nationally and internationally.

21 LT McPHILLIPS: Do you have any professional license or
22 certificates related to your position?

23 MS. CASE: I do not.

24 LT McPHILLIPS: Thank you. Captain Callaghan will now have
25 follow-up questions for both of you.

1 CAPT CALLAGHAN: Good morning again, and thank you ladies for
2 joining us this morning. Now I'll turn it over to Mr. Keith
3 Fawcett.

4 Mr. Fawcett?

5 MR. FAWCETT: Thank you, Captain.

6 EXAMINATION OF JENNIFER LINCOLN AND SAMANTHA CASE

7 MR. FAWCETT: Ms. Case and Dr. Lincoln, thank you again for
8 appearing earlier, appearing at the *Destination* hearing, and *Mary*
9 *B II*. And, Ms. Case, I know you've presented to the investigative
10 officers community within the Coast Guard, and we thank you for
11 that.

12 If you would, try to avoid the use of acronyms except for
13 NIOSH or CDC, which are commonly used, throughout your
14 presentation. And, you know, if you'd like to take a break at any
15 time and we don't call a recess, please, if you want one, make
16 sure to ask for one.

17 So we will pull up some exhibits, including a presentation.
18 And if you need us to scroll, zoom, move around, if you tell us,
19 and give us a moment, the Recorder, Lieutenant McPhillips will
20 take us to that position in your presentation or any of the
21 exhibits. We don't have many exhibits, but take time to look at
22 them and familiarize yourself as I perhaps ask you questions about
23 them.

24 So we have asked you to present a presentation, and I know it
25 took considerable time and effort to put that presentation

1 together.

2 And if -- Lieutenant McPhillips, if you'll pull up Coast
3 Guard Exhibit 130, you'll see it's the presentation crafted by you
4 for the, uniquely for this hearing in March. And if you will,
5 present this at your own pace, and ask the Lieutenant please to
6 advance to the next slide. So, with that, if you would please
7 make your presentation.

8 DR. LINCOLN: Okay, thank you. Can everyone hear me okay?

9 MR. FAWCETT: Yes, we can. Go ahead, ma'am.

10 DR. LINCOLN: Okay. So, before we start on the slides,
11 Samantha and I would like to give our deepest condolences to the
12 surviving crew members and the families and friends of the entire
13 crew of the *Scandies Rose*.

14 Tragedies like yours are represented in the statistics that
15 we will be presenting today, and it's not lost on us that each
16 number that we present represents someone who didn't return to his
17 or her family. We take our data collection and analysis
18 activities very seriously, and we note that even one fatality is
19 seen as too many.

20 Samantha and I will not be discussing the incident of the
21 *Scandies Rose* specifically. As epidemiologists, as Samantha
22 already mentioned, we study patterns in populations. And today
23 we'll be discussing the patterns of fatalities, vessel sinkings,
24 and survival factors associated with fishing vessel sinkings that
25 have occurred in Alaska.

1 Our work should be used to inform this Marine Board of
2 Investigation in making their recommendations to reduce risk in
3 the commercial fishing industry in Alaska and elsewhere in the
4 country.

5 So let's go ahead and get started. You can advance to the
6 next slide.

7 Usually when I present to most anybody, I have to start out
8 by explaining what NIOSH is and who we are and who we aren't.
9 NIOSH is part the Department of Health and Human Services. We are
10 part of the Centers for Disease Control and Prevention, or the
11 CDC, and we are a research organization that makes prevention
12 recommendations.

13 NIOSH is not OSHA. I put OSHA on the slide to show that they
14 fall under the Department of Labor, and they are regulators and
15 enforcement -- and have enforcement officers. And then of course,
16 the U.S. Coast Guard, I put on the slide as well, since they do --
17 since you do have jurisdiction over the safety of the fishing
18 fleet, and are located under the Department of Homeland Security.

19 Next slide, please.

20 The work that Samantha and I will discuss comes out of our
21 Commercial Fishing Safety and Research and Design Program. This
22 design program, or this research program was established in about
23 2007, and is part of the Center for Maritime Safety and Health
24 Studies. Our work is scientific research on safety problems and
25 solutions in the fishing and other maritime industries. We

1 provide high quality and relevant information, and our research
2 findings have been used by the fishing industry, by other
3 government agencies, marine safety trainers and marine safety
4 advocates.

5 Next slide, please.

6 Our work can be found on the NIOSH website. The work is
7 broken down into different types of hazards that we have
8 investigated, as well as different regions of the country. We
9 know that regions vary, or regions and risks vary, depending on
10 the type of fishing gear that's used, the vessels that are being
11 fished from, as well as the location and weather, local weather
12 conditions where things occur. So, our data and our information
13 is divided up for easy access by region of the country.

14 Next slide, please.

15 NIOSH values, highly values our partnership with the U.S.
16 Coast Guard. We have a memorandum of agreement with the Coast
17 Guard that was latest, that was most recently renewed in 2019.
18 This grants one NIOSH scientist, in this case, Samantha, with U.S.
19 Coast Guard credentials as a federal affiliate. This allows us
20 access to the MISLE system to manually review cases that the Coast
21 Guard investigates.

22 We conduct statistical analyses of this data, and we share it
23 with the Coast Guard through this memorandum of agreement. And we
24 also use our statistical analyses to identify causes of hazards
25 leading to deaths and injuries in the fishing fleet.

1 Next slide, please.

2 Samantha and I are going to be talking a lot about data
3 that -- in the next 45 minutes or so. And I wanted to explain,
4 the data are found in NIOSH Commercial Fishing Incident Database.
5 And the way that these data are collected and entered into the
6 data is illustrated here in this flow diagram.

7 First a marine casualty occurs, and the casualty is hopefully
8 reported to the U.S. Coast Guard. The Coast Guard investigates
9 that casualty, and then NIOSH reviews that report, and we record
10 the information and code it to enter it in to the Commercial
11 Fishing Incident Database.

12 Next slide, please.

13 So the overview of our talk today will start with a summary
14 of the Alaska fishing industry fatalities that have occurred,
15 really since 1990. Then we're going -- and Samantha will be
16 presenting that. Then I will go in-depth into the safety focus of
17 the Bering Sea/Aleutian Island Crab Fishery. This is at the
18 request of the Marine Board of Investigation, and our initial
19 talks, I think, back in December or January when we first
20 discussed doing this presentation to the Board.

21 Then Samantha will talk about two key research studies that
22 she's completed with others on our team recently, talking about
23 vessel disasters and survival factors. And then finally, we've
24 put all of our recommendations into one summary at the end, that
25 I'll be presenting. So, I'll go ahead and turn it over to

1 Samantha.

2 Next slide, please.

3 MS. CASE: Thanks, Jennifer. Good morning, everybody. So,
4 this first section, we'll be talking about fatalities in Alaska's
5 fishing industry really to provide some history and context around
6 these incidents.

7 Next slide, please.

8 This chart shows the number of fatalities that have occurred
9 in Alaskan waters each year in Alaska from 1990 through 2019, so a
10 30-year period. As Jennifer mentioned at the outset of this
11 presentation, even one fatality is too many, and these tragedies
12 continue to occur. However, I do want to acknowledge the
13 remarkable progress that has been made in the fishing industry
14 since the 90s. We overall have seen a 69 percent decline in
15 fatalities over this 30-year period, and it's just, its pretty
16 remarkable.

17 Next slide.

18 So I want to explore some of the factors that have
19 contributed to such a decline, and I'll kind of walk through these
20 briefly, top to bottom, left to right. So first there are the
21 Commercial Fishing Vessel Safety Act of 1988. The regulations
22 that arose from that legislation were implemented in the early
23 90s, which certainly had a major effect on preventing fatalities
24 among this workforce.

25 We've also seen pretty substantial changes in fisheries

1 management regimes. So as Jennifer will mention and discuss a
2 little bit later on, the way fisheries are managed can directly
3 and indirectly affect safety for fishermen. The examples
4 highlighted here with the arrows are referring to halibut, go into
5 IFQs, the American Fisheries Act for pollack, the pollack fishery,
6 and Bering Sea Crab Rationalization, that Jennifer will discuss.

7 The next two are some specific examples of Coast Guard safety
8 initiatives. They're really excellent examples of the Coast Guard
9 working directly with industry to develop targeted safety programs
10 for specific fisheries and their specific safety problems. So
11 that includes things like the stability checks for the crab fleet,
12 and the ACSA program for the head-and-gut fleet.

13 And just overall, as we see on the bottom, we've seen an
14 overall expansion of marine safety training, getting fishermen
15 trained, seafood companies and even down to individual vessels,
16 where they (indiscernible) safety programs and policies, and an
17 overall improved safety culture in the fleet.

18 Next slide

19 So, the syllabus that in the next few, it's going to narrow
20 down. So we're both going to focus on the 20-year period of 2000
21 to 2019. So, we're removing the 1990s data. During this 20-year
22 period, we lost 237 fishermen in Alaska. This figure here breaks
23 it down by the incident type that resulted in those fatalities.
24 So, we can see the leading contributor to fatalities are vessel
25 disasters.

1 You'll hear this term throughout the presentation. That's
2 our NIOSH definition of a catastrophic vessel event that results
3 in the crew needing to abandon the vessel. These are things like
4 sinkings, capsizings, some groundings, some fires, anything
5 requiring the crew to abandon. And that, we see that's
6 contributed to 44 percent of these fatalities.

7 Next, in blue we have fatal falls overboard at 29 percent,
8 onboard fatalities at 16 percent in yellow. These are referring
9 to both operational fatalities, such as contact with gear or
10 machinery, as well as nonoperational fatalities that happen
11 onboard the vessel, such as suicides and drug overdoses. Less
12 frequent, we have onshore fatalities at 7 percent, is typically
13 falls from docks, and 4 percent diving fatalities, primarily among
14 dive harvesters and cucumber and urchin fisheries.

15 Next slide.

16 So, as you may recall from a few slides ago when we were
17 showing the number of fatalities that occurred each year, there's
18 quite a bit of variability. We expect a lot of fluctuations in
19 the raw numbers each year. So this kind of smooths it out a
20 little, so we can do some easier comparisons. So you'll see that
21 we've broken the 20-year period down into four 5-year periods.
22 And just briefly, we want to talk about how these incident types
23 have changed over time.

24 So you can see, falls in 2000 and 2004, as well as 2005 to
25 2009, vessel disasters were the leading cause of fatalities in

1 upwards of 50 percent. But then in 2010 to 2014, and even 2015 to
2 2019, we do see that decrease a little, going down closer to
3 about, representing 30 percent of fatalities within those
4 respective time periods. And in fact, in 2010 to 2014, primarily
5 what we were seeing was skiff capsizings, not vessel disasters
6 involving decked catcher vessels.

7 Falls overboard, in blue, have been a persistent problem
8 throughout, and of note, you'll see that the yellow, the fatal
9 onboard injuries have increased in recent years. This has been
10 primarily driven by the nonoperational fatalities, the suicides
11 and drug overdoses.

12 Next slide.

13 This is breaking down the fatalities by Alaskan fisheries, so
14 we look at species and gear type in Alaska. These nine fisheries
15 are representing 74 percent of all fatalities. So, just walking
16 through this very briefly, the salmon set gill net fishery has the
17 highest number of fatalities during this period. And as you can
18 see by the blue bar, they're primarily driven by falls overboard.

19 And then next we have pot cod, again with the red being
20 vessel disasters. So trawl, again, vessel disasters. These were
21 primarily catcher processor vessels, so incidents with, for
22 example the *Arctic Rose* and *Alaska Ranger*. Salmon set gill net,
23 primarily affected by skiff capsizings, halibut longline, cod
24 longline, salmon tenders, a mix of events resulting in fatalities.
25 Bering Sea crab, you know, primarily vessel disasters involving

1 the *Big Valley* and *Destination*, and then dive fatalities with the
2 dive harvesters.

3 Next slide.

4 So, in our Commercial Fishing Incident Database, we can
5 really dig into vessel disaster events. So, by using a Coast
6 Guard investigative report, we can try to take these very complex
7 events and try to categorize them into a sequence of events, and
8 try to narrow down what factors may have contributed to the
9 events.

10 So, in our Commercial Fishing Incident Database, we try to
11 list the initiating events, any subsequent events and the final
12 events. So an example is shown on the right. So an initiating
13 event could be a loss of steering. Then the vessel could run
14 aground, have some flooding, but ultimately, if the vessel is
15 grounded, you know, that's the final event.

16 We try to track contributing factors, for example, human
17 factors. So we're looking at, was weather a contributing factor
18 to the incident? Was fatigue a contributing factor? We try
19 capture those where possible when they've been identified in the
20 Coast Guard report.

21 Then, specifically for flooding and instability, we try to
22 capture a little more detail. If a flooding occurs, we look at
23 type of flooding. Was it downflooding, or flooding below the
24 water line? Cause of flooding, was there an open hatch? Location
25 of flooding, did it happen in the engine room, if that's known?

1 And then for instability, what was the cause of the instability,
2 which can include things like overloading, icing, structural
3 modifications, things like that.

4 Next slide.

5 So very briefly, just to show what we've seen with initiating
6 events of fatal vessel disasters. So these, this is at an event
7 level, not a fatality level. So you saw, there were over a
8 hundred fatalities due to vessel disasters. Those occurred during
9 these 47 events.

10 So, next slide highlights how instability is the leading
11 initiating event in these fatal vessel disasters, with 13 events.
12 So again, we're working with fairly small numbers, but we can see
13 that there, 10 of these 13 events were associated with overloading
14 of the vessel, the vessel operating in that overloaded condition.

15 Next slide.

16 And then we have flooding here for five fatal events, just as
17 the initiating event. And what I saw when I looked at these five
18 events was that it was common for details about the flooding to be
19 unknown.

20 Next slide.

21 And with that, I will hand it back to Jennifer.

22 DR. LINCOLN: Okay, thank you, Samantha.

23 So, let's go ahead and advance three slides forward. That's
24 hard to say.

25 So I want to show a photo montage of vessels lost, and this

1 newspaper article is from the 1990s. I'm going to take you back
2 just a little bit to the early 1990s, and sort of set the stage
3 for what the Bering Sea Crab Aleutian Island fleet was, the
4 casualties that they were experiencing.

5 So in 1990 we lost vessels like the *Pacific Apollo* and three
6 lives. In 1991, we lost the *Barbarosa* and six lives. In 1991 we
7 also lost the *Harvey G* with four additional lives.

8 Go ahead and go to the next slide.

9 This type of headline, the Coast Guard was investigating a
10 vessel vanishing, and was unfortunately -- it was unfortunately
11 very common. In the early 1990s, we also lost the *St. George* with
12 four lives, the *Massacre Bay* with three, the fishing vessel *Nettie*
13 *H* with another five.

14 Let's go to the next slide.

15 On October -- I'm sorry, on January 15th, 1995, the *Northwest*
16 *Mariner* sank. This was a highline vessel that was, that sank with
17 six people onboard. While two crew members were recovered in a
18 life raft, both of them were deceased. After this tragedy, the
19 Coast Guard began to assign two 378s to the Bering Sea during the
20 fall and winter crab season

21 Let's go to the next slide.

22 The day before the start of the opilio season in 1996, the
23 *Pacesetter* sank. It was another Seattle-based crab boat. It
24 capsized with seven hands lost. With the new crab fleet, this was
25 the single worst fatality since the sinking of the A-boats, the

1 *Americus* and the *Altair* in 1983.

2 The Coast Guard continued to add resources to the Bering Sea,
3 and by the beginning -- by beginning to pre-stage helos in Cold
4 Bay and St. Paul prior to the start of the fall and winter crab
5 fishing seasons. By January of 1999, the Coast Guard had never
6 had so many resources in the Bering Sea for a single fishery.
7 They had two 378s and H-60s in St. Paul.

8 Let's go to the next slide.

9 In March, on March 18th of 1999, the *Lin J* quickly rolled
10 over, fully loaded, in icing conditions. The Coast Guard Cutter
11 *Hamilton* arrived on scene 50 minutes after the mayday and found no
12 survivors.

13 Let's go to the next slide.

14 Going through that photo montage and newspaper clippings, I
15 hope kind of set the, I don't know, the impact of what was going
16 on in the Bering Sea/Aleutian Island crab fishery, and the
17 fatalities that were being experienced in the 1990s. This
18 graphically shows what I just went through, the red portions of
19 the bars showing the lives lost due to vessel losses.

20 There were other lives lost as well, due to falls overboard,
21 represented in the gray parts of the bars. And then, yellow parts
22 of the bars here represent crewmen that were lost when they were
23 crushed by crab pots or when they fell into a fish hold. But we
24 were losing an average of eight lives each year.

25 The patterns that were emerging were that these vessels

1 were -- these capsizings were occurring usually the first day of
2 the opilio fishery, when the vessels were maximized, they were
3 fully loaded. And the investigations that the Coast Guard went
4 through found that several of the boats were overloaded.

5 So, the Coast Guard in D17 realized, identified that what was
6 needed was to stop overloading of these vessels in the first
7 place. And the Coast Guard program then was developed
8 collaboratively with industry and safety organizations and
9 fisheries managers and naval architects, was the stability and
10 safety checks that we've heard about before. And they were going
11 to conduct these stability and safety checks by accompanying the
12 Alaska Department of Fish and Game on tank checks.

13 So let's go to the next slide.

14 The way that this was put together, and the way it was
15 designed, was that the Coast Guard would travel to main crab ports
16 with -- and get onboard boats. So at that time, there was a
17 start. You know, we had an October 15 start time, and we had a
18 January 15 start time for those two fisheries to start. That was
19 the starting line, so to speak.

20 The Coast Guard personnel would get onboard and they would
21 check the stability reports. And if the vessels weren't loaded
22 properly, then they were -- then they needed to be, that needed to
23 be fixed. When my colleague, Chris Woodley presents this
24 information, he talks about how dangerous it was to climb onboard
25 crab pots and go out the raft, to get to the other, to get to the

1 other boats that were rafted further away from the dock.

2 But that was dangerous, but the real stress was within a
3 wheelhouse, when they had to talk to operators about how their
4 vessels were loaded. And then there were other vessels -- when
5 the Coast Guard started doing this, and they saw that the vessels
6 that they were on had to unload pots, other vessels started
7 unloading pots before the Coast Guard got to their vessels to
8 check their stability reports.

9 Let's go to the next slide.

10 When they first started, when the Coast Guard first did this,
11 in October of '99, within three days they had climbed onboard 50
12 percent of the fleet in Dutch Harbor, and reviewed 75 stability
13 letters with the vessel operators. Two vessels detected in
14 overloaded conditions were that -- there were two vessels detected
15 in overloaded conditions in the first hour.

16 The problem was corrected at the dock, prior to the start of
17 the season. And vessels could correct deficiencies before they
18 had to start, before they went underway, so it wasn't interfering
19 or impacting operations. And again, Mr. Woodley reports this, he
20 talks about the after action report being put together and made
21 available to the North Pacific Fishery Management Council, the
22 December meeting that occurred just two months after they did this
23 work.

24 And leaders in the crab industry publicly proclaimed to the
25 Council that they left -- or that they felt that the Coast Guard,

1 that the Coast Guard's presence on the dock presents, was
2 significantly, or did significantly deter the overloading
3 behavior. So it was a success. The industry liked it.

4 So let's go to the next slide.

5 So this slide expands that timeline that I just showed
6 earlier. We had the decade of the 90s, and then in October of
7 1999 the Coast Guard started these stability and safety checks.
8 And from this '99/2000 season until the 2004/2005 season, we had
9 one vessel loss that occurred. And again, one is -- one, even one
10 is too many. That was the *Big Valley* sinking, and they had not
11 gone through the stability check with the Coast Guard prior to
12 their departure from the dock. The other three fatalities that
13 occurred during this time period were fatal falls overboard.

14 Now a lot of people talk about the importance of crab
15 rationalization, and how the rationalization of that fishery
16 improved and reduced safety -- reduced occupational risk. And I
17 agree with that.

18 Let's go to the next slide.

19 The stability checks certainly have an impact, as well as
20 Coast Guard presence that I mentioned earlier. And then in 2005,
21 the Crab Rationalization Program started.

22 Let's go to the next slide.

23 So, when a quota-based or rationalized management system is
24 put in place, it comes in a variety of different terms. We talk
25 about IFQs. We talk about rationalization. We talk about quota

1 systems. All of that, what I am talking about is that there's an
2 allocation of the catch that's given to either a person, or a
3 vessel, or somehow defined.

4 And it ends the race to fish. So instead of everybody trying
5 to go out and catch as much as they can until the total allowable
6 catch is reached, it's divvied up and allocated to either vessels
7 or individuals, or some other entity. What this typically does is
8 it results in a consolidation of the fleet. It lengthens the
9 total period of time that fish are able to be caught.

10 It does provide, or should provide flexibility to avoid bad
11 weather, so that operators can choose when they're going to fish.
12 And it allows investment in vessel, and in the crew, and in the
13 overall operation. So those are the general advantages that are
14 thought to exist when a quota-based management system is put in
15 place.

16 Something though, that's in the literature by others who have
17 researched the impacts of safety due to these systems, is that
18 there are unintended consequences. And there is evidence that
19 shows that there is a race for catch history that occurs prior to
20 a fishery being converted into a quota-based management system.

21 Let's go to the next slide.

22 So, something that the, that has to be done when a rationalization
23 or quota system is put into place in a federal fishery, is that it
24 has to be reviewed every five years. And when the BSAI Crab
25 Rationalization Program came up for review that first five-year

1 period, myself and at the time CDR Chris Woodley looked at the
2 safety impacts that rationalization had on the Bering Sea/Aleutian
3 Island crab fleet. And so I can report on what we found and what
4 we reported to the Council here in the next few slides.

5 Let's go to the next slide.

6 So when you think about rationalization and the Bering Sea
7 crab fleet, we have to think about where, you know, what might we
8 look at to see if risks were reduced. This is a winter fishery.
9 It is occurring in cold temperatures with icing, high-wind seas
10 and poor weather, many times.

11 Prior to rationalization, there were vessels that were
12 anywhere from, some of them were less than 85 feet in length, and
13 then there were many that were over 125 feet in length. At the
14 time, the season lengths were shrinking. There was a race to
15 fish. Some of the those, some of those fisheries were down to
16 just a couple of days until the total allowable catch was reached,
17 and they shut down, they shut down fishing.

18 These vessels were minimally crewed, with five to seven
19 people. And the pots were 750 to 850 pounds empty, with no ice,
20 and loaded three to five tiers high. So, if we think about the
21 situation of how this, what these vessels were, and how they were,
22 what type of conditions they were operated in, we then tried to
23 figure out, what are the factors that rationalization had, that
24 may have reduced some of these occupational risks? And we were
25 able to find some numbers to support some of our hypotheses.

1 So let's go to the next slide.

2 We looked at information about how the fleet consolidated,
3 and indeed it did, I think by like about 60 percent. And if we
4 look at -- this table is -- I tried to show the two fisheries, the
5 Bristol Bay red king crab and the Bering Sea opilio crab. I then
6 divided things into the size of the vessel. And so vessels that
7 were less than 85 feet in length, in the Bristol Bay, that had
8 participated prior to rationalization, 93 percent of them dropped
9 out of the Bristol Bay red king crab fishery, and all of them
10 dropped out of the opilio fishery.

11 Vessels 85 to 100 feet, there was a 77 percent reduction, and
12 then a 71 percent reduction in the number of vessels that were
13 that size that continued to participate after rationalization.
14 Vessels that were 100 to 125 had a 66 and a 68 percent reduction,
15 and indeed we also, there were also vessels that dropped off that
16 were the largest, with 62 percent of them dropping out of the
17 fishery, as well as then 53 percent coming out of the opilio
18 fishery. So vessels dropped out, and the smaller the vessel, the
19 more frequent they dropped out of the, of participating in the
20 rationalized fishery.

21 Let's go to the next slide.

22 We also looked at vessel days. And so remember, 2005,
23 October of 2005 is when the rationalization program was put into
24 place. When we look at the number of fishing days from 2001 to
25 2005, it had gotten to around five, for each of those fisheries.

1 And then you can see, after rationalization, the average number of
2 days fished greatly increased. So the number of days that there
3 was actually fishing taking place increased.

4 Let's go to the next slide.

5 The fishery pace also slowed. We looked at the average pot
6 lifts per vessel day, and there was a 32 percent decline in red
7 king crab and a smaller decline, but still a decline in the opilio
8 crab fishery. So there were fewer pots lifted per vessel day.

9 Next slide, please.

10 And then anecdotally, we knew that departures were delayed.
11 We also acknowledge that the vessel cooperatives were formed. And
12 this is a great tool to further reduce risks. It gives members
13 the ability to transfer quota to avoid bad weather. And then too,
14 the Coast Guard stability checks, because those continued, there
15 was also recorded fewer pots were being carried on vessels at that
16 time.

17 Let's go to the next slide.

18 So, to summarize, the fatality rates decreased several
19 seasons before rationalization started, and that was shown, that
20 was shown by the stability and safety checks. But the
21 rationalization program continued to control risks, and there were
22 no vessel losses for many years. There was increase in fishing
23 season length. There were fewer smaller vessels. There were
24 vessel cooperatives that were formed. There was a decrease in
25 pots carried and a decrease in pot lifts per day.

1 Let's go to the next slide.

2 So, when crab rationalization started in 2006, and for the
3 next five years, we did have one fatality in the Bering
4 Sea/Aleutian Island crab fishery that was related to a fatal fall
5 overboard. But there were no, there were no vessel losses that
6 occurred during this five-year period.

7 Let's go to the next slide.

8 So rationalization ended the race to fish. It increased
9 flexibility. Vessel operators can choose to avoid poor weather.
10 This -- and you've already learned, and perhaps knew before, that
11 there are mandatory decals that the state requires, and there's
12 also the departure reporting that the state requires. And the
13 stability and safety checks continue, although they can't be
14 implemented the same way that they were pre-rationalization
15 because they don't have that, you know, exact start time. I'm
16 thinking primarily for the January start date for opilio crab.

17 Let's go to the next slide.

18 In 2007, with the first time Mr. Woodley and I told the
19 story, was for the incident of the loss of the *Destination*. So,
20 since rationalization, there has been one vessel loss since that
21 program has been started. And I just want to note that the, you
22 know, crab fishing still takes place in a very dangerous
23 environment.

24 Let's go to the next slide.

25 Winter fishing in Alaska, there's cold water, there's

1 darkness, bad weather, and pots, and icing, and stability issues.
2 All of that still exists, even in a rationalized fishery. These
3 guys are also working long hours. There's 24-hour operations,
4 extended shifts, there's sleep deprivation involved. So, until
5 these kinds of things can be -- well, we can't eliminate all of
6 these things from a winter crab fishery, so we have to continue to
7 make sure that our safety policies and programs are in place to
8 help reduce the risk where we can.

9 Next slide, please.

10 These winter fisheries, there's also a continued desire to
11 minimize days at sea, to reduce operational costs. There are also
12 competing priorities with meeting delivery deadlines. It's -- the
13 Bering Sea/Aleutian Island Rationalization Program is a
14 complicated program, where they match vessel quotas with
15 processing plant quotas. It's a complicated system.

16 And I understand that a schedule prevents everyone from
17 delivering at once, and there has to be a schedule, but it's --
18 but we can't ignore the pressure of meeting various deadlines.
19 And then there's also other priorities that crews have, and
20 operators have, that aren't necessarily related to the operation
21 of a fishing vessel.

22 So, I think that that's the, I think that's the end of the
23 section. I will -- we have taken a deeper dive into looking at
24 the vessel casualties and nonfatal events that have occurred in
25 the Bering Sea/Aleutian Island crab fleet, and I will point that

1 out when we get to the recommendation section of the presentation.

2 So, let's go to the next slide, and to Samantha.

3 MS. CASE: Thanks, Jennifer. So, in this next section, I'll
4 provide some background and the findings from two studies that we
5 recently published, related to vessel disasters and survival
6 factors.

7 Next slide.

8 So, these two studies were published fairly recently, one in
9 2020, one in 2018, that took a more specific look at fishing
10 vessel disasters in Alaskan waters. So they really asked two
11 different questions. The first one that I'll talk about asked, do
12 vessel-related characteristics predict vessel disasters? Is there
13 any type of association there? So we were primarily interested in
14 a history of prior reported vessel casualties, but we also looked
15 at other vessel characteristics, which we'll talk through. And
16 then second, if a vessel sinks, what factors improve survival
17 chances? So we'll talk through both of these.

18 Next slide.

19 But first we'll start with this, "Predicting Commercial
20 Fishing Vessel Disasters," and looking at the vessel
21 characteristics.

22 Next slide.

23 So, for this study, our approach was essentially to compare
24 vessels that had been involved in disasters to those that were
25 not. So, I use this kind of language, and these icons throughout

1 the slides, but essentially the cases, the case vessels, these are
2 vessels that we have in our Commercial Fishing Incident Database,
3 that between 2010 and 2015, they had been involved in a vessel
4 disaster event in Alaskan waters. So again, these are events like
5 sinkings, capsizings and other events that require the crew to
6 abandon the vessel.

7 The controls, what we'll call the control vessels, these were
8 vessels that were active in Alaska during that same time period,
9 2010 to 2015, but did not experience a vessel disaster during that
10 period. So, unfortunately we weren't able to get these vessels
11 from landings data, but we did use permits and license information
12 from the State of Alaska and National Marine Fisheries Service.

13 And then to strengthen this, these comparisons, for each case
14 vessel, we selected three controls. And that really just
15 strengthens the comparisons we can make and conclusions we can
16 make from the findings.

17 Next slide.

18 So this is just a brief rundown of the characteristics that
19 we included in the study. As I mentioned, the reported vessel
20 casualty history was something new for us, that we wanted to look
21 into. So, to clarify here, vessel disasters are a type of vessel
22 casualty. They're the most serious types. But for the purpose of
23 this study and this presentation, I'm going to keep them separate.

24 So a vessel disaster are those, you know, really serious
25 events requiring abandonment. So only the case vessels were

1 involved in vessel disasters. The control vessels were not. But
2 for both groups of vessels, we looked into their vessel casualty
3 history.

4 So we used the Coast Guard's MISLE system to look up these
5 vessels and see if they had reported some of these less serious
6 vessel casualties like loss of power, loss of propulsion, loss of
7 steering, minor groundings, minor fires, minor flooding in the,
8 within the previous ten years from when they were included in the
9 study. We also looked at whether or not they had a fishing vessel
10 safety decal, if they were federally documented or state
11 registered. We looked at vessel age, vessel length, and hull
12 material.

13 Next slide

14 So, the next few slides, you're going to see these pie
15 charts, so just quickly visualize the differences between the
16 cases, those disaster vessels and the controls, the non-disaster
17 vessels. So this is looking specifically at ten-year casualty
18 history. And what I want to point out here is that you can see
19 that for cases, so the vessels that had been involved in
20 disasters, 25 percent of those vessels were, had vessel casualty
21 reports to the Coast Guard in the previous ten years. That's a
22 bit higher than the controls, at 9 percent, but overall you'll see
23 that many vessels didn't have any vessel casualties reported to
24 the Coast Guard.

25 Next slide.

1 Here is documentation status. Between cases and controls,
2 you can see it's fairly consistent, as far as whether they're
3 federally documented or state registered. And overall, we can see
4 for the fleet, the sample included in the study, that they're
5 predominantly federally documented.

6 Next slide.

7 Here we looked at safety decal. We broke it down into three
8 categories, current, expired or none, they have never had a decal.
9 And the difference I want to point out here is in the expired
10 category, so it's that middle slice of the pie, kind of that blue
11 color, where cases had a higher proportion of vessels with expired
12 decals of 32 percent, compared with controls, at 22 percent.

13 Next slide.

14 Here we're looking at vessel age. We broke it down to under
15 25 years and 25 years or older, again, very comparable between
16 cases and controls, and you can see from that light blue color
17 that the majority of the fleet is, consisted of older vessels,
18 above 25 years.

19 Next slide.

20 Now we broke it down by vessel length, under 50 feet, 50 to
21 78 feet, and 79 feet or greater. We do see some differences
22 between cases and controls here. Controls tended to be under 50
23 feet, and the cases tended to be a little bigger, with 31 percent
24 being 50 to 78 feet, and 9 percent being 79 feet or greater, which
25 are bigger proportions than in the controls.

1 Next slide.

2 And lastly, just looking at hull material between cases, the
3 disaster vessels and the controls. Controls were made up more of
4 vessels with fiberglass hulls or aluminum hulls, whereas the case
5 vessels had higher proportions of steel hulls and wooden hulls.

6 Next slide.

7 So, the main messages from our statistical comparison were
8 that vessels involved in disasters were three times more likely to
9 have reported vessel casualties in the previous ten years. They
10 were also 2.4 times more likely to have an expired fishing vessel
11 safety decal. What we've pondered about this and what warrants
12 further study is if this is really indicative of larger safety
13 problems on a vessel such as poor safety culture or climate, lack
14 of routine maintenance, things like that.

15 We also found that vessels involved in disasters were 3.3
16 times more likely to have steel hulls, and this really could be
17 indicative not directly about the hull material but rather the
18 types of fishing operations that occur with these vessels, for
19 example, participating in winter fishing and/or fishing farther
20 offshore, in more serious weather conditions.

21 Next slide.

22 So our conclusions from this study was that we felt it really
23 provided support for some Coast Guard-led initiatives for the
24 Alternate Safety Compliance Programs that kind of turned into the
25 Voluntary Safety Initiatives and Good Marine Practices. You know,

1 this was a safety guidance for unclassified vessels over 50 feet and
2 over 25 years.

3 Similar to the ACSA program for the head-and-gut fleet, you
4 know, this has a lot of good guidance about checking and
5 maintaining vessel systems and the seaworthiness of the vessel,
6 and I think this is very applicable here, as well as the Coast
7 Guard's dockside examinations. You know, our findings related to
8 having a expired vessel, fishing vessel safety decal was striking,
9 and it really shows the importance of these dockside examinations
10 and having lifesaving equipment maintained and really being able
11 to connect the Coast Guard and industry members.

12 Vessel casualties was something that was looked at. It's
13 kind of new for us, having identified this as kind of a risk
14 factor, so again, highlights the importance of really having and
15 adhering to a preventive maintenance plan and schedule. And when
16 vessel casualties do occur, even minor ones, loss of power, loss
17 of propulsion, things like that, ensuring that complete repairs
18 are made and sea tested is really important.

19 Next slide.

20 So this next study was answer -- trying to answer the
21 question, if a vessel does sink, what factors would improve
22 someone's chances of survival?

23 Next slide.

24 So before and after this, going through this study is going
25 to be pretty much the same. The study approach, rather than

1 looking at vessels or events, we really wanted to focus on the
2 survivors and the victims of these events. When we do these kinds
3 of comparisons, we can see, you know, what's different, and that
4 can help target our prevention efforts. So for this study, we
5 used decked commercial fishing vessels that had been involved in
6 sinkings and capsizings in Alaskan waters over a 15-year period.

7 Next slide.

8 And here is a list of survival factors, or potential survival
9 factors that we looked into for this study. What I want to
10 highlight here is that we looked at it in kind of three different
11 layers. First was crewmember-related characteristics, so were
12 they able to get into an immersion suit, were they able to use a
13 life raft? Did they have a history of marine safety training?
14 What was their job position?

15 We then looked at some event characteristics, like distance
16 from shore, did heavy weather contribute to the event, in which
17 region of Alaska did the event occur and in which season. And
18 also, we looked at some vessel-related characteristics as well,
19 such as weight, length, age and hull material. So I'm not going
20 to go through the results for all of these. There were some that
21 I wanted to show the Board.

22 Next slide.

23 So overall, in this 15-year period, we had 187 total vessel
24 disasters that we included in the study. The majority of them,
25 164 were non-fatal, which meant luckily all crew members were

1 rescued from these vessel events. However, 23 events resulted in
2 one or more fatalities among the crew members.

3 Next slide.

4 So, this is showing some event characteristics. So this is
5 weather-related, so was the event related to heavy weather? And
6 you can really see the stark difference between the fatal vessel
7 sinkings and the non-fatal vessel sinkings. Sixty-one percent of
8 the fatal vessel disasters were related to heavy weather, much,
9 much lower among the non-fatal vessel disasters at 24 percent.

10 Next slide.

11 Again, looking at distance from shore of these events, we
12 broke it down between 3 miles or closer to shore, and greater than
13 3 miles from shore. For fatal events, we -- again we're seeing
14 this kind of stark difference between these fatal and non-fatal
15 events. So for the fatal vessel sinkings, about three quarters of
16 them happened farther offshore, greater than 3 miles, compared to
17 the non-fatal events. That drops down to 29 percent.

18 Next slide.

19 Now I'm looking at some crew member characteristics. So this
20 is immersion suit use. This is where we're comparing the victims
21 and the survivors. So victims are on the left, survivors on the
22 right. And this is showing that for victims, about half were able
23 to get into an immersion suit, whereas 70 percent of survivors
24 were able to get into an immersion suit.

25 And just to note that we tried to obtain this information

1 from Coast Guard investigative reports, witness statements, even
2 media reports, and immersion suit use was missing for many, many
3 crew members, about 60 percent. They're not reflected in these
4 percentages here.

5 Next slide.

6 This is showing life raft use differences between victims and
7 survivors. So, only 7 percent of victims were able to enter a
8 life raft, whereas 30 percent of survivors were able to enter a
9 life raft. And we do have some missing information for life raft
10 use as well.

11 Next slide.

12 And here we can see some really stark differences regarding
13 time spent in the water for victims and survivors. So for
14 victims, 95 percent of them were in the water greater than 30
15 minutes. For survivors, 55 percent of them, you know, weren't,
16 didn't spend any time in the water. Thirty-five percent were in
17 the water somewhere between 1 and 30 minutes. So this difference
18 in the time spent in water was something that was, you know,
19 interesting for us to look into more.

20 Next slide.

21 So because of this time-in-water difference that we saw, we
22 kind of wanted to break this down even further. So, in all of
23 these vessel disaster events, we had a total of 617 fishermen at
24 risk. We knew whether or not they entered the water for 545 of
25 them. And then, going to the right, they're split pretty evenly

1 between whether they entered the water or not. So we'll break
2 these down even further.

3 Next slide.

4 And so on the left are 276 fishermen who had to enter the
5 water. And on the right were those that did not enter the water,
6 so they abandoned the vessel directly into some other, you know,
7 some other, like a helicopter, they were able to get directly into
8 a life raft, things like that.

9 So, where we see the biggest difference between survival
10 status, whether someone survived the event or whether they died
11 was after they entered the water. So that's what we really wanted
12 to focus on.

13 Next slide.

14 So, for all the crew members who entered the water, this is
15 for any length of time, they were 17 times more likely to survive
16 if they were able to enter a life raft. They were six times more
17 likely to survive if the sinking was not related to heavy weather.

18 Next slide.

19 Then we wanted to look at the long-term cold water immersion.
20 So, this is specifically for crew members who were in the water
21 for 30 minutes or longer. So this is a subset of those crew
22 members. We found that these crew members were 26 times more
23 likely to survive if the sinking was not related to heavy weather.
24 They were 12 times more likely to survive if they entered a life
25 raft, and six times more likely to survive if they wore an

1 immersion suit.

2 Next slide.

3 So our findings from this are really showing that avoiding
4 cold water immersion is best. Of course being able to abandon to
5 a helicopter or a life raft directly improves chances of survival,
6 so this is really important for early recognition of emergency
7 situations, communication with the Coast Guard and near --
8 potentially nearby good Samaritan vessels, things like that.

9 Additionally, I think our findings show that the use of life
10 rafts and immersion suits saves lives. This really highlights the
11 need for periodic safety training and doing drills routinely,
12 making them as hands-on and realistic as possible. In addition,
13 this equipment, this lifesaving equipment needs to be, you know,
14 well maintained, in good condition, and it must be easily
15 accessible for the crew. Some of these events can happen
16 extremely rapidly, and this equipment must be accessible for the
17 crew members to get to in an emergency.

18 And lastly, we saw that heavy weather can impact chances of
19 survival. Heavy weather can contribute to the disaster occurring
20 in the first place, but it can also hinder search and rescue,
21 could result in crew members needing to be in the water or on life
22 rafts for longer periods of time, and keeping them in these risky
23 situations.

24 And with that, next slide, and I'll hand it back to Jennifer
25 to wrap up.

1 DR. LINCOLN: Okay. There, I'm off mute. I will go ahead
2 and wrap it up. To provide these safety recommendations, Samantha
3 and I and our colleague Casey Elliot (ph.) went through the
4 various NIOSH recommendations that have been made in a variety of
5 different publications that we have. And so let's go to the next
6 slide and I'll briefly go over some of the recommendations and
7 where they come from.

8 As I mentioned earlier, we have done a full report on the
9 assessment of safety in the Bering Sea and Aleutian Island crab
10 fleet. This covered the time period from post rationalization
11 from 2005/06 season to the 2012/2013 season. And this can be
12 located here on the link of the slide.

13 The next -- let's go to the next slide.

14 This just goes through the prevention of vessel disasters and
15 serious vessel casualties that we made in that ASAI crab report,
16 and that includes participation of the Coast Guard at the docks,
17 stability and safety and compliance checks, periodically
18 consulting naval architects to refresh knowledge of safe loading
19 movements and adhering to stability instructions, updating and
20 formalizing maintenance procedures, and all crew members taking an
21 eight-hour marine safety class at least every five years.

22 Let's go to the next slide.

23 Other primary prevention strategies that NIOSH has shared and
24 made -- in this case, this is NIOSH policy, it includes from the
25 1997 current intelligence bulletin where NIOSH made the

1 recommendation to require stability reassessment, and at that time
2 we called them vessel inspections of all vessels that should be
3 seriously considered, as well as equipment, equipping and
4 retrofitting that can substantially affect the stability of
5 vessels. And then that, this recommendation can be found in this
6 publication link here on the slide.

7 Let's go to the next slide, please.

8 As far as our recommendations related to fisheries
9 management, we have made these recommendations because many
10 factors may influence operational decisions related to the weather
11 conditions, including fishery management policies. Economic
12 pressures generated by certain fishery management policies can
13 play an important role in the decision-making made by vessel
14 operators to fish in severe weather or other operation
15 considerations.

16 And then there's -- it's also important to recognize that
17 anticipated changes in policies, such as going from a Olympic
18 style fishery to a rationalized fishery could result in a race for
19 catch history. So when creating and modifying fishery management
20 policies, policy-makers should consider the potential safety
21 repercussions of those policies and make efforts to enact policies
22 to mitigate these hazards.

23 Let's go to the next slide.

24 So, in our Alaska Regional Summary from 2009 to 2014, it's
25 the first time I think that we made a recommendation related

1 something to the proper watch, or proper watchkeeping, and that
2 vessel owners and operators should create fatigue management
3 policies to use, watch alarms and to prevent groundings and
4 collisions.

5 So, as a researcher and a fishing safety advocate, I've
6 struggled with how to acknowledge fatigue as a problem in the
7 fishing industry, and what practical solutions exist to address
8 it. And about a year ago I heard a sleep expert say something
9 that helped me get over this dilemma, and he said that there is no
10 schedule that eliminates fatigue, and that fatigue is a ubiquitous
11 hazard that can't be eliminated. So how we work safety in when
12 people are really fatigued?

13 So we have to manage the risk. The more fatigued someone is,
14 the more other safety measures should be put in place. So, we
15 also have to shift thinking, I think -- thinking, I think -- about
16 the need for sleep. And it frustrates me to see so often that
17 sleep is equal to being weak, or seen as being weak. And it would
18 be great to overcome the culture that sleep is for the weak, and
19 instead, attack -- embrace the culture somehow that sleep is a
20 tactical advantage.

21 So, let's go to the next slide.

22 I know that our U.S. military is focusing more on sleep as
23 being a tactical advantage. And so these, the sleep is related to
24 our ability for problem-solving, decision-making, reaction times,
25 recovery. It certainly affects our safety. And changing our

1 mindset, I guess, of sleep is for the weak versus sleep is a
2 tactical advantage, but keeping in mind that sleep and fatigue is
3 a ubiquitous problem is where we have to balance, and be smart
4 about our recommendations.

5 I know the military is focusing on this. I mentioned that.
6 So what do you do to reduce risk when you know that you are
7 fatigued? What controls should be put in place around a wheel
8 watch? What controls need to be put in place around gear handling
9 when you're fatigued? And I'm sure there are a variety of other
10 places we can think about controls being put into place because we
11 know that our crew is fatigued.

12 So, this expert that I mentioned I heard about a year ago
13 challenged the audience to think of financially friendly and
14 fatigued -- I'm sorry, financially, family and fatigue-friendly
15 recommendations. So, that's some food for thought there.

16 Let's go to the next slide.

17 I did suggest some resources on fatigue that I am aware of.
18 The Coast Guard has put out this crew endurance management system.
19 NIOSH has a website about work schedules and shift work and long
20 hours. And then one of my go-to web pages for this information is
21 the National Safety Council, and what they say about fatigue in
22 that you're more than just tired.

23 Let's go to the next slide, please.

24 I can't say enough about the recommendations that NIOSH has
25 made about hands-on marine safety training. The Coast Guard has

1 the authority to mandate safety training for commercial fishermen.
2 NIOSH has shown that it's important to have marine -- to repeat
3 marine safety training every five years. I hope that they can
4 continue enforcing, continue having hands-on marine safety
5 training.

6 Let's go to the next slide.

7 The additional key Coast Guard safety programs that we
8 enforce, some of these things are the Alternate Safety Compliance
9 Program that had been put in place in recent years based on the
10 2010 Authorization Act. I know those are voluntary programs now,
11 not -- they're not mandatory. The dockside examinations now being
12 mandatory for vessels operating more than 3 nautical miles from
13 shore is an important program to acknowledge.

14 And then most recently, the Coast Guard -- Coast Guard and
15 NIOSH has partnered to administer the Commercial Fishing Safety
16 Training grants and the Commercial Fishing Safety Research grants.
17 The training grants help -- it provides funding to help bring
18 safety training to commercial fishing ports nationally. It makes
19 it easier then to bring the potentially mandated training to
20 commercial fishermen to the ports at either a free or reduced
21 cost.

22 Let's go to the next slide, please.

23 Other considerations -- and this is the last slide. Other
24 considerations are to, for the Coast Guard to continue to
25 prioritize understanding existing hazards for specific fleets, and

1 then designing prevention programs for those hazards, to review
2 and update the U.S. Coast Guard vessel stability regulations and
3 guidance. I understand this guidance was requested in 2017 and
4 was published in 2019, but fishing vessels weren't included in it.
5 So perhaps this can be revisited.

6 Use authority to incorporate training mandates for emergency
7 drills, stability, first aid and navigation. I'm repeating
8 myself, but I think that that is worth repeating. Prioritizing
9 the collection of information about fatigue so that we can see
10 patterns of when operations or our safety systems fail that result
11 in vessel casualties at sea that are related to fatigue, and
12 prioritizing the collection of information such as safety training
13 and the use of survival gear.

14 And finally, develop a strategy to engage the industry and to
15 make it easier for them to adopt safety management systems and new
16 technology. And I think that that is the last slide.

17 I'd like to acknowledge our Coast Guard colleagues in D17 in
18 particular, but our Coast Guard colleagues around the country as
19 well. NIOSH couldn't do our work without this important
20 partnership. I also want to acknowledge Chris Woodley, since the
21 slides that we presented on the Bering Sea crab fleet were
22 initially presented by him and me at an earlier venue. And then
23 we also want to acknowledge Casey Elliot for all of her help in
24 writing this talk.

25 I think the next slide is our contact information, and

1 Samantha and I are willing to answer any questions that you have.
2 Thank you.

3 MR. FAWCETT: So, I don't know if you can see this, but thank
4 you very much for the amount of work that went into that and the
5 depth and breadth of that presentation. So I have two brief
6 questions, and then I'm going to suggest to Captain Callaghan we
7 take our short recess.

8 The rest of my questions are going to be framed to both of
9 you, and it'll take us a little bit of time to get the hang of
10 who's going to answer on your part. Maybe you can give a nod of
11 the head if you'd like to answer, and we'll just wait until one of
12 you answers, so we'll get the hang of it.

13 But so the pot cod fishery that was taking place leading up
14 to the accident date at the end of December of 2019, would that be
15 the race to catch history that you described earlier in the
16 presentation? That species.

17 DR. LINCOLN: Right. So the pot cod fishery is, right now
18 it's, it is not rationalized, you know, so there's a total
19 allowable catch, and everyone races to go out and catch as much as
20 they can until that total amount is caught. And if there is, if
21 there is, you know, thought that that's going to be put into a
22 rationalization program, then there is the tendency for fishermen
23 to go and try to catch as much as they can to establish that catch
24 history, so that when it is rationalized they get a piece of that
25 catch history.

1 MR. FAWCETT: So, my final question related to that, before
2 we take a recess, one of your statistics, I believe, that was
3 shown on Slide 13 showed the larger share of the vessel fatalities
4 related to pot cod fisheries. Would that be correct?

5 MS. CASE: Yes, that's correct. Pot cod, I believe we saw as
6 the fishery with the second highest number of fatalities, and that
7 was primarily driven by these vessel disaster events.

8 MR. FAWCETT: Okay. Thank you both.

9 And, Captain, a short recess if you please.

10 CAPT CALLAGHAN: Yeah, thank you, Keith, and thank you,
11 ladies. This has been a very informative and very great
12 presentation. And if you're both willing, we'd like to take a
13 quick five-minute recess, and then come back and I believe
14 there'll be a number of questions for you both, if that's okay.

15 Okay, it's 0932. I'll take a five-minute recess, and we'll
16 come back at 0937.

17 (Off the record at 9:32 a.m.)

18 (On the record at 9:38 p.m.)

19 CAPT CALLAGHAN: Okay. The time is now 0938. This hearing's
20 back in session, and I will turn it back to Mr. Fawcett for some
21 more questions.

22 MR. FAWCETT: All right. We'll continue with posing
23 questions to both of you. In your presentation, you mentioned the
24 Center for Marine Safety and Health Studies. Could you elaborate
25 a little bit more on where that is, how it's staffed? You know,

1 is there a Coast Guard liaison person assigned to that center?

2 MS. CASE: So, I can take a stab at this, Jennifer. So the
3 NIOSH Center for Maritime Safety and Health Studies is really a
4 virtual center within NIOSH. The director is Alice Shumate, one
5 of our colleagues from our Spokane, Washington office. The center
6 was developed, I believe in 2015, really based off the successes
7 of our Commercial Fishing Safety Research Program that's been in
8 place for many years, and really trying to expand to other
9 maritime industries, such as marine transportation. We have
10 researchers looking at shipyards, marine terminals, seafood
11 processing, commercial diving, aquaculture.

12 So our formal partnership with the Coast Guard, you know,
13 works not only, you know, with me and with Jennifer and the Ag
14 office, but also, you know, we talk with, between Alice Shumate
15 and the Coast Guard. And there is no specific Coast Guard
16 liaison, you know, with our center, specifically. But I would say
17 that we are in a variety of working groups outside of that, that
18 involve the Coast Guard.

19 So, for example, I'm very involved, Jennifer's been involved
20 with the Commercial Fishing Safety Advisory Committee. Alice
21 Shumate, I believe is a member of the Committee on Marine
22 Transportation Systems. And we have been involved in like the
23 COVID-19 Working Group in presenting a webinar for merchant
24 mariners. So we do facilitate conversations with the Coast Guard
25 in those different venues. Is there anything you wanted to add,

1 Jennifer?

2 MR. FAWCETT: So, Lieutenant McPhillips, if you would please,
3 pull up Coast Guard Exhibit 069?

4 And while he's doing that, this is a statistic that's
5 outwardly facing to the public and generated by the Office of
6 Commercial Fishing Safety. And you'll see the trend in fatalities
7 and vessel losses over a period of time. If you'll take a moment
8 to look at that, and while you're looking at that, in a moment
9 I'll ask the lieutenant to scroll down to the line that starts,
10 "Excluded," if you can do that, Lieutenant.

11 I'll read that for you. It says, "Excluded from the
12 statistics are deaths from medical conditions and those that are
13 self-inflicted or due to misconduct, as well as vessel losses from
14 non-operational activity such as moor or dock in port."

15 Does your statistical data and your research, does it include
16 or exclude the same things that this report and graphics
17 demonstrate?

18 MS. CASE: Yeah, that's a great question. So our statistics
19 capture some of those incidents that the Coast Guard would
20 exclude. So at NIOSH, we are interested -- the way we set up our
21 surveillance system, the Commercial Fishing Incident Database was
22 really that we were interested in looking at any traumatic injury
23 which occurs to fisherman while they're at work. We consider them
24 at work any time they're onboard the vessel. It's obviously
25 different than a, you know, maybe a more traditional work site.

1 So, we do include traumatic injuries. We do not include, you
2 know, preexisting conditions, natural -- deaths due to natural
3 causes. We are focused on traumatic injuries. But at the same
4 time, that does include some non-operational deaths, like I
5 mentioned, some suicides, homicides, unintentional drug overdoses.
6 Those are considered traumatic injuries and do appear in our
7 statistics.

8 MR. FAWCETT: So if I was a commercial fisherman and I was
9 engaged in fishing operations and I had a heart attack at sea,
10 would that information be available to you for research?

11 MS. CASE: Those are not included in our Commercial Fishing
12 Incident Database. If a medical emergency like that happens at
13 sea and the Coast Guard responds to do a medevac, you know,
14 sometimes they do respond to these conditions to get the crew
15 member to emergency treatment, and it shows up in MISLE, we could
16 potentially have access to that, but that would require further
17 investigation.

18 MR. FAWCETT: So when you say MISLE, you're talking about the
19 Coast Guard's accident database that includes also law enforcement
20 data?

21 MS. CASE: Yes, that's correct.

22 MR. FAWCETT: So overall, I mean, how good a handle --
23 there's -- I've seen (indiscernible) statistics on many of the
24 commercial fishing vessels in the United States, anywhere between
25 50,000 to 60,000 vessels. How good a handle do we have on

1 accidents that occur in that fleet, in terms of whether it is
2 fatalities, other type of serious accidents?

3 MS. CASE: Yeah. I would say the more serious an event is,
4 if it's a catastrophic vessel loss, if there are any fatalities, I
5 believe we have a pretty good handle on that, because it's -- you
6 know, they tend to be widely covered in the news media and have
7 the involvement of the Coast Guard. So we feel pretty confident
8 in those.

9 For non-fatal injuries, though, some of these less serious
10 vessel casualties, like loss of power, loss of propulsion that may
11 require minor repairs, or being towed in by the Coast Guard or
12 towed in by, you know, a good Samaritan vessel, for example, we do
13 believe that there is under reporting.

14 And that's not specific to the fishing industry. That is
15 pretty much something we see ubiquitously among workers and worker
16 populations, is the tendency to under report, you know, nonfatal
17 injuries, these less serious things if they don't require Coast
18 Guard assistance. If they can resolve them, then there's that
19 chance that we are missing them.

20 MR. FAWCETT: So, Dr. Lincoln, you mentioned in your
21 presentation when you talk about accidents, and reporting of
22 accidents, you used the word hopefully. Do you feel that the
23 Coast Guard's accident database is, accurately reflects the loss
24 of life accidents and so forth that you use for research?

25 DR. LINCOLN: Oh sure. As Samantha just said, I feel very

1 confident in the fatality information that we're able to gather
2 from the Coast Guard systems. I don't question that. I think
3 that the -- as Sam said, the most severe things that occur at sea
4 are captured in MISLE, and therefore we have access to and see
5 those.

6 We also do our -- we also have surveillance for fatal events
7 in other -- we also do that in other ways too. We've got, you
8 know, it's something that we have reporting in from press
9 clippings, Google searches now. You know, so fatalities, I feel
10 very confident that we are -- that this is the picture, this,
11 these -- we're getting all of them.

12 As Sam said, nonfatal injuries are different. I don't think
13 that we're getting all of them, because in order for a nonfatal
14 injury to be captured by our data it has to be reported to the
15 Coast Guard, and I don't think that that happens across the board.

16 I also think that there's a case definition problem. What is
17 a nonfatal injury? Are we talking about something that is severe,
18 that talks about, you know, hospitalization? We probably could
19 get a better picture of those types of injuries that require
20 hospitalization, but the injuries that result in, you know, maybe
21 one lost work day, or no lost work days and were more minor
22 injuries, if they're not reported to the Coast Guard we won't know
23 about them.

24 But I feel a hundred percent that the fatality, that these
25 fatality analyses that we've done is getting information about all

1 fatalities.

2 MR. FAWCETT: In this case, we've worked together before
3 collaboratively, and one of the things that you shared with us was
4 that NIOSH supplement. This is a tool that NIOSH asks the Coast
5 Guard to have investigators fill out, that will provide you
6 supplemental information that's very important for you to conduct
7 this research and the analysis and the recommendations. So you
8 mentioned in the presentation that -- and I'm -- correct me if I'm
9 wrong, you characterize it that, you reported on survival suit use
10 and life raft use wasn't entirely accurate to help you formulate
11 this statistic. Would that be correct?

12 MS. CASE: Yeah. So, what we saw was that when we were
13 looking through our database, we have a lot of unknowns for
14 whether someone was able to get into an immersion suit or get into
15 a life raft. And I think we typically see this more often in the
16 nonfatal vessel disaster events. I know I've been reading through
17 reports and, you know, everyone was rescued and no one was
18 actually injured, so there is actually limited information on the
19 additional crew members.

20 So usually they'll have witness statements, or an interview
21 with the skipper, but maybe not all the deck hands. So that's
22 something that I have seen personally in the reports. And if we
23 can't ascertain that information from the Coast Guard report, then
24 we put that as unknown in our database.

25 MR. FAWCETT: So in this case, over the years, have you seen

1 the regular usage of the NIOSH supplement to support your own
2 research in terms of having that document included in the marine
3 safety database as it relates to investigations that you look at?

4 MS. CASE: I would say it's not very common, actually. Where
5 I have seen it more recently, I believe some investigators in
6 District 17 and District 13 have used it in some recent, or some
7 more recent events. But I do not believe that it is widespread,
8 and that's perhaps an effort that, you know, we could continue to
9 collaborate on, in getting that out.

10 MR. FAWCETT: So Dr. Lincoln, you had some considered
11 prioritizing. Would you say that it would be good for the Coast
12 Guard to consider prioritizing use of collecting this additional
13 information like the use of rescue beacons, (indiscernible) or
14 other types of safety and survival equipment that is used to save
15 lives in (indiscernible)?

16 DR. LINCOLN: Right. And then ascertain whether or not they
17 had marine safety training and where and when that occurred, as
18 well as collecting information consistently around this area of
19 fatigue.

20 MR. FAWCETT: And in this case, just for the record, I think
21 that's a one-page form, isn't it?

22 MS. CASE: I believe so, if I'm recalling correctly. It's
23 fairly brief, I think.

24 MR. FAWCETT: And it also specifies the type of fishing,
25 which allows you to categorize your research. Is that correct?

1 MS. CASE: Yes, absolutely. As Jennifer mentioned, you know,
2 pretty early on in the presentation, the risks vary by region and
3 fishery, depending on the type of vessel, where they're operating,
4 the type of gear that they have. And so it's foundational in our
5 research to look at these events by, you know, the fishery that
6 they're participating in for some greater context. So that's very
7 important for us.

8 MR. FAWCETT: So I had asked you some general questions
9 directed at both of you. Do you identify or capture -- other than
10 rationalization or derivate or Olympic style fishing, do you
11 identify commercial pressure as a risk to fishing vessel
12 operators?

13 MS. CASE: That's a great question. So we don't capture
14 anything specifically about that in our database, but we do help
15 fishery management councils periodically with their reviews of
16 fishery management regimes. And so we just comment on, you know,
17 that's a consideration about these different types of pressures.
18 But we don't -- I don't believe we've specifically done any
19 studies related to those pressures.

20 Jennifer, if you have anything to add there.

21 DR. LINCOLN: Right. We haven't done any work like that,
22 that I can think of.

23 MR. FAWCETT: So these are some general questions. Will it
24 be correct if I say that your recommendations support some sort of
25 mandated safety training for commercial fishermen?

1 DR. LINCOLN: Yes.

2 MR. FAWCETT: How about -- I didn't note it there, but how
3 about medical screening, to make sure that people are physically
4 fit and medically fit to conduct fishing operations, especially
5 when you're really far at sea in hazardous conditions?

6 DR. LINCOLN: Right. NIOSH hasn't published anything related
7 to fit for duty, fit for service, related to the fishing industry.
8 As far as training goes, we have recommended that fishermen
9 receive a training. I think that the original training
10 recommendation that we made was for the state of Alaska and
11 fishermen who fish in the state of Alaska get marine safety
12 training before they are issued a crew -- before they can get
13 their crew license. And that was in that 1997 report that I noted
14 in our recommendations.

15 But we haven't, NIOSH hasn't made any recommendations about
16 fit for duty requirements for the fishing industry.

17 MR. FAWCETT: Just to be clear, the State of Alaska, are you
18 talking about before they're issued their permit to fish?

19 DR. LINCOLN: Right. So yeah, back in that 1997 Current
20 Intelligence Bulletin, we made a recommendation in there that the
21 fishermen -- I think that it said something like that fishermen
22 should be required to have marine safety training before they are
23 issued their -- yes, State of Alaska crew license.

24 MR. FAWCETT: So a general question, does your research
25 identify or support a more rigorous drug and alcohol program

1 whether in screening or requirements that drug and alcohol not be
2 used in conjunction with fishing operations?

3 MS. CASE: Yes. So we have found not only a recent increase
4 in drug overdoses that occur onboard but also drugs and alcohol as
5 a contributing factor to vessel disasters and falls overboard.
6 So, in the Alaska Regional Summary document I believe is perhaps
7 the first time they really published on it, or at least very
8 recently where we really emphasized enacting drug and alcohol-free
9 policies onboards implemented by the skippers.

10 MR. FAWCETT: Okay. Lieutenant McPhillips, if you'll pull up
11 the Coast Guard presentation 130, which is the presentation that
12 you both prepared, and go to slide number 14.

13 Okay. Over on the right, we see a sequence of events that
14 lead up to a vessel disaster. Where do we factor in, in terms of
15 research or prevention, what people do? In other words, we see
16 things. But you know a captain, he or she will make a decision to
17 no longer maintain equipment, turn left, turn right, slow down, or
18 perhaps proceed into an area where there's hazardous weather. How
19 do you capture that in terms of your research, the decisions that
20 lead to events?

21 MS. CASE: That's an excellent question. So some of this can
22 be captured in our contributing factors fields. So we can look at
23 weather, fatigue, navigational errors. But as we know that the
24 events are very complex, there's a lot of decisions being made, I
25 think this presents an opportunity for some more advanced human

1 factors research, to really identify those decisions that are
2 being made. Because outside of our contributing factors fields,
3 you know, those further upstream decision-making events and other
4 things aren't -- they're more tricky to capture. And we don't
5 quite have those in our database. So, I think it is an
6 opportunity for further research for that human factors look.

7 MR. FAWCETT: So you, in examining over the course of time,
8 Coast Guard database investigations may have, you know, this case
9 I'm sure you're familiar, they have page after page of statistics,
10 the time line and so forth. How often do you see human factors as
11 contributing factors to marine accidents?

12 MS. CASE: I would say it's very common, and I think it's
13 pretty established in the scientific literature as well, upwards
14 of 70 to even up to 90 percent of the time that human factors are
15 involved in maritime accidents, just overall. So I think this is,
16 you know, very, very common. And I do see these being pointed out
17 in the Coast Guard investigations.

18 MR. FAWCETT: Dr. Lincoln, have you ever thought about, at
19 any time, maybe including more of the human factors as a research
20 tool to drive -- in other words, if an accident occurs, and we try
21 to come up with some kind of prevention goal from this accident,
22 this one for example, and we were to discover at the end of our
23 investigation that a human factor was a principle source, don't we
24 really want to, in the end, change human behavior, so they don't
25 make decisions that will lead to accidents? Have you ever

1 considered studying that?

2 DR. LINCOLN: Of course. Yeah, of course. I think that the,
3 you know, something that you have to keep in mind whenever you
4 initiate a study like the work that Samantha and I do, is that we
5 need -- if we're going to look for a pattern, we need information
6 on all of them. So, you know, we can't -- right now, we can't
7 even ascertain whether or not an individual fisherman was wearing
8 a survival suit, or got into a life raft, so that we can evaluate
9 the impact of those safety features that are required.

10 If we want to investigate human factors, and how those impact
11 those types of vessel casualties, and vessel tragedies, then we
12 have to have the consistent collection of information by
13 investigators for each and every one of the events that occur, so
14 that we can understand what those patterns are, what those human
15 factors are, and base prevention recommendations on all of them.

16 So, our hands are tied, to a certain extent, because of the
17 way that we collect our information right now is through Coast
18 Guard investigative reports.

19 MS. CASE: And I will mention also, you know, in human
20 factors research, it goes beyond just, you know, what the skipper
21 and the crew do in the event, and the decisions that go into that.
22 It does include policies and, you know, the broader environment.
23 So it's very important to us at NIOSH to not necessarily focus so
24 much on the worker and try to place blame, but really understand
25 the broader context in which they're making those decisions.

1 Because, for example, you know, we see falls overboard as a
2 leading contributor to fatalities in the industry. And it can be
3 easy for us to say okay, well wear a personal flotation device.
4 But we need to understand, you know, why fishermen choose not to,
5 what their risk perceptions are with these vessel disaster events.
6 It could be related to -- we can say, don't go out in bad weather,
7 but they, you know, are making a living, and they have all these
8 pressures on them, so we really need to understand that context.

9 MR. FAWCETT: So I mentioned -- do you have access to state,
10 you know, the other states throughout the United States, their
11 fishing accident reports? If they're state registered vessels,
12 does that feed into your research? For example, if I live in
13 Georgia, do you have access to the records of Georgia related to
14 fishing vessel accidents that are state registered?

15 MS. CASE: Yeah. So state registered vessels can appear in
16 Coast Guard's MISLE system if they had any interaction with the
17 Coast Guard. So, you know, I'm not sure how much of the state
18 registered, you know, fleet we have captured in our database but,
19 you know, if there was a vessel disaster or some type of incident
20 with a state registered vessel, and they required Coast Guard
21 assistance, reported to the Coast Guard, then we do see that.

22 MR. FAWCETT: So you mentioned a broader context, and I
23 thought that was a really good point. You talked about policy
24 hindering your investigations. How much focus have you given to
25 what the owners do? In other words, the framework for safety that

1 the owners establish for the vessel, like did the owners have a
2 safety management system? Did the owner provide sufficient
3 oversight of the operation? Let me see if I can give you an
4 example.

5 Let's say a vessel was known to work in a certain water way.
6 You know, did the owner get the right captain that knew the
7 waterway? If there was an accident, and they found, as the Coast
8 Guard or some other investigator said, well you know, that guy
9 didn't know the water way. Are you able to capture the owner's
10 responsibilities in terms of a causal factor for an accident, and
11 research that? And is it included in your reports?

12 MS. CASE: Yeah, thank you. Great question. So, we capture
13 a little bit of that, I believe. So sometimes in contributing
14 factors, you know, we may be able to, you know, code for
15 inexperience if the Coast Guard have identified that in their
16 report.

17 For these vessel disaster events, you know, we try to
18 capture, you know, if they had implemented drills and how
19 frequently they were doing drills on the vessel, and if they had
20 stability instructions, so those kind of things. But that, I
21 believe, is the extent to which we capture, you know, those
22 broader policies that may be onboard a vessel.

23 MR. FAWCETT: So, I'll make a final statement, and this wraps
24 up my questions for you, but we have taken a great body of the
25 work that the two of you have done, and we have incorporated it

1 into Coast Guard Exhibit 067. It's reports that you provided to
2 us upon request. And those will be available to the public, so
3 they can take a deep dive into not only your presentation, which
4 was very helpful, but the details, the recommendations, and the
5 research you have done over the years. So thank you both very
6 much.

7 That completes my questions, Captain.

8 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

9 And ladies, I'm going to now turn to our colleagues here at
10 the National Transportation Safety Board.

11 Mr. Barnum.

12 MR. BARNUM: Ms. Case, Dr. Lincoln, thank you very much. A
13 very, very informative presentation and terrific testimony here,
14 so thank you. Just three follow-up clarification questions from
15 me. I guess I'll bring up your exhibit.

16 Lieutenant McPhillips, if you'd please bring up 130, page 13.

17 So I think you created here, this is the years 2002 to 2019.
18 Would this include the *Scandies Rose*, which sank on New Year's
19 Eve?

20 MS. CASE: Yes. This does include the *Scandies Rose*. We
21 have preliminary coding for this event, just because obviously the
22 investigation is ongoing. From what we could tell about the
23 fishery, I think there's some confusion about, you know, pot cod
24 versus Bering Sea crab, but they are included in the pot cod
25 numbers.

1 MR. BARNUM: Okay, thank you.

2 And then, Lieutenant McPhillips, could you please go to page
3 -- or slide, I'm sorry, 41?

4 And then this group of data here is from '90 to 2020. And I
5 don't see *Scandies Rose* represented here. Is that because it was
6 classed in the pot cod, not the crab fishery?

7 DR. LINCOLN: Correct. This slide only represents those
8 fatalities that occurred while fishing in the Bering Sea/Aleutian
9 Island crab fisheries.

10 MR. BARNUM: Crab, okay. Thank you for that clarification
11 there. And then, the second question would be, I'm just curious
12 what kind of outreach NIOSH has, you know, to the commercial
13 fishing industry. You know, is there forums that are put on, or
14 social media or pamphlets handed out on a dock? What do you
15 offer?

16 MS. CASE: Yes, excellent question. So we have a variety of
17 venues. We (indiscernible), in non-COVID times, I would go to
18 Pacific Marine Expo, Comfish in Kodiak, Alaska, the Maine
19 Fisherman's Forum. We like to go to these industry trade shows
20 and just really represent NIOSH and talk with fishermen about
21 safety problems, and also safety successes, what works for them.

22 We have a NIOSH Fishing Twitter account, and we try to post,
23 you know, helpful links and resources and infographics there. And
24 then when we do field studies, we do love walking the docks and
25 recruiting fishermen, you know, face to face. A few years ago we

1 did a study looking at PFD use in fishermen, and that included the
2 Bering Sea crab fishermen. And we get to walk the docks and talk
3 with them. And that's, you know, one of the best ways we can get
4 information, is from fishermen directly.

5 MR. BARNUM: Great, thank you.

6 DR. LINCOLN: If I could just add to that, Mr. Barnum, the
7 other thing -- we also have, we also try to publish a regular
8 article in newsletters that exist, so I'm thinking of the AMSEA
9 and the NPFVOA newsletters. We try to get an article in *National*
10 *Fishermen* when we're able to, and we have had, we have placed ads
11 in other fishing news publications.

12 I think another success of -- successful way to get
13 information to fishermen is through Angus Iversen. I don't know
14 if you've ever met him, but he was a character that was created to
15 convey information about wearing life jackets while you, when you
16 work on a fishing vessel.

17 MR. BARNUM: Great, thanks. And then, you've already
18 answered this question for me, but maybe for the benefit of the
19 public further, you -- this is Dr. Lincoln, I suppose, you
20 mentioned recommendations that NIOSH gives to different
21 organizations. How is that tracked, and how is that -- you know,
22 understanding that they're just recommendations, correct?

23 DR. LINCOLN: Right. They're just recommendations. Could
24 you clarify the question a little bit?

25 MR. BARNUM: Yeah, sure. So --

1 DR. LINCOLN: Are you wondering whether or not -- go ahead.

2 MR. BARNUM: Yeah, so when you issue an organization a
3 recommendation to improve their safety culture, or to require life
4 jackets or something else, how is that -- how do they respond to
5 NIOSH and how is that tracked by NIOSH?

6 DR. LINCOLN: It's a complicated question. I think in a
7 variety of -- we will, you know, we'll make a recommendation. So,
8 I'll take the life jacket example. We made a recommendation that
9 fishermen in Alaska wear life jackets when they go to -- when they
10 work. You know, and we did a survey of them in 2008, 2009, and
11 then we went back and asked the same groups of fishermen whether
12 or not they wear life jackets now. And we could show improvements
13 based on their response to whether or not -- to our surveys, you
14 know, pre and post. Could we track, you know, actually somebody
15 wearing a life jacket, an improvement, the improvement in the
16 number of people that do that.

17 As far as recommendations that we make, I think in general,
18 you know, we try to design a research study around it, to see if
19 we can evaluate whether or not something has changed. But that is
20 the extent to which I think that we would do any sort of
21 monitoring of the recommendation.

22 Samantha, does anything come to mind?

23 Oh, go ahead, Mr. Barnum.

24 MR. BARNUM: I was just going to do a follow-up. So the
25 recommendation made that the State of Alaska require this five-

1 year periodic safety training, is that -- have they accepted that
2 recommendation? Have they acted on it? You know, have they
3 responded?

4 DR. LINCOLN: Right. So that recommendation was made back in
5 1997.

6 MR. BARNUM: Right.

7 DR. LINCOLN: I don't remember. I don't remember if there
8 was any -- so it, there's no policy for that. You know, there's
9 no -- we made the recommendation but, you know, I don't remember
10 what happened in 1997, but certainly it's not a requirement right
11 now.

12 MR. BARNUM: Sure. Has that recommendation ever been made to
13 the Coast Guard, that you're aware?

14 DR. LINCOLN: Well, so we made that recommendation to the
15 state of Alaska because they are the ones that issue a crew
16 license. So that was the carrot and the stick, so to speak, you
17 know. To the U.S. Coast Guard, well to -- I think just in
18 general, NIOSH has said that fishermen should take, should have,
19 should take a marine safety class and a refresher class at least
20 every, once every five years. So that is a, that's a
21 recommendation that we say, that we put out there.

22 In my, in the last section of the presentation that I just
23 gave, I encouraged this, your Marine Board to encourage the Coast
24 Guard to adopt the authority that they have and implement
25 regulations for training that were in the 2010 Authorization Act

1 for the Coast Guard.

2 MR. BARNUM: Yes. Thank you for that. And also in the 2010
3 Authorization Act was the Alternate Compliance Safety Program that
4 you mentioned on your presentation that we know that has not come
5 to fruition to this point.

6 DR. LINCOLN: Right.

7 MR. BARNUM: So thank you for that. Thank you for the
8 presentation. That's my final question. My colleague has some.

9 MR. SUFFERN: Thank you, Dr. Lincoln and Ms. Case, again, for
10 the excellent presentation.

11 Lieutenant McPhillips, if you could bring up Exhibit 130
12 again and go to slide 41, I just have two questions in general
13 about the statistics here.

14 I see they're over the course of a year. Was it further
15 broken down by months? For example, did most of the accidents
16 occur between January and March, or October and December?

17 DR. LINCOLN: Sure. That's a great question. So we can
18 certainly divide these data for the Bering Sea/Aleutian Island
19 crab fishery and any of the data that Samantha presented by month.
20 That's something that's very easy to do. In the decade of the
21 90s, when most of these fatalities occurred, certainly the vessel
22 losses occurred most frequently in January on their way out to the
23 opilio crab fishing grounds.

24 MR. SUFFERN: Yeah, I'd be curious to see, you know, if it's
25 all in January or if in the later years there's some February

1 thrown in there or something like that. That would be something
2 I'm definitely interested in. That's helpful information.

3 And then a second question, was there any review? You
4 mentioned weather and heavy weather and icing and stability quite
5 a bit during the presentation. Was there any review of changes in
6 the weather over the Bering, with climate change and things like
7 that, and potentially warmer sea surface temperatures or things
8 therein? Was there any consideration into that, and to the
9 statistics and how things changed from the 90s to the 2000s to the
10 past ten years?

11 DR. LINCOLN: We haven't done any sort of an analysis like
12 that, however, we've thought about doing things like that. If you
13 recall that slide that was just up, there's a dip in the 1990s
14 where there was no vessel losses. And the hypothesis is, is that
15 that year we didn't have severe weather during crab season. So
16 there, that has come up as an idea of further research, but it's
17 not something that our NIOSH researchers have pursued. That work
18 has been done in other places.

19 Oh go ahead, Sam.

20 MS. CASE: Yeah. I was going to comment that there are, you
21 know, staff with the National Marine Fisheries Service, Lisa
22 Pfeiffer is someone in particular who comes to mind, who actually
23 may have been looking at that. And I'm not sure if it was for the
24 crab fishery or not, but did reach out, and we talked a little bit
25 about looking at weather patterns. And she was getting the

1 incident data from our database. So, that is potentially being
2 done, or has already been done by, you know, other agencies.

3 MR. SUFFERN: Okay. That's helpful information. I'll
4 definitely have to dig into that, because earlier during the
5 hearing, I believe the person from the National Weather Service
6 mentioned in 2019 that, you know, they had, in that particular
7 area they had 40 events of heavy freezing spray, and then in 2020,
8 only four events. So the weather can be variable year to year and
9 decade over decade. So, that's interesting. Thank you so much
10 for the presentation again, and I appreciate it.

11 That's all the questions I have, Captain.

12 CAPT CALLAGHAN: Thanks, gentlemen.

13 Ladies, I'm now going to move to our parties in interest,
14 starting with the counsel for the two survivors.

15 Mr. Stacey?

16 MR. STACEY: Thank you, Captain Callaghan, and good morning,
17 Dr. Lincoln and Ms. Case. Do you hear me all right? Okay,
18 wonderful. First, thank you very much for your testimony. Dr.
19 Lincoln, I have to commend you on a fantastic virtual background
20 that you have. I have a couple of questions for you.

21 For the training that you've discussed, that NIOSH thinks
22 that every crew member should go through, I'm not sure if you
23 heard the testimony, that you had Mr. Dean Gribble, who got up
24 there, essentially the day before. This is not uncommon up in
25 Alaska. The kinds of trainings that you're recommending, is that

1 something that the vessel would be able to conduct? Would it be
2 able to be something done in a day's time to give the industry
3 that flexibility while not sacrificing safety?

4 DR. LINCOLN: Yeah, absolutely. There's drill conductor
5 courses that are available, and there are eight-hour courses that
6 were tailored to that particular concern, that somebody be able to
7 complete the course, a hands-on safety course in one day.

8 MR. STACEY: And would that be all -- sorry. Please
9 continue.

10 DR. LINCOLN: I was going to say, and then in the next
11 session you're going to hear from two of the executive directors
12 of the training institutions that are in the Pacific Northwest, as
13 well as trainers, having trainers elsewhere in the country.

14 MR. STACEY: And would that training be able to be conducted,
15 you know, whether it's in Kodiak or Dutch or St. Paul, either by
16 someone physically located there or by, you know, the captain on
17 the vessel or someone with the vessel?

18 DR. LINCOLN: Well (indiscernible) or so, NPFVOA and AMSEA
19 have two different training approaches, I suppose, and you'll hear
20 from them in the next session. NPFVOA focuses on vessels that are
21 home ported in Seattle. And if I have this wrong, Karen will
22 correct me, but they do focus on providing training in Seattle and
23 on vessels in that area, to make it easy for fishermen to be
24 trained.

25 AMSEA, the Alaska Marine Safe Education Association takes a

1 train-the-trainer approach first. They, at least twice a year,
2 have trainings for people to become instructors. And the idea is
3 that those people will become instructors, and they'll go out and
4 do the instructing. I also know that particularly in the state of
5 Alaska, if you want training on your vessel, that AMSEA will do
6 everything possible to get an instructor there who's qualified to
7 do the instruction and get the true craned -- get the crew
8 trained.

9 MR. STACEY: (Indiscernible). Thank you very much for that,
10 Dr. Lincoln. And Ms. Case, I'm not sure if you had anything to
11 add to that?

12 MS. CASE: No, I don't. Thank you.

13 MR. STACEY: Okay. One other thing that we've heard a lot at
14 these hearings is the benefit of having lots of vessels out so you
15 can report about the weather, about conditions, and if a mayday
16 call is unfortunately had to be made, that there'd be more vessels
17 in the vicinity of that mayday call.

18 You discussed with the rationalization, how there are fewer
19 vessels that are now out at sea. Do you think that this Board
20 should take that into consideration about how there are fewer
21 vessels out there with rationalization in, you know, determining
22 best practices with how to best capture and send out weather data,
23 with fewer vessels out?

24 DR. LINCOLN: That seems reasonable.

25 MR. STACEY: Okay. All right, thank you very much. Those

1 are all of the questions I have for you. Thank you very much for
2 your testimony. It was extremely informative.

3 Thank you, Captain.

4 CAPT CALLAGHAN: Thank you, Mr. Stacey. And now to counsel
5 representing the vessel owners.

6 Mr. Barcott.

7 MR. BARCOTT: Thank you, Captain.

8 Ms. Case and Dr. Lincoln, can you hear me all right? So I'm
9 Mike Barcott. I represent the *Scandies Rose*. Dr. Lincoln, my
10 team met you on the *Destination* hearing. I want to join you in
11 thanking Chris Woodley in this area, who does a fantastic job with
12 the industry, so we certainly join you in that.

13 My understanding is that your work is broader than either
14 (indiscernible). You are looking for patterns. Is that right?

15 DR. LINCOLN: Yes. That's correct.

16 MR. BARCOTT: Okay. So, I've been doing this for a while,
17 and you mentioned, Dr. Lincoln, five events that I've got a fairly
18 significant body of information about, *St. George, Northwest*
19 *Mariner, Lin J, Destination*, and now *Scandies Rose*.

20 So, let me characterize something I see as a pattern in these
21 five events, and there may be others, but I don't have that
22 knowledge. *St. George*, good captain, good boat, in icing,
23 capsized. *Northwest Mariner*, highliner, good captain, icing,
24 capsized. *Lin J*, good captain, good boat, icing, capsized.
25 *Destination*, good captain, good boat, icing, capsized. And now,

1 *Scandies Rose*, by all accounts a very good boat and very good
2 captain.

3 So my question, and this relates to something Mr. Fawcett
4 asked you, has anybody ever looked back at these events,
5 retrospectively, to see if there is something that might have
6 caused these good captains to take their good boats into icing
7 that turned out to be fatal? Has that ever been looked at?

8 DR. LINCOLN: We haven't looked at that, Mr. Barcott.

9 MR. BARCOTT: You would think that is worthy of study. What
10 made -- I will tell you, I think you will find that pattern, and I
11 have some fairly strong ideas about what caused it, but from a
12 scientific perspective, is that worth a look?

13 DR. LINCOLN: Something that I had suggested to Samantha
14 earlier in the calendar year -- actually, I guess it might have
15 even been before the Coast Guard even approached us to do this,
16 was to look at the events and the Coast Guard investigations of
17 these major marine casualties that have been conducted, look at
18 the events.

19 And so the events that we would look at would be these major
20 events where a formal board of investigation was convened, and
21 review what was in those, what the recommendations were made, that
22 were made, and what happened to them. You know, so the Coast
23 Guard made a recommendation. What did the commandant say? Or the
24 board made the recommendation. What did the commandant say and
25 what happened?

1 So, I had considered looking at these Marine Board inquiries
2 and looking at the recommendations. I think that it would also be
3 interesting to look at the in-depth scenario that no doubt is
4 written up in those reports, because of all of the time and effort
5 and energy that went into those investigations. So it is
6 something that Samantha and I have discussed even recently, but
7 it's not something that we have conducted yet.

8 MR. BARCOTT: Well let me suggest to you that something you
9 will find in those studies are the stability reports which existed
10 for those vessels. What you will not find is any close analysis
11 of the relationship of those stability studies to the reality of
12 the fishing grounds.

13 So let me ask you this. You said one of the things that you
14 were able to do is stop overloading of pots. Have you been
15 following the hearing here, and the, what I will call the
16 disconnect between icing conditions and stability studies, and the
17 reality of Bering Sea fishing? Have you followed that?

18 DR. LINCOLN: I'm sorry, Mr. Barcott. I haven't been able to
19 watch all of the testimony. I have tried to stay up to date on
20 what I can read in news clippings, and I get a sense of that type
21 of information that's being discussed during these, but I haven't
22 had a chance to really listen to the testimonies.

23 MR. BARCOTT: So I'm going to suggest, if you could listen to
24 the testimony of the three independent naval architects, it would
25 be valuable information for you. And if it were determined by

1 this Board, that the icing conditions in stability studies do not
2 reflect the realities of fishing in the Bering Sea, would it be
3 worthy of study whether that disconnect might have been part of
4 what led these captains of these five boats into icing conditions,
5 that human factors portion of this, and what led them to make the
6 decisions they made? Is that worthy of study?

7 DR. LINCOLN: Well that, the pattern that you note of all of
8 these vessels with, whether they're highliners or adequate
9 operators or high performance, however you want to talk about the
10 admiration for the captains, and then these vessels still sank,
11 there has to be some investigation into the pattern of all of
12 them. And if some of our underlying assumptions aren't valid,
13 then adjustments should be made.

14 MR. BARCOTT: I'm going to urge you to take a look at that.
15 Thank you very much, Dr. Lincoln.

16 Thank you, Captain. Those are the questions I have.

17 CAPT CALLAGHAN: Thank you, Mr. Barcott.

18 Ladies, I know we've taken more than the time we had
19 originally allotted for you, and it's certainly -- I want to take
20 the opportunity to, you know, extend our appreciation for your
21 willingness to provide that presentation for us, and then have a
22 good discussion about your findings and then answer some of our
23 questions here.

24 Certainly, it goes to show a great appreciation for, you
25 know, the work you've done and your appreciation and support of

1 the fishing vessel industry as a whole, in promoting safety
2 amongst the industry.

3 So thank you very much, and again, thank you for your time
4 this morning. It's been extremely valuable for us, moving
5 forward, and something that we will continue to look at and, you
6 know, gives us a good spot to go look at all the previous
7 recommendations that you've cited, and kind of continue to look
8 where we can move with this investigation as a whole. So thank
9 you very much.

10 Ladies, at this time, you are now both released as a witness
11 at this formal hearing. I thank you for your testimony and
12 cooperation. And if at a later time I determine that this Board
13 needs additional information from you, we'll contact you through
14 counsel. If you have any questions about the investigation, you
15 may contact any member of the Investigation Board, or the
16 Investigation Recorder, LT Ian McPhillips. Thank you both very
17 much.

18 MS. CASE: Thank you.

19 (Witnesses excused.)

20 CAPT CALLAGHAN: It is now 1030. This hearing's going to
21 take a ten-minute recess, and we will go to our next witnesses.
22 Thank you very much.

23 (Off the record at 10:30 a.m.)

24 (On the record at 10:39 a.m.)

25 CAPT CALLAGHAN: The time is now 1040. This hearing's now

1 back in session. We will now hear from Mr. Jerry Dzugan and
2 Ms. Karen Conrad.

3 Mr. Dzugan and Ms. Conrad, 1Lieutenant McPhillips will now
4 administer the oath and ask you some preliminary questions.
5 (Whereupon,

6 JERRY DZUGAN and KAREN CONRAD
7 was called as a witness and, after being first duly sworn, was
8 examined and testified as follows:)

9 LT McPHILLIPS: Thank you. Please be seated. I need to each
10 ask you a few questions, starting with Ms. Conrad.

11 Ms. Conrad, please state your full name, and spell your last
12 name.

13 MS. CONRAD: Karen Conrad, C-o-n-r-a-d.

14 LT McPHILLIPS: Please identify counsel or representative if
15 present.

16 MS. CONRAD: I have no counsel.

17 LT McPHILLIPS: Please tell us, what is your current
18 employment and position?

19 MS. CONRAD: I'm an executive director for NPFVOA Vessel
20 Safety Program.

21 LT McPHILLIPS: What are your general responsibilities in
22 that job?

23 MS. CONRAD: I run the company. It's nonprofit. We do
24 training, and take care of situations, mostly catering to parts of
25 the fishing industry and maritime safety.

1 LT McPHILLIPS: Can you briefly tell us your relevant work
2 history?

3 MS. CONRAD: Excuse me?

4 LT McPHILLIPS: Briefly tell us your relevant work history.

5 MS. CONRAD: In 1988 I graduated from college and went to
6 work as a foreign fisheries observer in the Bering Sea for four
7 years. And after that, I started in -- no, in 1984 I was an
8 observer up in the Bering Sea. In 1988, I started as a human
9 resource manager, managing claims and also in charge of safety for
10 factory trawlers in the Seattle area.

11 LT McPHILLIPS: What is your education related to your
12 position?

13 MS. CONRAD: I have a B.S. in zoology.

14 LT McPHILLIPS: Do you hold any professional licenses or
15 certificates related to your position?

16 MS. CONRAD: I do not.

17 LT McPHILLIPS: Thank you, Ms. Conrad.

18 Mr. Dzugan, please state your full name and spell your last
19 name.

20 MR. DZUGAN: My name is Jerry Dzugan. Last name is spelled
21 D-z-u-g-a-n.

22 LT McPHILLIPS: Please identify counsel or representative if
23 present.

24 MR. DZUGAN: I have no counsel, except my own.

25 LT McPHILLIPS: Please tell us, what is your current

1 employment and position?

2 MR. DZUGAN: I am currently the executive director of the
3 Alaska Marine Safety Education Association, a nonprofit based in
4 Sitka, Alaska.

5 LT McPHILLIPS: What are your general responsibilities in
6 that job?

7 MR. DZUGAN: Oh, to run a nonprofit, to -- our basic
8 responsibility, my basic responsibility is to create and support a
9 network of fishing vessel port-based instructors around Alaska and
10 the U.S., and to provide them with curriculum and training
11 materials and equipment and funding so that they can provide
12 accessible training to fishermen. We also do -- we also have a
13 very active program in the schools in the state. So I have other
14 non-fishing training responsibilities.

15 LT McPHILLIPS: Can you briefly tell us your relevant work
16 history?

17 MR. DZUGAN: I will include my eight years of teaching in
18 inner city schools in Chicago, secondary education teacher. I've
19 been a commercial fisherman in Alaska from 1980 to about six years
20 ago, off and on, owned and worked on halibut long-liners, co-owned
21 and worked on salmon trawlers. Last year -- last -- six years
22 ago, my last fishing was on commercial salmon seiner.

23 We've also been doing marine safety in that time. In terms
24 of work, anything related to fishing vessel safety has pretty much
25 been my work. I operated a charter boat wildlife tour business

1 for about 16 years. I've been a EMS instructor, a full faculty
2 at the University of Alaska. That's, pretty much wraps it up.

3 LT McPHILLIPS: Thank you. What is your education related to
4 your position?

5 MR. DZUGAN: I have a bachelor's degree in secondary
6 education. I have a doctorate degree in grant education and
7 training, from World Maritime University in Malmo, Sweden. I've
8 got the HSM certificates also. You know, I had a (indiscernible)
9 license for 22 years. Certifications, marine safety instructor
10 trainer, first aid instructor certificates.

11 I've taken STCW courses in Europe. I've attended about 12
12 different schools in Europe for different types of training and
13 certification in marine safety, tanker courses, marine simulator
14 instructor certifications, shipboard damage control from NPFVOA,
15 stability for fishermen (indiscernible) drill and, you know,
16 things like that.

17 LT McPHILLIPS: Thank you both. Captain Callaghan will now
18 have follow-up questions for you.

19 CAPT CALLAGHAN: Good morning again, and thank you both. I'm
20 now going to turn it over to Mr. Keith Fawcett.

21 Mr. Fawcett?

22 EXAMINATION OF JERRY DZUGAN AND KAREN CONRAD

23 MR. FAWCETT: Thank you, Captain.

24 Thank you, Ms. Conrad, for being here in person, and
25 Mr. Dzugan, for being here virtually. Just a clarification. You

1 had mentioned the Coast Guard credential you held. That was for
2 smaller, uninspected passenger vessels that carry six or less
3 passengers. Would that be correct?

4 MR. DZUGAN: That's a correct clarification, yes.

5 MR. FAWCETT: And so we're only going to show a couple of
6 exhibits, and we'll invariably put it up in front of you, and the
7 Recorder, Lieutenant McPhillips will either zoom it in for you, or
8 manipulate it to help you really see it, and take your time and
9 look at it. And if you will now have him slide the image around
10 so we can see things better, that'd be great. With that, I will
11 first talk to Ms. Conrad.

12 So, Ms. Conrad, if you could, talk about why your training
13 facility was created. What is the need, and what do you hope to
14 accomplish at this school that you are director at?

15 MS. CONRAD: So, NPFVOA was started in 1961, and it was
16 created by fishermen to have a group that could support for
17 lobbyists and to keep up on governmental affairs. And then in the
18 late 80s, around 1984, the Americans were phasing out the foreign
19 fleet and there were more factory trawlers were being created.
20 They were starting to fish pollack, and the company was changed to
21 a safety program at that time, a nonprofit safety program.

22 It was mostly driven by insurance, that there were so many
23 accidents and injuries occurring on the fishing fleet, that a lot
24 of the brokers and insurance companies were not going to insure
25 that group anymore with P&I insurance. So this was a way for the

1 fishermen to get together, the owners to get together and create a
2 safety program, and of course at that time it's all voluntary, but
3 to start promoting safety on the vessels. And that was the key
4 reason it became NPFVOA, the Vessel Safety Program.

5 MR. FAWCETT: So have you always had a mission to provide
6 training to the smaller commercial fishing vessels under 200 tons?

7 MS. CONRAD: We do all fishing vessels. We do the small
8 boats. We do the factory trawlers that hold 200 people. Because
9 I've been in the fishing industry for so long, I've been there for
10 15 years now, and my main emphasis has always been what will make
11 it easier for the fishing crews and the owners to come in and get
12 trained on what they need to be trained on.

13 And so I can look at things like HAZWOPERS, and that needs to
14 be done, and we can do that virtually. And we just try to make it
15 as easy as possible to get training to the crews, whether that
16 means we go to their boat, and do it on their boat, whether we fly
17 to Dutch Harbor and do it in Dutch Harbor, or Hawaii, or whether
18 we -- you know, every week we have the same classes given, month
19 after month.

20 And I can have -- we're also membership-based, so we have
21 that, fishing vessels that are members. And with that, they get
22 extra perks. And one of the perks is, they can call me up, and
23 you have one guy that needs a drill class, and he's leaving
24 tomorrow. And we have him come in at 8 o'clock at night and we
25 train him for the eight hours, and he's off to go. So we are

1 very, very flexible, because you have to be when you're working
2 with fishermen.

3 MR. FAWCETT: So, I probably should have thought of this, and
4 I didn't, but if you could (indiscernible) the scope for both of
5 your two vessels like the *Scandies Rose*, (indiscernible) the
6 times, because as an operator to the certain kind of hazard or
7 wilderness training doesn't apply to that size and class vessel.
8 So it'll help us a little bit, and I should have said that at the
9 onset, but (indiscernible) to the *Scandies Rose*, if I was going to
10 be prospective crew member for that size vessel, the smaller
11 commercial fishing vessel, what training could I get there?

12 And I don't mean -- I mean, if I looked at the course
13 catalogue, what would I find in terms of the different type of
14 training that's available?

15 MS. CONRAD: So for that sized vessel, we would make a
16 recommendation first that they have a drill instructor workshop.
17 That way they understand some of the fishing regulations to
18 getting in the immersion suit to running through all the drills
19 that are required. We also have a collision avoidance navigation
20 course that caters towards that size vessel.

21 We have a stability course that caters towards that size
22 vessel. And we can also put, like me taking that size vessel and
23 take, go on a boat and run drills. And they have to get in the
24 immersion suit. Then we pop a life raft. They have to jump
25 overboard. They get into the life raft and do a survival part

1 that's hands on, in the water.

2 MR. FAWCETT: Would that be described as a basic safety
3 course, or something similar?

4 MS. CONRAD: No. We just call it two hours in the water.
5 And it's just, we go down to the boat, or they come out to our
6 dock, and we run a scenario of drills, and one of them is man
7 overboard, and then another one is abandoning ship. And
8 abandoning ship, we actually pop a life raft, and they climb in
9 the raft after they jump in the water.

10 MR. FAWCETT: So leading up to the accident time frame, just
11 before December of 2019, how well attended, just -- and you don't
12 have to give specific numbers, but were each of those type of
13 courses, in terms of first the drill conductor course? Did you
14 have a lot of attendance for that?

15 MS. CONRAD: For the size of the vessel for the *Scandies*
16 *Rose*?

17 MR. FAWCETT: Yeah, uh-huh.

18 MS. CONRAD: Okay. So, we've had approximately 50 people off
19 that size vessel take a drill instructor class every year. So, it
20 averages about 50 people a year, for the drill instructor.
21 Stability, the stability we've had 31 people in the last three
22 years take the stability class, but eight of those were Coast
23 Guard examiners, and the rest were off of the same size boat as
24 the *Scandies Rose*.

25 I've only had one person take the collision avoidance

1 navigation course. And to put people in the water, I think we've
2 done approximately 25 a year for that size of vessel.

3 MR. FAWCETT: So the stability class, do you know
4 approximately what the cost is for that? And can you elaborate on
5 the stability class?

6 MS. CONRAD: So, the stability class is a four-hour class.
7 It's \$200. And we have mainly our architect come in and teach it.
8 And we have the tank with the boat, so we can do everything hands
9 on in the afternoon. And they bring in their stability books, if
10 they have them or can find them. Most of the time it's people
11 from the same company.

12 So for the Mariner boats, we had every captain off the
13 Mariner boat come in last fall and take the course. And they came
14 in as a group.

15 MR. FAWCETT: So, how much of that training in that stability
16 class would focus on pot loading, pot weight or icing? Do you
17 know that?

18 MS. CONRAD: I do not know exactly the amount of time.

19 MR. FAWCETT: So, would it be fair to say that you're an
20 approved facility for those courses by the Coast Guard?

21 MS. CONRAD: Yes, but not all those courses that we do are
22 approved courses. If it's not a Coast Guard approved course, we
23 can do pretty much anything anywhere, where the Coast Guard
24 approved course, you have to do it at an approved site, and you
25 have to follow the syllabus that you submitted.

1 MR. FAWCETT: So have you chose a syllabus since the loss of
2 the *Destination*, to include more information that would be helpful
3 related to stability or icing?

4 MS. CONRAD: Of course, yes.

5 MR. FAWCETT: So you generate a lot of resources, I noticed
6 on your website. We asked you for this one, which is not an
7 exhibit, but this is a DVD that's called "The Vessel Safety
8 Manual." Do you provide that to students in the class?

9 MS. CONRAD: The Safety Vessel Manual is for sale. It's
10 \$100. We do not provide it in the class. We have other handouts
11 that we've created specifically for that class.

12 MR. FAWCETT: So, Lieutenant McPhillips, if you could pull up
13 Coast Guard 46, which is a safety alert on stability.

14 It'll appear on your screen here. Do you pass anything like
15 this out to your students, which is one of the safety alerts that
16 came out in late 2017? There's a whole bunch of other ones
17 related to mission operations here. Would I be able to be handed
18 one or have access to one, if I came --

19 MS. CONRAD: Yes. Yes, we have a packet that we put together
20 for a stability class. And anything that's come up, and anything
21 new that in the future, like there would be the investigation
22 report finished for the *Scandies Rose*, we will have it in the
23 packet. This kind of stuff we actually laminate and put it in the
24 packet, and then tell them, you know, they can always post it on
25 their vessel.

1 MR. FAWCETT: So will you take that down, Lieutenant?

2 So how long is the drill conductor class?

3 MS. CONRAD: We have an eight-hour drill conductor class, and
4 then when the 2010 Authorization Act came out and I was working on
5 the objectives for those requirements, we also have a two-day
6 drill instructor class that covers survival, damage control and
7 drill instructor.

8 MR. FAWCETT: So you mentioned that 2010 Authorization Act.
9 One of the things that, recommended was some kind of a competency
10 card or certificate, simple certificate that would be issued to a
11 mariner in a commercial fishing trade that would document a
12 competency. Have you begun working to develop something similar
13 to this so that when that event actually occurs, we'll have a
14 course or some training that you can provide?

15 MS. CONRAD: So I was on the Fish SAC, and when I -- I can't
16 remember the date, but I've been on there for two or three terms
17 now. When we got there, they had created the objectives for each
18 of the competencies. And so, one of the things in our committee,
19 what we did was, we created -- we tidied up the objectives, and we
20 also came up with time zones, like you know, should the class be
21 four hours, or how do you get all these ten classes in a period of
22 time where you can capture the fishermen to take the class?

23 So, we came up with a day by day, it's a five-day course.
24 And these were our recommendations to the Coast Guard at the end
25 of all this. So it's a five-day course and it covers all ten

1 competencies. And the fisherman doesn't have to take all five
2 days at one time. They could come in and take one day. And then
3 when you get back in a month or two they can take another day.

4 They have five years to complete all five, and then they do a
5 refresher every five years. And not a lot had happened creating
6 these courses, so I talked to Jack Kemerer, and he suggested I
7 write the syllabuses for these courses. So I have a written a
8 syllabus for every one of these competency courses, and for the
9 time that we allowed.

10 And then after that, I've written the two-day drill
11 instructor to combine two days, and then I've also done stability
12 from the objectives and I'm working on navigation right now. And
13 these are courses that if this gets passed into a regulation, I'm
14 ready to give the class.

15 MR. FAWCETT: Okay. So let's just -- you know, here's a good
16 timeline. The Authorization Act was in 2010.

17 MS. CONRAD: Correct.

18 MR. FAWCETT: You provided guidance and input on
19 recommendations for the course as a approved training facility,
20 with some considerable experience. At the time it was called the
21 Commercial Fishing Safety Advisory Council, which is a federally
22 mandated committee. Do you know approximately when you did that?

23 MS. CONRAD: Jerry may know. I think it was around 2016,
24 2017, maybe even as early as 2015. It was the meeting we had in
25 Savannah, Georgia.

1 MR. FAWCETT: Okay. And for the record, Mr. Kramer, or
2 Kemerer, I believe, used to be the chief of the Office of
3 Commercial Vessel Safety. Is that correct?

4 MS. CONRAD: That's correct.

5 MR. FAWCETT: So, I did want to revisit, just for a moment,
6 this Vessel Safety Manual. And it does have a couple of areas in
7 it. One is stability. If I were to open the manual, could you
8 just give a rough idea on how much of that document would be
9 devoted to stability?

10 MS. CONRAD: I don't know.

11 MR. FAWCETT: Okay. And also, (indiscernible) vessel safety
12 concerns, I'm just wondering if that would include certain things
13 like icing and pot loading, or pot loads in the safety concerns
14 segment.

15 MS. CONRAD: I don't remember.

16 MR. FAWCETT: Okay. We can pull that off the -- the issue
17 was that, for me anyways, the manual is the style that the
18 information is incorporated. It's not easy for me, as an
19 investigator, just to extract. But it would be easy for a student
20 that was using the manual to go through all the pages. So, I
21 thank you for that. Do you know when that manual was last
22 updated?

23 MS. CONRAD: It was last updated 13 years ago.

24 MR. FAWCETT: So, you did testify in the *Destination* case,
25 didn't you, as a member of the -- as a witness for the Marine

1 Board?

2 MS. CONRAD: I did.

3 MR. FAWCETT: So I read some of those transcripts in
4 preparation for this accident, and one of the areas that you were
5 asked about is the stability classes. And at the time, you said
6 normally you were able to get one or two people to attend that
7 course. Since the loss of the *Destination* -- and that was really,
8 your testimony is close to the time of the loss of the *Destination*
9 in August, shortly after the vessel sank. Earlier (indiscernible)
10 have more people expressed interest in attending your stability
11 courses?

12 MS. CONRAD: No. I will say that there are some owners that
13 have stepped up and had their captains -- I've had two owners come
14 in since, have sent their captains to one class and seven to
15 another class. But other than that, it's -- I mean, that was,
16 that's 13 people. I had a total of 31. Eight of them are Coast
17 Guard and 13 of them came from two companies. So, that's the rest
18 that have trickled in, and it's not very many.

19 MR. FAWCETT: Well, (indiscernible) would you recommend that
20 more emphasis be placed on commercial fishermen attending this
21 type of training, the stability training? You know, like perhaps
22 it ought to be expanded, in terms of scope?

23 MS. CONRAD: Absolutely.

24 MR. FAWCETT: So, before we go over to our next witness and
25 ask him a few questions, I'll return Ms. Conrad, again I'll talk

1 to both of you, but do you have any other recommendations to
2 enhance and improve safety operations related to the loss of the
3 *Scandies Rose* or the *Destination* that you'd like to share with us?

4 MS. CONRAD: I would like to go back to the 2010
5 Authorization Act. In 1988, for the Safety Act, when the drills
6 had to be done on a monthly basis, and had to have a drill
7 instructor run those, and that drill instructor had to be trained,
8 there was never an expiration date. So, in the 2010 Authorization
9 Act, they created a five-year expiration date. And to this day,
10 since there's no regulation to support that law, people don't have
11 to still come in and take a refresher course.

12 And I have people that call that took drill instructor, and
13 the only class they've ever taken as a fisherman in 1992, and they
14 aren't going to come back into my classroom until they're required
15 to take it again. And so I would really like to see the drill
16 card expiration given to a regulation and then also the ten
17 competency courses, those were very thought out. It's very hands
18 on. There's no testing. It's catered towards fishermen. And I
19 really would like to see those created into a regulation so we
20 could get those up and running

21 MR. FAWCETT: So when you say no testing, just to be clear,
22 if we were going to do something like talk about a survival suit,
23 you would ask me to demonstrate either a skill, or a full
24 understanding of how to don that. You wouldn't ask me to do a A,
25 B and C, or fill in the blank or something like that?

1 MS. CONRAD: That's correct.

2 MR. FAWCETT: One of the things we've been talking about here
3 is a personal locator beacon. And would you say that one of the
4 purposes of having a expiration date on a training certificate
5 like a drill instructor course is because technology changes, and
6 we want to update fishermen on new technology that they use in the
7 workplace?

8 MS. CONRAD: Yeah, absolutely.

9 MR. FAWCETT: So thank you very much.

10 Mr. Dzugan, could you elaborate a little bit more on -- you
11 know, Dr. Lincoln sort of stole your thunder. She talked a little
12 bit in her testimony about the fact that you travel to Alaska, and
13 so does Ms. Conrad, but could you elaborate a little bit more
14 about the mission of your organization and how you conduct your
15 operations?

16 MR. DZUGAN: The mission we have is to reduce the state --
17 reduce the loss of life injuries in the maritime environment.
18 It's a pretty broad mission. It really -- I have to go back into
19 the history again. It really started in the Kodiak Coast Guard
20 search and rescue air station in the mid to late 1970s, when the
21 Coast Guard -- and Alaska was experiencing one of our first big
22 bubbles in fatalities due to the, really the ton of crab fisheries
23 that took off there, the new fishery, and a lot of people put a
24 lot of capital into it, maybe with not a lot of experience, and
25 all the fatalities were happening.

1 And the Coast Guard helicopter pilots were picking up bodies
2 and survivors. And they'd pick up the survivors, and they --
3 first thing they'd do is give them dry set of clothing. And they
4 took them out to eat, and they'd ask them what happened, just to
5 let them talk. Then they've invite them back to another meal a
6 week later and they'd ask them more detailed information about
7 what helped them survive, what didn't. And out of that came a
8 curriculum.

9 And some of the Coast Guard pilots, one in particular, hooked
10 up with a Sea Grant agent there in Pendleton, who was a Alaska Sea
11 Grant agent and a good instructor, and they did road shows. The
12 Coast Guard had the helicopter, the transportation and the Sea
13 Grant agent had the gift of talk. And they did voluntary talks
14 with the helicopter to villages and fishing ports around Alaska.
15 They delivered the training to them.

16 So, those two people in the early 80s got together and formed
17 a grass roots organization called AMSEA, Alaska Marine Safety
18 Education Association. And by 1985, I think, we officially got
19 our name, got incorporated. And the whole basis of it was to
20 create Alaska-based cold water curriculum that would -- and train
21 instructors to teach in their home ports, who lead a fishery, who
22 often were participants in the fishery, to be like an in-port
23 resource for training, because there wasn't much money for
24 training in those days at all.

25 And so they'd be more sustainable, and able to get training

1 based on this curriculum that had come out of the Coast Guard.
2 So, fishing vessel safety has always been a core part of our
3 mission, because of the high fatality rates. And I'm looking here
4 over my shoulder. We're talking about, in Alaska, 29 fishermen a
5 year, 48 a year, 28, 41, 47, 48, 37. This is in the early 80s.
6 It's extremely high.

7 And so we focused on that group, and supplying those
8 instructors with support, and curriculum, and funding to do
9 training. But we also realized that it's hard to attract a,
10 someone who's been fishing for 30 or 50 years to take training, as
11 Ms. Conrad pointed out, in stability courses and (indiscernible)
12 also. So we needed to get into the schools as well.

13 So we started doing training in the schools, because in the
14 school are going to be the future fishermen, especially in Alaska.
15 So by 1985, '86, we had done our first instructor courses, and we
16 found out that there was a lot of interest outside of Alaska for
17 this as well, especially for those fishing ports, many
18 (indiscernible) the country are remote. And there's no central
19 access point to go to, and there's not much funding available for
20 travel.

21 So the whole mission has really been about making training
22 available that's relevant to those fisheries, because different
23 fisheries have different issues in safety, small boat, big boat,
24 seiners, (indiscernible), trawlers. Credibility that instructors
25 speaking to the fisheries in recent, the people who train have, is

1 accessible, so they can find it in their own home port and not
2 have to travel 2,000 miles to get it at a maritime academy, and
3 affordable, basically, so there's not barriers.

4 We have seen barriers in the past when we have had to charge
5 for courses. So, a roundabout way to explain it, but it's, that's
6 the mission, and that's how we've approached accomplishing our
7 objectives in that.

8 MR. FAWCETT: So did you also support creation of a set of
9 standards for certification, basic certification involving the
10 2010 Authorization Act? Did you create your own set of
11 suggestions or recommendations?

12 MR. DZUGAN: I was on the Commercial Fishing Safety Advisory
13 Committee in 1990 when it first formed, the 1988 Act was passed.
14 And we were very interested in seeing training requirements in
15 that act. And I was on it again in 2010, as the chairperson, and
16 I chaired the training subcommittee. And that was the one which
17 created the objectives for those courses that were delineated in
18 the 2010 Act.

19 And then I think Karen explained pretty well what happened,
20 you know, after the objectives and how an outline was developed by
21 a group of the members of that committee, that subcommittee on
22 training within the Fish -- we call it the Fish SAC committee,
23 Commercial Fishing Safety Advisory Committee, around the course
24 of, during the mid double aughts to just a few years ago until we
25 finalized it, and Karen did her work.

1 MR. FAWCETT: This is a question for either of you. Since
2 you've been involved with the Fishing Safety Advisory Committee,
3 what is the most frequently that you've seen that committee meet
4 during the years of your involvement? First I'll go to you,
5 Mr. Dzugan. How many times a year?

6 MR. DZUGAN: Well at least since I've been involved, since
7 1990, I've been on the committee about 22 of those years. I had
8 about a five-year hiatus in the middle, and I've only been on it
9 for the last few years. In the beginning there was a lot of work
10 to do with the 1988 Act, and we had meetings once or twice a year,
11 at first at least once a year.

12 I think it was a requirement under their charter to meet at
13 least once a year, and I guess at some times, twice a year. The
14 1988 Act was passed in 1988, and by 1991, three years later, there
15 were regulations out. And for training, there was a three-year
16 window to get that training. That ended in September of 1984. So
17 it was a pretty quick effort to go from act to federal code to
18 CFR, Code of Federal Regulations.

19 We had annual meetings through the 80s and 90s, considering
20 the emphasis, I think in the last five years. And again, in the
21 last five years I've only been on the committee for two of those.
22 The meetings have been less, or they have been -- of course last
23 year, they were virtual. But they've gone down in number, in my
24 experience, when I was on the committee. They have been less
25 frequent.

1 MR. FAWCETT: So, Ms. Conrad, have you -- do you differ for
2 that, or is that like the same perspective, based on your
3 experience?

4 MS. CONRAD: It's the same perspective.

5 MR. FAWCETT: Have either of you ever heard the issue of
6 stability or icing discussed in those Commercial Fishing Safety
7 Advisory council meeting -- Committee meeting?

8 MR. DZUGAN: Having attended about 30 of those meetings,
9 maybe, almost every meeting I can think of, we've always had a
10 naval architect or an engineer as a member of the committee.
11 We've always listened to them, and sometimes when there had been
12 another architect or engineer in the room, we've heard discussions
13 between the two of them, about standards, disagreements, trying to
14 come to some common understanding of them.

15 So, the short answer is yes, almost every meeting, it's been
16 a topic of conversation.

17 MR. FAWCETT: Has it resulted in any formalized set of
18 recommendations to the Coast Guard that have been generated by
19 that committee?

20 MR. DZUGAN: I have to go back through 30 years of my notes
21 on that. I knew you'd ask that question. That's been a really
22 difficult thing to come up with, because of the lack of agreeing
23 on what's a good standard for fishing vessels. So I know that
24 our -- often, is it 586, the NVIC 586, do I have that one right,
25 587? I think it's a NVIC that was voluntary standards for fishing

1 vessels that came out in '87, I think.

2 That has suggestions. Those, that NVIC, those NVIC guidances
3 were quite often considered out of date or inadequate by naval
4 architects in the 80s. I think I remember the term outdated quite
5 a bit, or needed updating. So, specific recommendations from that
6 committee seemed to be difficult on that, because of that,
7 difficulty of coming up with a standard.

8 I can't remember right off the top any specific
9 recommendations that were made, but there were certainly a lot of
10 discussions.

11 MR. FAWCETT: Returning to the training, if I'm a commercial
12 fisherman on a vessel such as the *Scandies Rose*, under 200 tons,
13 what training can I get from you in addition to the drill
14 conductor training that you provide?

15 MR. DZUGAN: Well we would offer or would suggest the
16 stability training that we do. We've been doing stability
17 training for, at least since -- either workshops or accepted
18 courses since 2009. But further, the damage control has been a
19 regular part of our drill conductor courses since they were
20 approved in the early 90s. So you've always gotten that if you're
21 a drill conductor. And we've trained about 23,000 drill
22 conductors, so they've gotten that part of it.

23 We would also suggest, we do short workshops that are not
24 Coast Guard approved. They're just an hour or too long, on
25 ergonomics. We've trained thousands of fishermen in ergonomics,

1 because that's the number one leading cause of injuries in
2 fishing, musculoskeletal disorders is what I'm talking about,
3 tendonitis, carpal tunnel, things like that.

4 I would also recommend, we do a workshop in risk theory and
5 risk management. The subtitle of it is, "Why Smart People do Dumb
6 Things." It has to do with what, the conversation that was going
7 on early with Dr. Lincoln and Ms. Case, about decision-making.
8 And we also do workshops on sleep deprivation. So I would suggest
9 those workshops.

10 And depending on the type of fishery they're in and that type
11 of vessel, that the *Scandies Rose* and *Destination* were, I'd
12 recommend that they take specialty courses through NPFVOA, who
13 offer different varieties of courses more specific to operations
14 of that nature.

15 MR. FAWCETT: So if I attended the drill conductor course,
16 and the facilities and the infrastructure was available, would I
17 get wet? Would I get in the water? Would I get in a raft? Would
18 I put on an immersion suit?

19 MR. DZUGAN: So, like Ms. Conrad said, our trainings are
20 pretty skills based. They're -- again, no written test. We don't
21 want to have to -- a lot of the people who take our courses are
22 Vietnamese, and Spanish speakers, you know, Gulf of Mexico, and
23 they don't write English or read English, and sometimes they're
24 not even -- they can't even read in their own language of
25 Vietnamese sometimes.

1 So, it's a skills-based course, and 16 out of 18 skills have
2 to be done. And one of the skills is going in the water. They
3 operate a dewatering pump, demonstrating how to plug flooding on a
4 vessel, whether we're using pipes or a damage control trainer,
5 testing an anchor, giving a mayday. I have the list here. We
6 have a skill check off list that comes with every class.

7 Everything our Coast Guard approval and acceptance is testing
8 (indiscernible) inspect and stow PFD, or immersion suit, don an
9 immersion suit in 60 seconds, demonstrate help and huddle
10 positions, which are for cold weather survival, right and enter a
11 life raft, extinguish a fire, don a fireman's outfit if so
12 equipped, and that type of (indiscernible).

13 So, review your orientation requirements, explain the
14 instructions in 28.265, (indiscernible) station drill, fight a
15 fire, get flotations on the boat, abandon (indiscernible) drills.
16 Those are the skills that they have to check off on.

17 MR. FAWCETT: Ms. Conrad, is it similar for you -- I mean, if
18 I attended your drill conductor course under the same
19 circumstances, could I go in the water to demonstrate the skill,
20 if the facilities were available?

21 MS. CONRAD: Yes.

22 MR. FAWCETT: So, Mr. Dzugan, this is a book called -- and
23 it's going to be mirrored, unfortunately, but it's called "Beating
24 the Odds," and you're one of the authors. Is that distributed to
25 people that take the course, or do they have to purchase that?

1 MR. DZUGAN: They are given that as part of the course, yes.
2 So, basically we've trained 23,000 people. There's 23,000 copies
3 of it floating around the ports. Yes.

4 MR. FAWCETT: So there's a section in there on icing and what
5 you can do if you're a vessel operator to avoid icing. And it
6 talks about reduce the spray, run downwind to reduce the spray and
7 seek shelter. Has that been updated, or is there a thought of
8 updating that, based on the loss of the *Destination* and what we
9 might have learned from that?

10 MR. DZUGAN: Yes. And already the lessons from the
11 *Destination* have been included and revised in some of the
12 activities we do in the stability class. This was last updated, I
13 think, in 2018, 2019. We try to update the manuals every -- the
14 instructor manual and that book every few years. Matter of fact,
15 what's interesting about this is I started updating that, I think,
16 in early 2018 or '19. And it took about nine months to update it,
17 with all the other work. And then by the time I had finished
18 updating it, the technology had changed, so I had to change some
19 of the stuff I had written nine months ago.

20 So, there -- especially EPIRBS and the electronic
21 communications, AIS and things like that. So the technology
22 changes faster and faster, as I think all of us know.

23 MR. FAWCETT: So, it's obvious from both your -- pardon me,
24 both of your training manuals that getting training or having this
25 type of information available, both manuals have a wealth of

1 illustrations and diagrams and so forth. So, Mr. Dzugan, do you
2 pass out safety information bulletins from the Coast Guard, or
3 marine safety alerts to the students that attend, I mean, so they
4 can physically get their hands on them?

5 MR. DZUGAN: Some of them we do, as a useful handout, and
6 some -- all of them, we put on our website, and we make reference
7 to the website. We have a very active, an information total
8 resource on our AMSEA website.

9 MR. FAWCETT: So, in the testimony that you gave in the
10 *Destination*, you were asked about the drills that take place on
11 commercial fishing vessels. In your area for this hearing I found
12 your testimony disturbing. In your testimony, and I'll just
13 paraphrase it, you said you found that despite the fishing vessel
14 captain's reputation, they can be pretty brute honest and brutally
15 honest. And when they say if they do and sometimes do not, in
16 terms of a query about do they conduct drills, I know you said
17 that -- and they had two people out of 60 people that had monthly
18 drills, or they had done drills.

19 When I dug further, I found that the drills they were doing
20 was at the beginning of the season, and they put the suit on, and
21 that was it. And then in further talk about the percentages of
22 the fish observer -- observer program that Ms. Conrad talked
23 about, she was a part of it. And so, in working with the fish
24 observers, they said that approximately 29 percent of fishing
25 vessel crews are barely given an opportunity to practice emergency

1 drills.

2 Since your testimony there, have you had the opportunity to
3 examine or elaborate or modify what you testified about? Have you
4 seen more crews participate in drills, from talking to them that
5 come into the, where people pull you aside and talk about what
6 they actually do in conducting training?

7 MR. DZUGAN: Anecdotally, from what I've observed since the
8 *Destination*, half of which includes last year, in which I didn't
9 see much people on vessels at all, because I couldn't go on them,
10 and training was greatly reduced for obvious reasons, but really,
11 since 1991 I have seen an incremental increase in the acceptance
12 and the conduction of drills. I can't quantify that.

13 But I know when we did a survey in -- 13 years ago, this is
14 what I based that 2 out of 60 people on, I see people doing drills
15 more at harbors, as I go around the state and country. But I
16 can't quantify it. It's certainly a lot more acceptable now.
17 When I first went looking for a job on a fishing vessel in 1980,
18 you didn't go on some boats and talk and ask about the safety
19 equipment. They'd just send you right off the boat.

20 They didn't have emergencies on the boat. Drills, if a drill
21 was done it was just a, you'd sit around the galley table and talk
22 about it. And there has been an evolution, I think, in the
23 industry about the acceptance of drills, and doing them more
24 often. And it's been incrementally growing. That's what I've
25 seen in the long history I've been involved.

1 Now, what is the quality of those drills? I think the
2 quality's been better. But I can't quantify that through any kind
3 of study we've done. That would be hard to do, in a practical
4 sense. But yeah, there's been an incremental increase in that, I
5 just can't quantify it with a percentage.

6 MR. FAWCETT: So, Lieutenant McPhillips, if you'll pull up
7 Exhibit 126. And this is a screen capture of one of the pages
8 from your website. And if you'll notice, down in your fishing
9 stability video, I actually thought about downloading that, and
10 asking your permission to incorporate it as part of an exhibit for
11 this. But you're able to provide those at zero cost. I could
12 click on it and see that. Is that correct?

13 MR. DZUGAN: There is a cost for it, a minimal cost of \$20
14 just to reproduce it, but we make it available for free on our
15 website, that video and about eight or ten other videos, yes. So
16 either way, you can grab it off the website or you can pay a small
17 amount for it.

18 MR. FAWCETT: And if I paid a small amount, I would have it,
19 correct, and I could use it for whatever purposes I desire. Is
20 that correct?

21 MR. DZUGAN: That's correct.

22 MR. FAWCETT: You can take that down, sir.

23 So, do either of you receive funding support from the federal
24 government to advance your missions of providing safety training
25 for fishermen?

1 MS. CONRAD: I do not.

2 MR. DZUGAN: I -- we do.

3 MR. FAWCETT: And could you elaborate? The reason I -- I
4 think, you know, starting with prevention strategy early by
5 providing public education, like schools, with some kind of safety
6 training, geared to members of the population are going to go out
7 and work on the water, is that funded by either the State of
8 Alaska or the federal government in any way?

9 MR. DZUGAN: We have funding from a number of different
10 sources. The State of Alaska provides some funding, and they have
11 for about the last 20 years. That's going -- that's decreasing
12 now. We have been supported by NIOSH since about 1992, or 93,
13 continuously, in one form or another. They have been our longest
14 term support of funding.

15 The Coast Guard has supported us since about the mid 1990s,
16 to varying degrees. We lost the last year or two out of a five-
17 year contract we had with them. But then that was replaced by a
18 collaboration of funding between the Coast Guard that goes to
19 NIOSH, that goes to fishing vessel training programs around the
20 country that apply for it.

21 We have memberships. Like NPFVOA, we're a membership
22 organization. We have contributions. We get small, we have small
23 contracts with agencies. Yeah, so it's from a number of sources,
24 but federal sources have been an important source for us, largely
25 because of the travel that's involved, servicing Alaska and other

1 rural ports around the country.

2 MR. FAWCETT: So this is my final topic area. And Lieutenant
3 McPhillips, if you'll pull up Exhibit 079. The Coast Guard Marine
4 Board reached out to both of you and asked you to examine your
5 records to determine if any of the accident crew -- pardon me, on
6 the *Scandies Rose* had attended training at your facilities. And I
7 will confess, I was over-eager in redacting personal information.
8 It makes it a little difficult to read.

9 So if you have at your disposal, first I'll take you,
10 Mr. Dzugan, Ms. Conrad, and ask you if any of the *Scandies Rose*
11 crew attended your classes?

12 MS. CONRAD: Seth attended a first aid, firefighting and
13 drill instructor when he was working on the clipper, *Epic*. And
14 that was back in 2013 and 2015.

15 And then, I think the drill instructor, for 1994, '96 and
16 '06 was actually Dean's -- Gribble, Jr.'s father that took the
17 classes, looking into it. It wasn't Dean. Dean took -- he was
18 working for Alaska Boat Company. We went down to the boat and did
19 abandon ship drills, so they had to -- they jumped in the water,
20 they deployed a life raft, they did all that, and he was one of
21 the crew members that participated in that.

22 MR. FAWCETT: And so, and so that's your (indiscernible)
23 class that you talked about where you get wet?

24 MS. CONRAD: Yes, correct. And then no one else on the list
25 have taken any classes.

1 MR. FAWCETT: And just to be sure that nobody took the
2 stability course, is that correct?

3 MS. CONRAD: That's correct.

4 MR. FAWCETT: And for the record, we'll redact this in
5 compliance with accepted standards as soon as we get the
6 opportunity.

7 So, Mr. Dzugan, can you look down that list and tell us about
8 any of the accident crew that took classes at the Alaskan marine
9 training facility?

10 MR. DZUGAN: Well, I was --

11 MR. FAWCETT: (Indiscernible).

12 MR. DZUGAN: Well, are you talking specific to the *Scandies*
13 *Rose*, correct?

14 MR. FAWCETT: Yeah, the list of names that you see at the
15 bottom of the document.

16 MR. DZUGAN: The only one we could find in our database is
17 Gary Cobban, Jr. He was trained in Kodiak in our 12-hour -- we
18 have two drill classes, a 10-hour and 18-hour. He took 12 hours
19 of our 10-hour course in Kodiak in February 26 of 2009. We had
20 trained his father a couple of years before that in Kodiak,
21 Senior. It took us a little while to separate the father from the
22 son, but I can say with certainty that Gary Cobban, Jr. had taken
23 our drill conductor course in February of 2009. That's, that was
24 the only person we could find in our database.

25 MR. FAWCETT: Okay, thank you very much.

1 Lieutenant, will you pull that down?

2 So I did ask Ms. Conrad, and this is my final question to
3 answer, what are your recommendations that you'd like to share
4 that would promote and enhance the safety of commercial fishermen?
5 I'm looking at an isolate of the *Scandies Rose*, but I won't narrow
6 that down.

7 MR. DZUGAN: Well I would just second what Ms. Conrad said
8 about putting some of the training law from the 2010 Act into
9 regulations. And a really important one is refresher training
10 every five years. NIOSH has shown repeatedly that there is a
11 protective effect for training in casualty if you've had training
12 within five years.

13 And outside of that five-year window, the protective effect
14 of the training goes down. So, that's really important.
15 Having -- and this is for the drill class. It's also important to
16 get stability training required. We have offered 65 stability
17 workshops, approved or unapproved workshops, from one to eight
18 hours in length, in the last 11 years. Forty-five of them were
19 held. We have a 30 percent cancellation rate.

20 Coincidentally, two months ago we scheduled a stability class
21 in Sitka tomorrow. We just cancelled it today because there were
22 no signups. We'll try to re-give it. It's kind of like it was in
23 the early days before drill conductor training was required in
24 that you only got notice of the fire coming. The people are
25 already motivated towards safety, and didn't have -- their own

1 egos sometimes get in the way of going to class.

2 The other thing that the 2010 Act did in this, other topics
3 like navigation and weather are still not required. It's been
4 over ten years now. I don't know how many people would have been
5 helped with that training, but there's also statistics showing
6 that there is a protective effect of training, and that should --
7 it's almost, it's unethical that that law has not been made into a
8 requirement, for over ten years now.

9 There should be also, from the 2010 law be parity, for both
10 documented and non-documented fishing vessels, who fish side by
11 side with the same gear, who have the same risks, from the same
12 environment, but one is not required to have training because
13 they're outside the boundary line.

14 Our boundary line issue makes no survivability sense
15 whatsoever. It just goes from headland to headland. It
16 eliminates all of Cook Inlet all the way out to the Barren
17 Islands. You don't have to have training. But when you go to
18 Western Alaska, you step in the ocean, beyond low, low water,
19 you're beyond the boundary line. It makes no sense. The 2010 Act
20 says 3 miles and beyond, whether you're documented or not.

21 There's no reason why that shouldn't be a regulation. So,
22 those are the things that I think are really important that I
23 would urge be looked at. I find it difficult to understand why
24 that hasn't been done.

25 MR. FAWCETT: So sir, just to clarify something you said, I

1 think you, when you said required related to stability, are you
2 saying there should be a requirement for stability training as
3 opposed to maybe some miscommunication where people might think
4 that stability training is required?

5 MR. DZUGAN: That's one of the things that's very unclear
6 right now, to a fisherman, who -- if there's a Coast Guard
7 dockside exam, they ask about training, they'll ask for their
8 drill conductor card, and check it off on their list. And then if
9 the fisherman says, well what about stability, the Coast Guard
10 person will say, well we recommend that but it's not required. So
11 the fisherman thinks, well it's not required.

12 However, in a civil case, a lawsuit, counsels are going to go
13 to the law, which is the 2010 law. And because it's not required
14 and it's not advertised as required, because -- little to not by
15 the Coast Guard and others, we have to tell them the same thing,
16 they think they don't have to do it. But for their own legal
17 protection, they really need to do that. And that is a little
18 bit -- well it's very unfair to fishermen.

19 MR. FAWCETT: So thank you both very much.

20 I'm done with my questions, Captain. Thank you, sir.

21 Thank you, Ms. Conrad.

22 CAPT CALLAGHAN: Thank you, Mr. Fawcett.

23 And Ms. Conrad and Mr. Dzugan, I'm now going to pass it over
24 to our colleagues with the National Transportation Safety Board.

25 Mr. Barnum?

1 MR. BARNUM: Thank you, Captain, and thank you, Mr. Dzugan
2 and Ms. Conrad. Appreciate your testimony and a lot of great
3 information. I do not have any questions at this time. Thank
4 you.

5 CAPT CALLAGHAN: Thank you, Mr. Barnum.

6 And now I'm going to go to our parties. Start with counsel
7 for the two survivors, Mr. Stacey.

8 MR. STACEY: Thank you very much for your testimony. I have
9 no questions for you.

10 CAPT CALLAGHAN: Thank you, Mr. Stacey.

11 Over to counsel representing the vessel owners, Mr. Barcott.

12 MR. BARCOTT: Mr. Dzugan, Mike Barcott representing the
13 *Scandies Rose*. It's clear you are passionate about what you do
14 and we appreciate that.

15 And Ms. Conrad, we've known each others for years, more than
16 either of us would like to count, I'm sure. And your classes are
17 well known on the waterfront here. Fishermen appreciate it. They
18 appreciate the practical nature of them. I've participated in
19 some of them, so thank you so much.

20 No questions.

21 CAPT CALLAGHAN: So I'll take the opportunity to thank both
22 of you for participating this morning. Sharing, you know, what
23 you do and what you offer is really important to us here, so we
24 can get a better understanding, and we can share with the general
25 public and the fishing industry, you know, the services that you

1 provide.

2 Again, thank you. You know, we ran a little late this
3 morning. I want to thank you both for your patience and time in
4 bearing with us and sticking with us through that delay. So thank
5 you both very much.

6 At this time, you are now both released as witnesses from
7 this formal hearing. Thank you for your testimony and
8 cooperation. If at a later time we determine that this Board
9 needs additional information from you, we'll contact you directly.
10 If you have any questions about the investigation, you may contact
11 a member of the Board or Investigation Recorder Lieutenant Ian
12 McPhillips.

13 Thank you both very much for your time today.

14 (Witnesses excused.)

15 CAPT CALLAGHAN: The time is now 1143. This hearing will now
16 go into recess and resume as scheduled at 1300.

17 (Off the record at 11:43 a.m.)

18 (On the record at 1:07 p.m.)

19 CAPT CALLAGHAN: Okay. The time is now 1307. This hearing's
20 now back in session. We will now hear from Mr. Bruce Culver.

21 Mr. Culver, Lieutenant McPhillips will now administer the
22 oath and ask you a few brief questions.

23 MR. CULVER: All right.

24 (Whereupon,

25 BRUCE CULVER

1 was called as a witness and, after being first duly sworn, was
2 examined and testified as follows:)

3 LT McPHILLIPS: Please state your full name and spell your
4 last name, sir.

5 THE WITNESS: My name is Bruce Culver. Last name is spelled
6 C-u-l-v-e-r.

7 LT McPHILLIPS: Please identify counsel or representative if
8 present.

9 THE WITNESS: There's nobody.

10 LT McPHILLIPS: Please tell us what is your current
11 employment and position?

12 THE WITNESS: I am more or less retired.

13 LT McPHILLIPS: Thank you, sir. Captain Callaghan will now
14 have follow-up questions for you.

15 CAPT CALLAGHAN: Thank you, Lieutenant.

16 EXAMINATION OF BRUCE CULVER

17 BY CAPT CALLAGHAN:

18 Q. Mr. Culver, again thank you for joining us this afternoon.
19 Thanks for attending this hearing virtually. If at any point we
20 ask a question that you do not understand or can't hear, please do
21 not hesitate to say so, and we can repeat the question or rephrase
22 it for you. If at any point you need a break, just let us know
23 and we can take a short recess for you.

24 Using this platform, we have the ability to share exhibits.
25 And if we do so, the exhibit will come up on the screen in front

1 of you. And if there's anything that you'd like to point to or
2 highlight, you can let us know, and we can have the person in the
3 room here zoom in on that area for you.

4 First off, sir, I do want to thank you. I know you've
5 provided a lot of information to us over the past year, and I
6 certainly want to thank you for your cooperation and for
7 supporting the investigation by providing all of your files
8 regarding the *Scandies Rose*, so we thank you for that.

9 Sir, are you a practicing professional engineer?

10 A. Yes.

11 Q. And what state are you a licensed professional engineer in,
12 sir?

13 A. Washington.

14 Q. And as a practicing professional engineer, did you regularly
15 conduct stability exams and provide stability instructions for
16 vessels?

17 A. Yes.

18 Q. Do you remember about how many stability instructions you
19 created for vessels throughout your career?

20 A. Well, I've been doing it on my own for maybe 30 years or so.
21 It would be probably at least 200.

22 Q. And are you a person who created stability instructions for
23 the *Scandies Rose* in both 1988 and 2019?

24 A. Yes, the 1988 one I think's been misinterpreted. It was only
25 meant to be kind of a rough check. They had had a fire on the

1 boat in the shipyard where they worked on it, had put a new
2 interior in the cabin. They didn't have enough weight to do a
3 real stability test, so we were only able to view a very small
4 amount. But we -- that's what they had before putting floats on
5 it, and they decided to -- it's intended to use the instructions
6 they already had. But I don't know who prepared those.

7 Q. So, if I understand you correctly, then the stability book
8 that you created in 1988 was created potentially using incomplete
9 information for the incline?

10 A. Yes. We just wanted to kind of verify that we weren't too
11 far off from what they already had. And we were pretty close.
12 They didn't try to do another formal inclining.

13 Q. Okay.

14 A. And I had a different, oh a different software package in
15 those days.

16 Q. Okay. I'll get into that in a minute here. Looking back to
17 your 1988 stability test, can you walk us through how you created
18 that, those original stability instructions in 1988?

19 A. Well, we used the little bit of weight that we had, and got
20 some heel. And we, well we had the freeboard, so we're probably
21 fairly close on the displacement. And it turned out on
22 (indiscernible) we weren't much different than what was already
23 there. So, I went through the, what was in the C.F.R. anyway.
24 But they never used that as their official stability book.

25 Q. Okay. And are you -- okay. So, I'm going to move on to 2019

1 then. And so, in 2019, can you walk us how you created this new
2 stability instructions in 2019?

3 A. We did an incline on the boat in Seattle. We got information
4 from the owner of the boat and one of the crew that was there on
5 where (indiscernible) fresh water and so on were in the boat.
6 Most of these, it's impossible to sound the tank, so you have to
7 depend on what they tell you is in them. And then we had some
8 what they call ecology blocks to use for weights. We had -- and
9 it had been weighed on a certified scale. We had to
10 (indiscernible) near the center of the boat. We went along in the
11 well part of the boat and they heard the freeboards.

12 On the one side, there's a real high rail. But that side was
13 against the dock. So on that side, we ran the freeboards from the
14 dock, because the rail is like 6 feet high or something. On the
15 other side, they have about a, roughly a 4-foot rail. We went
16 along and tried to get measurements in the same location. And we
17 deducted the rail height.

18 So we had freeboards taken five places. We didn't try to do
19 anything outside the well deck area because it would have been --
20 it was either too far away from the dock or too hard to get at.
21 But we did have five readings in the well deck area. And when I
22 plotted them out, they were a reasonably straight line. So, we
23 used that to come up with the displacement.

24 Q. Okay. You say reasonably straight line, would you normally
25 expect that when you plotted out for it to be a straight line?

1 A. It's never going to be absolutely perfect, because you're
2 probably off a little bit on your freeboard readings, because the
3 boat's moving around and there's little waves. You can't get it
4 down to the nearest quarter of an inch. And the boat itself
5 probably varies somewhat from the lines drawing quite a bit.

6 Q. And when you evaluated it in 2019, had you compared it to the
7 lines drawing?

8 A. Yeah. We did the -- yes, we did. I had the lines drawing,
9 and I plotted the freeboards out on the lines drawing. But what I
10 actually used, I had the offset from the baseline at the spots
11 where we took the freeboards. And I just subtracted the freeboard
12 from the offset to the deck to get the draft.

13 And then we (indiscernible) -- we laid it out on the lines
14 drawing. And I think what I did was, after I drew a line through,
15 I used the draft at the bow, I think it was station 0, and the
16 draft at the stern.

17 Q. Okay. And you mentioned something important about the 1988
18 stability instructions that you created. Did you utilize those at
19 all, or any of that information at all for your 2019 instructions?

20 A. No.

21 Q. Okay, so you didn't use any of the information from the, from
22 your earlier work?

23 A. No. I didn't take that one very seriously. I probably
24 should have thrown it away a long time ago.

25 Q. Were you -- did you have any communication with the vessel

1 operators in regards to how they were using that 1988 stability
2 instruction?

3 A. Oh, they didn't have it. That -- at the time that that was
4 done, the owner of the boat was a man named Leith Nordbo (ph.).
5 And as I say, he used the instructions he already had. I think
6 later on, I think in 1998 and in 2006, I did another incline on
7 it, but I think I gave all that information to another naval
8 architect several years ago and I don't have it.

9 Q. Okay, so --

10 A. But that -- they did not -- the present owner didn't have the
11 1988 data and they didn't use it.

12 Q. Okay. And you're certain of that?

13 A. Yes.

14 Q. Okay. And attached to the front of your 2019 instructions,
15 you included a letter to the owner, stating that the weight of the
16 vessel was higher than you previously weighed. Was there a
17 significant weight change that concerned you?

18 A. Well, whatever it is, it is. It did seem a little bit
19 heavier than I had expected before we started. But again, I no
20 longer had my 1998 and 2006 information. I had done something on
21 a sister ship, on the *Patricia Lee*, and I had some data on it. It
22 was a little bit lighter, maybe 20 tons or so.

23 Q. Okay. And when you did the 2019 measurements, did you
24 remeasure the light ship weight?

25 A. We came up with the light ship weight by going into the

1 computer with the draft. Had some help with the displacement. We
2 flooded the apex and the (indiscernible) tanks, and someone had
3 something in them. We took into account the inclining weights
4 that were on the deck, and we made a small allowance for the
5 personnel that were on the boat, and calculated the light ship
6 using the GHS program.

7 Q. Okay. And then, do you remember how you calculated the angle
8 of downflooding in 2019?

9 A. I asked the owner about the air intake for the engine room.
10 That's normally where the downflooding point would be. He told me
11 that it was up high, right behind the steps from the pilot house.
12 I think it's in the side of the stack. It's real high, and maybe
13 2 or 3 feet off the fender line, so I didn't feel like it would be
14 a factor and I didn't put it into the computer model.

15 Q. Okay. Did -- when you were out there, did you verify where
16 those downflooding points were?

17 A. No, I didn't go up there. Since then, I went and -- because
18 there was an issue about it, I went and visited the other sister
19 ship, the *Westwood Wind*, and went up on it. And the opening was
20 where I thought it would be. It's possible that there's some
21 other kind of opening. I don't think they could have had the
22 engine room intake down any lower.

23 Q. So, and you said about 2 feet off the centerline. Are you
24 aware that the engine room air intake ventilation's underneath the
25 ladder wells that go up to the bridge, so that essentially more

1 outboard and towards the side of each, on both the port and
2 starboard side?

3 A. I didn't go up and look at where they actually are. I think
4 where they would go down into the trunk would be almost right on
5 the centerline.

6 Q. Okay. But that's not something you verified while you were
7 out there?

8 A. No.

9 Q. Okay. And how do you calculate, or account for the icing
10 conditions in your stability instructions?

11 A. I tried to figure out -- I think I used the windage heel
12 thing for the side area. And you get 3.07 pounds per square foot.
13 It's kind of hard sometimes to figure out exactly where that would
14 be for the DGH and the LCG. I just kind of did that as best I
15 could. On the horizontal surfaces, we have the forecastle deck,
16 the well deck, the poop deck and then there was a cabin above
17 that, and a pilot house above that. We tried to figure that area
18 as best we could. And there you have 6.14 pounds a square foot.
19 I put in the larger numbers, and I came up with around 12 pounds,
20 but I used my 16 tons to kind of be sure I had enough.

21 Q. Okay. And are sir, are you -- do you reference the icing
22 requirements in, from 28 C.F.R. regarding how to calculate icing
23 conditions?

24 A. Yes.

25 Q. Do you happen to recall what those are, for the vertical and

1 the horizontal surfaces?

2 A. For the vertical surfaces, it's 3.07 pounds a square foot.

3 For the horizontal surfaces, it's twice that, 6.14.

4 Q. Do you happen to remember what that was in terms of allowance
5 for inches of ice accumulation?

6 A. That, I think I looked at that before the vertical thing. I
7 think it works out to be like about 5/8 of an inch. And it would
8 be again twice that for the horizontal. They could certainly get
9 a lot more ice than that, but that's what's in the C.F.R.

10 Q. Okay. And when you -- you said you rely on some input from
11 the owners when you're conducting your stability evaluations.

12 What kind of input do you rely on from the owners?

13 A. Well I need to find out from them the weight of their crab
14 pots. That can vary somewhat. And when I asked the owner about
15 that, I think he told me 825 pounds, if I remember. And he said
16 they based that on having weighed a number of their pots up in
17 Dutch Harbor. And I know he had carried both 8 foot by 8 foot and
18 7 foot by 7 foot pots. And I believe the weight that he gave me
19 was meant to be for the heavier ones. And I used that for all of
20 them. I imagine some of them were a little bit less.

21 Q. Okay. And you mentioned software earlier on, transitioning
22 to different software throughout your career. What software
23 programs do you use currently to make your stability calculations?

24 A. Oh, GHS.

25 Q. Okay. Do you happen to recall what version of that software

1 that you --

2 A. Oh, I (indiscernible), it's a fairly old one but it has
3 everything I need.

4 Q. And do you happen to recall when you started using that?

5 A. Oh, sometime in the 1990s. I don't remember the exact date.

6 Q. And did you say it was the GHS software?

7 A. Yes.

8 Q. Okay, thank you. And so, have you done any of the updates,
9 or are you aware of any updates to that software over time?

10 A. They have given -- when there are updates, it would -- you'd
11 have to pay to get -- they gave me some, earlier on, free. But I
12 don't have any of the recent updates or upgrades.

13 Q. And sir, you've been provided with the Coast Guard Marine
14 Safety Center's report, that analyzed your stability instructions
15 for the *Scandies Rose*?

16 A. Yes.

17 Q. Did you have a chance to go through that, sir?

18 A. I did.

19 Q. And do you have any explanation for any of the differences in
20 those calculations, sir?

21 A. Well, there's quite a few things. I think the most important
22 thing would be the location of the downflooding point. But they
23 had -- they thought that the forecastle was longer than I had it.
24 I'm pretty certain that what I have is right. They were going off
25 a photograph, and you can't really tell from that where the

1 bulkhead is. The forecastle deck goes back several feet past
2 where the bulkhead is. So the main part of the forecastle, I'm
3 sure is right.

4 They were right that I had the aft superstructure a little
5 bit too long. It's -- there's a poop deck that's just a foot
6 high, that starts where I had it starting, but the actual deck
7 house is maybe 3 feet farther back. I changed that on my GHS
8 model after I saw that. It doesn't make an awful lot of
9 difference when I reran it.

10 Q. And what would you say would -- is the one factor -- so you
11 mentioned the one factor is probably the downflooding points?

12 A. Yes.

13 Q. The biggest difference?

14 A. Yes.

15 Q. And so did you happen to see where they put their
16 downflooding points? Did you happen to get a chance?

17 A. I don't remember the exact number. I did go to the -- the
18 only thing I do was go look at that one boat that I had access to.
19 I think all three of them had the same kind of trunk going down
20 into the engine room. And the air intake was in the corner of the
21 exhaust trunk, and there's a fan going into it. Really, the point
22 where you -- even if there had docks farther out, the point where
23 you could downflood would really be where that trunk starts. And
24 that's pretty close to the centerline.

25 Q. Okay, sir. Were you able to review the diagrams where they

1 pointed out the downflooding points being on the outboard side,
2 underneath those ladder wells?

3 A. I looked at that, and I still think that the actual
4 downflooding points there are very close to the center.

5 Q. Okay. And sir, did you perform any stability work on the
6 vessel, the *Sea Venture*?

7 A. Yes.

8 Q. Do you happen to recall an investigation regarding your work
9 on the *Sea Venture* from the Washington Board of Professional
10 Engineers?

11 A. Yes.

12 Q. And can you briefly tell us what the outcome of that was?

13 A. It was turned down. The way that started, someone said that
14 we did not meet a condition where you went out and caught a whole
15 bunch of fish all at once, had your hold almost full, and still
16 had almost all your fuel. On this particular boat, that would be
17 impossible. What he did, he goes out and catches fish and he
18 freezes them. It can take him almost several hours to freeze
19 them.

20 It would be impossible for him to -- he would have had to
21 stop fishing because he wouldn't have the capacity to keep
22 freezing them. So he would never have had a situation where he
23 had a whole full load of fish and a full load of fuel. And we
24 told them that, and I think that was a part of the reason why the
25 thing was turned down.

1 There was also something about the structure of an enclosure
2 that they didn't like. The issue I had on that, I don't remember
3 the exact detail, but to do a little better job on it, it would
4 have interfering with a tonnage opening. He would have had to
5 have something in front of the tonnage opening that would make it
6 not valid. And it's critical for them to be under 200 tons. So,
7 we did the best we could, and it's always worked.

8 Q. Okay. And did you perform any stability on the motor vessel,
9 *Pacific 1*?

10 A. I don't remember that offhand. I may have.

11 Q. Okay. And how about *Arctic Rose*? Did you happen to perform
12 stability work on that vessel?

13 A. The *Arctic Rose*, I did work on when it had a different name.
14 It was called the *Sea Power*. And I did work for the first owner.
15 In fact, I did the original behind to convert it from a shrimp
16 boat to a scalloper, actually to being a trawler. And I did a
17 stability test on it then. I did it in Pascagoula, Mississippi.
18 And that owner eventually sold it.

19 The owner that had it when it was the *Arctic Rose* had a
20 stability test done by another naval architect. And it had been
21 modified somewhat. I gave the information I had to that naval
22 architect before he -- I had some information on the shape of the
23 hull and the tanks and so on. But no, I didn't do the stability
24 on the *Arctic Rose*.

25 Q. Okay. I want to go back to your 2019 stability letter and

1 the initial contact that you made with the owner regarding the
2 weight changes. Do you recall ever having any follow-up with the
3 owners about that weight change that you brought to light in that
4 letter?

5 A. I just -- just in case there had been, was something on the
6 boat that I didn't know about. And I don't think there was
7 anything. We didn't get to -- we didn't actually get back on it.
8 I think he would have told me if he found something in the boat
9 that we didn't take into account. They wouldn't ordinarily have
10 any water in the hold or anything. They normally have that all
11 dry. So I'm really sure there was no other weight.

12 Q. Okay. Are you doing okay, sir?

13 A. Oh, I'm fine.

14 Q. All right. And so, also on your stability instructions, how
15 did you -- how do you message to your clients how you apply the
16 icing conditions in your calculations, to both the vessel and the
17 pots?

18 A. I apply the vertical icing to the side of the stack of pots.
19 And I just, I don't try to make up my own icing load. There --
20 certainly there could be more ice. But I just put in what's in
21 the C.F.R. They understand that there could be more icing than
22 that. Where possible, you would try to break the ice off. I
23 think that what happened to them in this case, all the icing
24 probably was up in the bow, because they were bucking into a head
25 sea. It would have probably been pretty dangerous to go up there

1 and try to break it off. So I don't think they tried to do that,
2 but I don't know. Probably nobody knows.

3 Q. Okay. Do you recall, in those instructions and those
4 calculations that you did in 2019, did you account at all for the
5 sorting table to be on top of the stack?

6 A. No.

7 Q. And why -- do you remember why that is? Is that something
8 you would have relied on them for information? Or --

9 A. I would have relied on them. But the sorting table would be,
10 they're made out of aluminum usually, and they're not very heavy.
11 It wouldn't have made much difference. I didn't know that they
12 did that, but again, as I say, it wouldn't have made much
13 difference because it probably only weighed a couple of hundred
14 pounds.

15 I think that they had a little bit of a change in plans
16 because of being able to pick up some crews that were going to fly
17 up. I'm not sure about this, but I think they hadn't originally
18 intended to go to Kodiak. And the pots they actually picked up
19 there may not be the same ones that he gave me the weight on. But
20 again, I don't know that for certain. And they probably wouldn't
21 be radically different.

22 Q. Sure.

23 CAPT CALLAGHAN: Sir, I want to provide my colleagues with
24 the National Transportation Safety Board an opportunity to ask
25 some questions as well as the other parties in interest. So at

1 this point, I'm going to pass it over to Mr. Bart Barnum at the
2 National Transportation Safety Board, and he's going to have some
3 questions for you, sir.

4 THE WITNESS: All right.

5 MR. BARNUM: Thank you, Captain.

6 BY MR. BARNUM:

7 Q. And good afternoon, Mr. Culver. Bart Barnum, NTSB. How are
8 you, sir? I do have some follow-up questions for you. I'm going
9 to ask Lieutenant McPhillips to bring up Exhibit number 59,
10 please. This is actually the MSC, the Coast Guard assessment of
11 the *Scandies Rose*, page 9. And you touched on this earlier. You
12 mentioned that you had the opportunity to review this. And just
13 for the record, I am not a naval arc, so I might be asking some
14 obvious questions, but I assume most of the public is not either,
15 so we might get some use out of it. Can you see the screen, sir?

16 A. Yes. I can see it.

17 Q. Okay. This is the *Scandies Rose*. And you had mentioned that
18 you had a couple of comments about how the, after the Coast Guard
19 had looked at this picture. You said the poop deck, which is the
20 area in the aft of the vessel, the MSC, the Coast Guard estimated
21 is 3 feet longer than your estimates. And you said that was a
22 correct assumption. You agreed with that, correct?

23 A. Yeah. I'm off by about 3 feet on the poop deck length.
24 Yeah, I changed my computer model, and I still passed everything.
25 I guessed that right. As far as the conclusion that the

1 forecastle, that I think the location that I have in my model is
2 right. What they have here, the deck comes back past where the
3 bulkhead is. And you can't tell that in the photograph.

4 Q. Okay. But you said you recalculated using the corrections
5 here and you said that it didn't really affect the stability
6 characteristics that much, in your opinion?

7 A. Yes.

8 Q. Okay.

9 A. And as far as the slope on the back end, that would have so
10 little impact that I didn't really try to do anything with it.

11 Q. Okay. Lieutenant, take that down for now, please. Thank
12 you. And then just a comment on what you said earlier, sir, so
13 you said you completed an incline test on the vessel in '98 and
14 also 2006. Is that correct?

15 A. 1998, I think, and 2006, but I don't have those --

16 Q. Okay.

17 A. -- reports anymore.

18 Q. I think those would be in the -- because that information was
19 given to another naval arc. But then you did an incline test
20 again, a full incline test in 2019 for the most recent one?

21 A. Yes.

22 Q. Okay. All right. So, taking into account, you indicated
23 that the 1988 stability instructions that we've seen, that's
24 entered into an exhibit here, you indicated that was more of a, in
25 your words, additional information, or wasn't an official

1 stability instructions?

2 A. Yes. That owner didn't ever use it because he had a more
3 complete test. We just wanted to make sure that the repairs that
4 they'd had done hadn't been so much difference that it would
5 invalidate his other instructions. And we decided it did not.

6 Q. So, I've looked at both of them, and they both seem to be,
7 you know, similar in format and layout. Is that accurate?

8 A. Yes.

9 Q. Now, how old -- you know, I understand the vessel was
10 obviously sold, so how would the new owner, having -- looking at
11 the 1988 stability instructions, how would they determine or
12 understand or recognize that they were just an incomplete or not
13 official?

14 A. Because this owner didn't have that. I'm sure it was thrown
15 away years ago.

16 Q. Okay. Okay. So that original stability instructions, and
17 then the most recent ones, the 2019, the number of pots that the
18 vessel, that you calculated the vessel would carry, was reduced
19 from 220 to 208. Could you indicate why that was?

20 A. Well it's kind of hard sometimes to tell exactly how many
21 pots they can actually get on. What I did -- I don't remember the
22 220, but I took the 8-foot pots. Probably the 220, we were
23 looking at 6-1/2 or 7-foot pots instead of the 8-foot, so there
24 was a little more room. But I just took length of the dash and
25 the beam of the boat and figured how many pots that would be.

1 The first layer are on edge. And then above that, they lay
2 them flat. Normally they can't get as many on there as I said,
3 because there's a pot launcher and a crane, things like that in
4 the way. I understand that what they were actually able to get on
5 was 195, rather than then 208 that I said.

6 Q. Okay. So physically, they could only get 195, but --

7 A. Yes.

8 Q. -- your stability instructions calculated 208?

9 A. Yes. And I have kind of assumed that if I tell them a little
10 too much and they can't get that many on, we're fine.

11 Q. Okay. And earlier in this investigation, I think I remember
12 seeing an email where you calculated, and you had expressed that
13 the vessel, through your calculations could carry more than 208
14 but was restricted because of desk space. Is that accurate?

15 A. Well, no. It was restricted because of being able to see
16 over the top from the pilot house.

17 Q. Right.

18 A. This was a boat with the pilot house in the aft end of the
19 boat, and they wouldn't want to put the pots up so high that you
20 couldn't see over the top.

21 Q. Okay. You had mentioned freeboard earlier, how you measured
22 it while you're doing the light weight test. Do you recall what
23 the minimum freeboard that you calculated for on the *Scandies Rose*
24 was?

25 A. We don't really have a minimum freeboard. I think I put

1 something in there not to have less than 6 inches, but there's no
2 lub line or anything on these boats, and they just go by the --
3 the deepest load they would have would be with the hold flooded
4 and the pots on.

5 Q. Right. And you said that wasn't -- did I hear you correctly,
6 you said less than 6 inches?

7 A. That would not be less than 6 inches. They would have had
8 probably oh, maybe 15 inches or so.

9 Q. Okay. So if the hold's full, with a full deck of pots, you
10 calculated the freeboard would be 15 inches?

11 A. Yes. And again, I didn't really calculate the freeboard. We
12 just calculate the area, what's in the C.F.R. There's nothing in
13 the C.F.R. on these kind of boats saying what the minimum
14 freeboard is.

15 Q. You talked a little bit earlier about the downflooding points
16 and the importance of that, and the location, what you perceived
17 them, they were. What about water on deck? Can you explain to me
18 how important that is when calculating the stability for a vessel?

19 A. I did not do that. When I've done it in the past, it usually
20 wasn't a factor.

21 Q. Is that -- could that become a factor if somehow the freeing
22 ports were inoperable or clogged in some way?

23 A. It may be. Sometimes they have a problem with the freeing
24 ports freezing up. Normally what they don't want is to have them
25 open. They want some kind of flap or cover over them. Otherwise

1 water comes in through them rather than going out. What most of
2 them do is have a rubber, neoprene flap. And sometimes those
3 freeze, and then you can't get the water off. But I don't have
4 any control over that.

5 Q. Yeah, understood. And that's my understanding, you know, if
6 you're working on deck, you try to keep dry, so sometimes that
7 happens.

8 A. Yeah. The guys working on the deck would try to keep those
9 open. I think we always put in, in the instructions saying to try
10 to keep them open. It's possible sometimes they might not be able
11 to.

12 Q. Yeah. We've heard throughout this hearing a lot about icing,
13 and Captain Callaghan mentioned it already to you, sir, and how it
14 affects the stack of pots. And we've heard the term shoebox when
15 referring to how the regulations account for ice accumulation on
16 the stack. Is that kind of your understanding of how the
17 regulations require you to -- or allow you, or give you guidance
18 on how to calculate icing on the stack? Or how do you treat a pot
19 stack when we're applying icing?

20 A. I take the vertical surface and apply the 3.07 pounds per
21 square foot to it. It isn't really an awful lot. And again,
22 that's kind of what's in the C.F.R. It's possible they could get
23 more ice, maybe quite a lot more ice on there. And it's -- I
24 don't have any way of knowing what it would be. I just put down
25 what's in the regulations.

1 Q. Okay. I want to bring up another exhibit here, quickly.
2 Lieutenant McPhillips, can you bring up Exhibit 36, please? Just
3 go to page 5. Mr. Culver, this is the 2019 stability instructions
4 that you produced for the *Scandies Rose*. And we've talked about
5 icing accumulation and how, you know, the shoebox and how ice can
6 form on the pots, and talked about free, you know, minimum
7 freeboard, understanding that there's no -- you stated there's no
8 requirement for that.

9 And you said the vessel's -- also, water on deck how, you
10 know, it's the responsibility of the crew to understand the
11 freeing ports need to be kept clear. Is there anywhere in your
12 stability instructions where that knowledge could be passed to
13 them? Or is that a practice that you do, or do you expect them to
14 know it?

15 A. That they would break the ice off?

16 Q. Yeah. Well, could -- well let me rephrase the question,
17 please. Could you explain what these instructions to the master
18 are, in your stability instructions, the second page?

19 A. Well the most important thing is the number two. The rest of
20 it's just kind of things they probably would have done anyway. It
21 tells them how much they should -- they shouldn't go more than
22 that many crab pots.

23 Q. Okay. And I noticed that second sentence, the number two
24 says, "This applies in icing and non-icing conditions."

25 A. In this case I applied the icing, and I assumed that I

1 couldn't go any higher anyway because of the visibility. And I
2 applied only -- I only did the calculation with the ice taken into
3 account. I didn't do any with no ice.

4 Q. You mentioned earlier your theory on what happened to the
5 *Scandies Rose* and I believe you indicated probably some, you know,
6 icing on one side of the vessel, I think you said it. And
7 obviously, the regulations don't really account for that.

8 A. Right.

9 Q. Would this be a spot where you could, you know, potentially
10 identify that, so the master might be aware that icing is applied
11 evenly, not just on one side of the vessel?

12 A. No. I've never done that. I think they understand.
13 They've, they have practical experience doing this. And you can
14 get quite a lot of ice. They try to go out and break it off.

15 Q. Okay.

16 A. It says in the guidelines from the State of Alaska
17 recommendations and from the Coast Guard regulations to try to
18 break it off as best you can. But there may be situations where
19 it would be too dangerous to try to get out and try to break it
20 off. I don't know what their situation was on the boat.

21 Q. All right. Sir, did you know, or do you know if the *Scandies*
22 *Rose* had the bottom fuel tanks?

23 A. It had, but I think only the forward one was piped for fuel.
24 They didn't ordinarily use them.

25 Q. Okay. Were they filled with ballast? Were they filled with

1 water or just empty?

2 A. I had always been told that they just leave them empty. And
3 that's the way I did the calculations. I don't think they ever
4 put ballast in them. But if they had, then I wouldn't know about
5 it.

6 Q. Okay. I know, in the, in one of, in the condition evaluation
7 survey of the *Scandies* it indicates that the capacity in those
8 tanks -- this -- those tanks, I should say, but then on the
9 stability instructions of yours, I didn't see them. So that was
10 my question, is how would you treat a tank that wasn't used or was
11 there but -- and could potentially have liquid in it? Would --
12 should that be considered?

13 A. Yeah. I just put down what they told me was their normal
14 operating situation, that they only used the wing tanks. There
15 were also some tanks in the back end, in the stern. One of them
16 they used for a day tank. The other had -- I was told they never
17 used.

18 Q. Okay. So in your words, sir, can you briefly describe these
19 loading conditions? You know, what are they, and what's the
20 purpose of, you know, representing them here in your stability
21 instructions?

22 A. The most important thing is to give them a guideline on how
23 many pots they would dare put on the deck. And we tried to -- the
24 worst case is normally when they're leaving down with a full load
25 of fuel. Usually as you burn fuel off, you get better. There are

1 exceptions to that once in a while. Most of the time, as you burn
2 off your fuel, the stability is better.

3 Q. Okay. All right. I've just got, I guess, one more question,
4 and one more exhibit. Lieutenant McPhillips, can you please bring
5 back up number 59, and go down to page 92? And, Mr. Culver, like
6 I indicated, I'm not a naval arc and I'm just, I'm trying to
7 figure this out myself, and I appreciate your explanation here.
8 So this is the MSC's, the Coast Guard's analysis of the *Scandies*
9 *Rose* in comparison to the 2019 report. And this is a list of some
10 of the conclusions. And we're going down to number 4 here.

11 And here I'll read it: "MSC's analysis indicated that the
12 estimated casualty voyage conditions, while nearly meeting all
13 referenced stability instructions," which we were just looking at
14 your stability report, "failed to meet regulatory stability
15 requirements. This is the case for all combination of hydrostatic
16 modeling and light ship weight conditions." And so, I just want
17 to hear from you, your response to that, and if you have an
18 explanation why they would have come up with that.

19 A. I think the difference here, what they used for the
20 downflooding point. And I think that they had it at like 35
21 degree heel or something like that, and it started to downflood,
22 where I had the downflooding point, I thought what almost, almost
23 on the centerline and up pretty high. So, that's the difference.

24 Q. Thank you for that. And obviously, understanding that the
25 downflooding point is a serious item to consider when completing

1 these, MSC calculated it at a 35 percent heel angle. Do you
2 recall what you calculated it to be?

3 A. I didn't do anything with it at all, because I thought, you
4 can put a downflooding point into the computer model, and if it
5 was in an area where I thought it would make a difference I would
6 do that. In this case, I thought it would be right almost on the
7 centerline and up very high, so it wouldn't have any impact. I
8 didn't put any downflooding point into the computer model.

9 Q. Is that typical? Do you do that -- is that -- do a lot of
10 vessels not have downflooding points unless they're pretty high?

11 A. The people that designed the boat in the first place know
12 that's a potential problem, and they typically try to put it up
13 where it's not much likelihood of water getting down through that.

14 Q. Okay. All right. Mr. Culver, that is all the questions I
15 have right now. I really appreciate your explanation and your
16 testimony. Thank you very much.

17 MR. BARNUM: Captain Callaghan.

18 CAPT CALLAGHAN: Thank you, Mr. Barnum.

19 Mr. Culver, I'm now going to go to the other parties in
20 interest. And I will start with the counsel for the two
21 survivors.

22 Mr. Stacey?

23 MR. STACEY: Thank you very much, Captain.

24 BY MR. STACEY:

25 Q. Mr. Culver, can you hear me okay, sir?

1 A. Yeah.

2 Q. Perfect. I ever I am -- you can't hear me clearly, please
3 let me know. I only have a couple of questions for you, sir. You
4 said that you were retired. When did you retire, sir?

5 A. Oh, I've continued to do work when people call me, but I gave
6 up having an office maybe five or six years ago. And I don't run
7 ads or solicit work or anything. But I'll sometimes do jobs when
8 people call me.

9 Q. Okay. And you discussed how you had done, if I heard you
10 correctly, maybe 200 stability booklets, and did I hear you
11 correctly, sir?

12 A. Yeah. I don't know the exact number, but I've been doing it
13 a long time. I've done a lot of them.

14 Q. Okay. How many have you done within the last ten years?

15 A. Oh, I probably typically maybe do eight or ten a year, so I
16 suppose I 80 to 100.

17 Q. Do you keep records as to which vessels you have created
18 stability reports for?

19 A. Yes, I do.

20 Q. All right. We went through and we looked. You discussed a
21 couple of differences between your report, for example, the deck
22 you had extended out a little bit farther than was in reality.
23 For those maybe 80 to 100 that you've done in the last ten years,
24 have you gone back and looked to see if you made similar
25 differences?

1 A. Oh, that would be an unusual situation there. Normally what
2 I get is whatever drawings from the builder that we could get.
3 And if we don't have anything, sometimes we go down and take
4 measurements right on the boat. But that situation with the deck
5 house from this boat was unusual. It wouldn't normally be a
6 factor.

7 Q. Were there any other factors of the exhibits that you saw at
8 this hearing that listed some differences between your analysis
9 and their analysis, would you ever go back and either double-check
10 your work after you've completed a stability analysis, or after a
11 casualty like *Scandies Rose* or *Destination*, go back to confirm
12 that everything was correct?

13 A. If there was some kind of a casualty, I'd certainly go back
14 and try to confirm everything. I haven't ever had any issues like
15 this in the years that I've been doing this. I try to do it as
16 carefully as I can. And if I don't know for sure, I try to go on
17 the conservative side.

18 Q. For instances when you get either new regulation or new data,
19 you know, for example if the assumed buildup of ice on both
20 vertical and horizontal aspects of a crab pot changes, how do
21 you -- what would you do with your future but then also your past
22 stability reports to account for those changes, sir?

23 A. If it would make a change, say they were to change the C.F.R.
24 and increase the ice loading that they want to use, it would be
25 hard to go back over all of these things. I guess I would

1 probably try to notify the people that that change had been made.
2 They may want to go back and redo the calculations, or they may
3 want to redo the whole stability test.

4 I think, in my case, I'm probably not going to do many of
5 these anymore. I'm getting a little too old for it. But we
6 wouldn't -- they would all be aware of it if that change came up.
7 And I think if anyone called and asked me, I'd be glad to
8 recalculate it for them.

9 Q. And so if a change were to be made, you'd support -- even if
10 it's not you doing it, someone going through, you know, all of
11 your old stability reports to ensure that it still, you know,
12 meets the standard, meets the regulation, is safe for people going
13 out, you'd support someone going back and checking with the new
14 data?

15 A. I don't know how they would handle that, if they were to
16 change the rules, whether they go by the rules that were in effect
17 at the time we did the test. I think the only way otherwise would
18 be just to do a new test.

19 Q. Okay. Thank you very much for your testimony, sir. That's
20 all the questions I have for you.

21 MR. STACEY: Thank you, Captain.

22 CAPT CALLAGHAN: Thank you, Mr. Stacey.

23 And, sir, now I'm going to go shift over to counsel for the
24 vessel owners, Mr. Barcott?

25 MR. BARCOTT: Yeah, Captain, good morning. Could we take a

1 two-minute recess before I begin?

2 CAPT CALLAGHAN: Yeah. Mr. Culver, are you okay if we
3 take -- let's do this. Let's take a five-minute recess. Are you
4 okay with that, Mr. Culver?

5 THE WITNESS: Yes, that's fine.

6 CAPT CALLAGHAN: Okay. Let's take a five-minute recess.
7 We'll resume at 1411.

8 (Off the record at 2:06 p.m.)

9 (On the record at 2:12 p.m.)

10 CAPT CALLAGHAN: Okay, the time is 1412, and this hearing is
11 now back in session.

12 Mr. Culver, as I said, I'm going to pass it over to counsel
13 for vessel owners, Mr. Barcott.

14 BY MR. BARCOTT:

15 Q. Good afternoon, Mr. Culver. I just have a couple of
16 questions for you. For the application of the C.F.R.s regarding
17 icing, do those C.F.R.s make any provision for the accumulation of
18 ice inside the pots?

19 A. No, that's not mentioned.

20 Q. Okay. Do those C.F.R.s make any accommodation for the fact
21 that ice in the real world accumulates on one side of a boat more
22 than on the other?

23 A. No.

24 Q. Okay. So I know the answer to this question, but some people
25 who are watching may not. You used 208 pots, both in icing and

1 non-icing conditions. And I think everyone thinks that's unusual.
2 Could you explain why the same number of pots were used for icing
3 and non-icing?

4 A. I only did the calculations using icing. And I assumed that
5 I had -- that we were going to interfere with visibility out of
6 the pilot house if we put more pots on in a non-icing condition.
7 So that was the reason that I worded that that way.

8 Q. And that's what I understood. So is another way of saying
9 that, if there had been a higher pilot house so you could have
10 seen over the stack, this boat could have carried more than 208
11 pots in non-icing conditions? Have I got that right?

12 A. Yes.

13 Q. Okay.

14 MR. BARCOTT: Thank you, sir. That's all I have.

15 THE WITNESS: Okay.

16 CAPT CALLAGHAN: Thank you, Mr. Barcott.

17 And, sir, we've got just some follow-on questions here from
18 Lieutenant Commander Comerford. He's going to have some follow-on
19 questions for you.

20 THE WITNESS: All right.

21 BY LCDR COMERFORD:

22 Q. Good afternoon, Mr. Culver. Can you hear me? I'm having
23 some technical difficulties, so let me get myself set up here.
24 (Indiscernible). All right, so can you hear me now?

25 A. Yeah. You're not quite the loudest.

1 Q. All right. Let me make sure my microphone's as close as
2 possible.

3 A. All right. I think that was okay.

4 Q. Okay, thank you. All right, sir. Again, thank you for your
5 time this afternoon. My first question for follow-up is, when you
6 went to go do the incline experiment in 2019, do you remember
7 sending instructions to the owner or the captain for preparing for
8 the inclining experiment?

9 A. I told them about how much weight I would need to be able to
10 heel the boat, and they, I think they found -- I think we had
11 concrete ecology blocks. And they weigh -- they vary quite a bit,
12 but we had actual certified weight on them. They're typically
13 about 3,500 pounds a piece.

14 Q. This was 3,500 pounds a piece and it was two or three
15 weights?

16 A. I don't really remember offhand. I may have -- probably I
17 may have something here that tells how many I used.

18 Q. It's okay, sir. We can --

19 A. All right.

20 Q. Yeah, we don't need it right now. Just if you remembered.
21 The actual inclining experiment, do you follow a set of standards
22 for conducting your inclining experiments?

23 A. The ASTM standard. And that's what we try to go by.

24 Q. Okay. And does that standard have a certain number of
25 freeboards you're expressing right here?

1 A. They might say five. And ideally you'd make them kind of
2 evenly spaced along the length of the boat. Sometimes you have to
3 make variations in that because you can't get adequate spots to --
4 but you want to have some or all of them so that you can have,
5 draw a line to it and be reasonably confident that you have the
6 right line.

7 Q. And earlier, and correct me if I heard you wrong, you said
8 you did a little over three, or three to five freeboard marks?

9 A. We did five.

10 Q. Five? You got five on both sides, or --

11 A. Yes.

12 Q. Okay. Thank you. Now, let me make sure I have my -- before
13 we come back, I'm going to skip to the downflooding we were
14 talking about earlier. And this is just so we have a complete
15 understanding. Lieutenant McPhillips, could you pull up Exhibit
16 004? I believe it's page 13. When you have it up on the screen,
17 let me know. Okay. Down on the bottom picture, Lieutenant
18 McPhillips, can you focus on the bottom right photo?

19 A. All right.

20 Q. Mr. Culver, is -- to the right of the vent stack, there's the
21 life ring and --

22 A. Right.

23 Q. Is that the downflooding point you were referring to earlier,
24 near center ship?

25 A. I think what actually starts to downflood would be at the top

1 of that pump that's on the inside. And the hold -- the tote might
2 be about 4 feet square, so I don't know the exact dimensions of
3 it. I went and looked at it the other day on the other boat, the
4 *Westward Wind*, and this had something pretty similar to this.

5 Q. Okay. All right. Can you -- Lieutenant McPhillips, can you
6 go down to page 18? There's another photo we're going to pull up,
7 showing mid deck level. Can you go all the way down to the bottom
8 of the page? Yeah, so right there. The far right photo on the
9 top of that. Can you zoom in on that photo? A little to the
10 right. Yeah, just so -- Mr. Culver, this is -- the burdening area
11 is there to the left. Access to the burdening area is to the
12 left. And there's the walkway to the ladder well, to the pilot
13 house. Underneath that ladder well, there's a vent. Is that a
14 potential downflooding point?

15 A. Well, I can't really see it very well. I don't know what's
16 behind it.

17 Q. Okay. All right. And then, Lieutenant McPhillips, can you
18 shift to the Exhibit 006, page 4? Now, back in 1988, were there
19 -- there were some modifications to the *Scandies Rose*. Did you
20 help do the design for the modifications for the *Scandies Rose*?

21 A. I didn't -- I did a lot of different things on it over the
22 years, a lot of things. And the previous owner, Mr. Nordbo, had
23 me do -- this one I think he actually did. That was done by
24 someone else. That's Will Nickum (ph.).

25 Q. Will Nickum.

1 A. I think that was done just before we did that 1988 thing.
2 And it was to repair some damage from a fire.

3 Q. All right. Okay.

4 A. They had rearranged some of the interior. I haven't talked
5 to Will Nickum in years. I don't know if he's still around the
6 area.

7 Q. You had said you visited the *Westward Wind* or a sister
8 vessel. A couple of questions. You mentioned, I think the number
9 was like 20 tons for the *Patricia Lee*, that the *Patricia Lee* was a
10 little, was about 20 tons lighter, or something in that
11 neighborhood. What were the -- what is the difference between the
12 *Scandies Rose* and the *Patricia Lee* for this deck structure?

13 A. I -- well fairly (indiscernible). *Patricia Lee*, when I did
14 it was a little bit lighter and had a lower CG. I do have
15 somewhere here the numbers from the *Westward Wind*. Someone else
16 did that, but they gave me the figures. But it had been
17 lengthened, and it would be expected to be somewhat more weight.

18 Q. So the *Scandies Rose* was lengthened?

19 A. Yeah. For the *Westward Wind*, and this was done by a naval
20 architect named Yasely Olafson (ph.). He had 571 tons, light
21 ship, the LCG 5-1/2 forward. I don't really know what that's
22 referenced from. And the DCG was 12.84 above the baseline, which
23 is lower than what we had on the *Scandies Rose*. But the *Westward*
24 *Wind*, they had put a new section in the middle many years ago when
25 it was still fairly new. And so it's different than the other two

1 boats.

2 Q. So the *Westward* was a little bit longer. So I think I had
3 misunderstood you on that. All right. The -- if we -- Lieutenant
4 McPhillips, if we could just bring that exhibit up one more time
5 real quick. I just wanted to -- right there in the middle, just
6 forward of the (indiscernible), it says "exhaust." So I was just
7 wondering if you knew what that was -- if you could explain if
8 that was the exhaust going up to that ladder well on the outside.
9 That's -- I wanted to know if you were -- could give insight to
10 that.

11 A. Well, I didn't do this drawing. It may be that's how, when
12 he had (indiscernible) above there was a little bit off, off
13 center. That would be my guess. Again, I didn't do this. I know
14 that that port goes all the way through. It pretty much has to.

15 Q. Lieutenant McPhillips, you can take down the exhibit. Just
16 in general terms, Mr. Culver, for your stability instructions you
17 produced in 2019, did -- how did you communicate your -- how the
18 pots were to be loaded on the vessel in your instruction?

19 A. Well, we didn't. But the only -- what the only thing we did
20 say was that the first layer was on edge, which is the way they
21 always do it anyway, and the rest of them flat. What I did was
22 take the length of the well deck and the beam, and figure out how
23 many -- I know the pots were 8 foot by 34 inches, figured out how
24 many I could get on there. I think I came up with 88 on the first
25 layer, and 40 on each layer flat above that.

1 And they can't really get quite that many on there because of
2 the crane and the pot launcher and things like that. But I
3 figured if they end up having a little bit less, it can't hurt
4 anything. I think they were able to get 195 pots on, instead of
5 the 208.

6 Q. Okay. Lieutenant McPhillips, could you pull up Exhibit 36,
7 page 6? And this -- I'm just trying to -- hope you can maybe help
8 me understand a little bit here. In your diagram, I can see how
9 when the (indiscernible) is vertical, because it's wider, and it
10 shows three tiers of pots above that, was that your intention, to
11 only have four tiers of pots in your calculations?

12 A. Yes.

13 Q. Okay. So, if I heard you correct, it was 38 for the first
14 layer, or more than that, but 40, 40 and 40.

15 A. Eighty-eight in the first layer, and the 40 in the ones above
16 that.

17 Q. Oh, thanks. That makes a little more sense. Okay. Now, I
18 was doing the calculation here, and it looks like 32 pots per row,
19 like on the vertical. So, I was wanting to get a better picture
20 of how you calculated that.

21 A. The height of them?

22 Q. Oh, just like this two-dimensional picture, I counted 32 pots
23 just straight --

24 A. The only ice I used on the pots was with the side elevation.

25 Q. Okay. If -- was there anything in the instructions that

1 would help the master understand that they shouldn't go above a
2 certain tier of pots?

3 A. I didn't quite hear that. Can we turn the volume up a little
4 here?

5 Q. Yeah. Is that better? Sometimes my microphone gets hot.

6 A. If you could turn the volume up here too.

7 Q. All right.

8 A. Go ahead.

9 Q. So, for your instructions, is there any way the instructions
10 that tells the operator specifically the maximum number of tiers
11 to stack?

12 A. No. I guess we just put down the total number of pots, and
13 then we have that picture. He can't really do it much of any
14 other way. And we said that you can't stack them up so high that
15 they obscure the vision. So really, there wouldn't be much else
16 they could do. They always stack the first layer on edge, I'm not
17 quite sure why, and above that, flat. And then they use chains
18 and chain minders to secure that, so that it won't shift on them.

19 Q. Do you account for the weight of the chains in your
20 calculations?

21 A. Oh no, but it's probably not even 200 pounds. It would be
22 insignificant.

23 Q. Okay. And when you've calculated the -- I'm not a naval
24 architect, so I'm trying to visualize it. When you put the pots
25 in the model, the electronic model, you called it GHS, did it go

1 in as a, essentially like a points weight, like they take the
2 center out of what a --

3 A. So you put in the (indiscernible) the weight first, and
4 usually we use long tons. You could use other units if you want.
5 But then we add the coordinates, X, Y and Z, X being the ones
6 that's in the location. And Y is usually right on the centerline,
7 so that would be zero. And then Z is the height off the baseline
8 that we're calculating everything from.

9 So what we put in is just the weight and the three
10 coordinates.

11 Q. So if you added another layer of pots, a fifth layer of pots,
12 would that change that point weight?

13 A. Yes.

14 Q. And would the captain of the fishing vessel understand from
15 the instructions that difference?

16 A. I would assume they would. In this case, we were thinking we
17 couldn't go any higher anyway because of the visibility. But
18 there's a difference in the different captains and how seriously
19 they take all this, and how much they go into it.

20 Q. And this is my last question before I give it back to Captain
21 Callaghan, because this has been really helpful. I really
22 appreciate it, Mr. Culver. When you said you had calculated
23 your -- I'm trying to get this right, your vertical ice, and you
24 said you applied it as a wind course, is that what you said?

25 A. Well, the easiest way to come up with an area for the side

1 elevation, there's a factor in the (indiscernible) program, what
2 we use for the severe wind and (indiscernible), where you can --
3 it will show you the surface area in square feet. And that's much
4 easier to use that than for me to try to figure out all the
5 pieces.

6 Q. Okay.

7 A. And that's what I used.

8 Q. And did you apply wind heel to the pots after icing
9 condition?

10 A. Well the ice was -- the C.F.R. ice was considered in all of
11 these conditions.

12 Q. Was that a --

13 A. It wouldn't affect -- well yeah, it does affect the wind
14 heel. Yes, the ice was taken into account in all of it.

15 Q. So your calculations would have a condition that had the
16 weight of the ice and the wind heel, including the surface area of
17 the pots?

18 A. Yes.

19 Q. Okay. Thank you very much.

20 LCDR COMERFORD: That's all the questions I have, Mr. Culver.

21 THE WITNESS: All right.

22 CAPT CALLAGHAN: Sir, we've got one more follow-on question
23 from NTSB.

24 Mr. Barnum?

25 BY MR. BARNUM:

1 Q. Mr. Culver, I know we've been going for some time, so I
2 appreciate this, but I do have one follow-up. Back to the
3 downflooding points, I know we've been talking a lot about it, so
4 you mentioned that a lot of -- some skippers or some owners, some
5 take it more seriously than others for the stability. When you
6 come on a boat to conduct your incline tests and get your
7 measurements and numbers needed to calculate, how much interaction
8 do you say you have with the owner or the skipper?

9 A. It varies. I would like to be able to talk to the boat
10 captain, and usually that happens. Usually they are interested in
11 this too. So, ideally we talk to the captain and also to the boat
12 owner. But the captain's usually the one that decides how to load
13 the crab pots and whether he has too many, or whether he may be
14 (indiscernible) the day before he goes out. That's kind of his
15 decision.

16 Q. Generally, how do you find their knowledge of naval
17 architecture?

18 A. They know enough that they understand pretty much what the
19 problems are. And I always put in a little piece in the back of
20 the report, kind of explaining some of it. And I know some people
21 read that (indiscernible) and others probably ignore it. But I
22 always put in that little three-page explanation from the naval
23 architect standpoint.

24 Q. Would you expect them to know what an incline test or
25 downflooding point is? Would you expect them to know that?

1 A. No.

2 Q. So when you configured the stability inclining test on the
3 *Scandies Rose*, you indicated that the owner had told you where the
4 downflooding point was. How -- you just indicated that you
5 wouldn't expect them to know what that is, so how would you know
6 if that is accurate?

7 A. Well, he is familiar with the boat. And also, I had done the
8 other boat that's very similar to it, and figured that they were
9 probably pretty close to the same, but I wanted to be sure.

10 Q. Okay. So just -- and to confirm that you or your assistant,
11 no one actually walked around the vessel to verify the location of
12 the downflooding point?

13 A. No, but I think we see it in your photograph anyway.

14 Q. Yeah.

15 A. I think the real downflooding point is really inside at the
16 edge of that trunk.

17 Q. Okay, yeah. Just -- Lieutenant McPhillips, Exhibit 59,
18 please, page 21. Scroll -- yeah. And this is the downflooding
19 point that the MSC is indicating below -- up behind the power
20 house stairs. You see that, sir?

21 A. Yeah. I see that.

22 Q. All right, and that -- in your words, that -- would that be a
23 potential downflooding point?

24 A. Yes, but I think they can't really start going down until the
25 water gets over to the edge of that trunk, and the air goes down

1 through that roughly 4 foot by 4 foot trunk. But only a corner of
2 it is where the air goes. The rest of it's the exhaust pipes from
3 the engines and the generators.

4 Q. Okay. And how do you know that? Did you remove the grating
5 here, or how do -- is that -- is it something you see on a
6 drawing?

7 A. Well, there can't be any trunk going straight down from here.
8 There's nothing that goes down through the accommodation area.
9 All of the air goes down through that trunk on the centerline.

10 Q. Okay. All right. Thank you for answering those follow-up
11 questions, Mr. Culver. I appreciate it.

12 MR. BARNUM: And that's all the questions I have.

13 CAPT CALLAGHAN: Thank you, Mr. Barnum.

14 BY CAPT CALLAGHAN:

15 Q. Mr. Culver, just a couple of quick questions for you. I
16 greatly appreciate your patience with us. So just wanted to go
17 back quickly, for the software that you currently use, do you
18 happen to remember when the last roundabout year it was that you
19 got last update on that software?

20 A. Well, I've never bought an upgraded version. The only real
21 update is just that it works with more modern tenders and things
22 like that. But it gives you the same answers.

23 Q. Okay, sir. And with regards to the downflooding points, once
24 you reviewed the report, did you go back and run that at all with
25 the new information on where those downflooding points would be?

1 A. No, I didn't.

2 Q. No? Okay. And sir, as far as the stability instructions
3 that you issued, on a couple of occasions you mentioned you
4 believe that they just understand what you're, what's written
5 here, and that the inherent dangers of going beyond, you know,
6 that ice might build up beyond that point, who are you referring
7 to as they would understand?

8 A. The boat captains.

9 Q. And how do you think that they would understand that those
10 dangers were -- how to interpret that information?

11 A. They know that there's more weight there. They have to keep
12 the ice off as much as they possibly can. But sometimes it
13 probably gets out of their control. They usually are pretty
14 experienced at this, and it's pretty commonplace to get much
15 thicker ice than what's in the C.F.R. And they know that.

16 Q. Okay. And I think we've kind of established that through
17 some of the hearing, you know, that those, the C.F.R. is a general
18 number to start the calculations, and that the real life scenarios
19 may be much worse than that. But do you have any indication
20 whether or not those masters have stability training?

21 A. They would not have any formal stability training.

22 Q. Okay.

23 A. Not normally. They may have had some kind of a quick
24 description of it. And again, I put that little explanation in
25 with all the reports, and it probably tells them what they need to

1 know.

2 Q. And so you mentioned that you, that since you've gone into
3 the retirement you're not actively seeking work, but are you
4 currently working on any projects regarding stability?

5 A. I have one person that called about maybe doing something
6 later on in the year. And I have one that's up in Dillingham,
7 Alaska. And they had given me the lines drawings and things, and
8 I made the computer model. They wanted to do that in May. I
9 think after I do those, I probably won't, probably not do too many
10 more of these.

11 And I have one where they want me to help with a simplified
12 stability test on a passenger boat. And that one would be in
13 Cordoba, Alaska. And that's (indiscernible) different thing.
14 There's no computer or anything. It's just the windage on the
15 side of the boat. And someone from the Coast Guard would be
16 there, and they and I would agree on what that windage is. It
17 would be a relatively simple thing to do.

18 Q. Yes, sir. And so the last thing, I wanted to provide you an
19 opportunity, so is there anything that you think that we should --
20 that we may not have covered in our questions today that you think
21 would be important for us to consider as part of the
22 investigation?

23 A. Well, it's awful hard to tell what really happened in
24 something like this. But the survivors were in a hurry to get off
25 the boat. They weren't looking around. One thing that I notice

1 in the information that I got, they said they started to heel to
2 starboard, I think they said about 7:15, but not an awful lot, so
3 they weren't terribly concerned about it. But nothing to indicate
4 that they ever heeled to port.

5 And then after, it looked to me like maybe about three hours,
6 then they quickly heeled very sharply over to starboard. And it
7 looked like everything went really bad from there on out. I would
8 think that the fact that they heeled to starboard and not to port,
9 that something else happened. Maybe a load shifted, or maybe
10 there was some flooding that was happening somewhere that they
11 didn't know about, that was on one side.

12 One thing that I think could be kind of an Achilles' heel on
13 these boats, there's a void above the (indiscernible) that's maybe
14 3 feet or something, maybe 4. And it runs the whole length from
15 the -- through the whole length of the fish holds. And I think
16 it's open at the forward end. And there's a door that you can
17 open at the aft end in the engine room.

18 If water ever got in there on the (indiscernible), that would
19 have a real bad impact on them real fast. These boats can't stand
20 much of any unintended flooding. They're about (indiscernible)
21 anyway because their holds are full of water. And if there's any
22 unintended flooding anywhere even in a fairly small area, they
23 could get into big trouble in a hurry.

24 Q. Yes, sir.

25 CAPT CALLAGHAN: Sir, thank you very much for your time and

1 your attention today. I know you've had to travel to get to where
2 you're at, and we appreciate you taking the time out to speak to
3 us today.

4 Well, sir, at this point, I'm now going to release you as a
5 witness at the formal hearing, and we thank you for your testimony
6 and cooperation. And if at a later time I determine that we need
7 additional information from you, we will contact you directly.
8 And if you have any questions about the investigations you may
9 contact us, any one of the board members, for further information.

10 THE WITNESS: All right, thank you.

11 CAPT CALLAGHAN: Thank you very much for your time, sir.

12 THE WITNESS: Okay.

13 (Witness excused.)

14 CAPT CALLAGHAN: Time is now 1446. Our next witness is
15 currently scheduled to begin testimony at 1530. If we're able to
16 begin sooner, we'll update the time displayed on livestream.
17 Until then, this hearing will now go into recess.

18 (Off the record at 2:46 p.m.)

19 (On the record at 3:02 p.m.)

20 CAPT CALLAGHAN: The time is now 1502. The hearing's now
21 back in session. We will now have Captain Dan Mattsen.

22 Captain Mattsen, before we get started, just want to remind
23 you that you remain under oath from your original testimony last
24 Monday. Do you have any questions with that, sir?

25 MR. MATTSSEN: No, sir.

1 CAPT CALLAGHAN: Okay, Mr. Mattsen. I'm going to turn it
2 over to Commander Karen Denny.

3 Commander Denny?

4 (Whereupon,

5 DAN MATTSSEN

6 was called as a witness and, having been previously sworn, was
7 examined and testified as follows:)

8 EXAMINATION OF DAN MATTSSEN

9 BY CDR DENNY:

10 Q. Mr. Mattsen, (indiscernible). Some technical difficulties on
11 our end. Thank you again for joining us this afternoon. We have
12 just some follow-up questions for you, sir, so I'll just get right
13 into it. I'm going into a few different kind of areas that we
14 just need some clarification information on. And the first one is
15 some follow-up questions on the responsibilities of owners.

16 So my first question, sir, is from your position as one of
17 the *Scandies Rose* owners, who is ultimately responsible for the
18 safety of the *Scandies Rose* and her crew?

19 A. Well, all the owners are responsible, but the captain has the
20 primary responsibility.

21 Q. Okay. Lieutenant McPhillips, could you please pull up
22 Exhibit 23, page 7? And sir, while he's pulling that up, that is
23 the AIS track data that we were able to get, and it's just to
24 help, for context, showing the *Scandies Rose*. So looking at the
25 accident wedge, and it's not coming up from what I can see, so

1 sir, looking at the accident wedge, were you in a position to be
2 fully connected in terms of phone, radio, email and internet?

3 A. No. When Gary got through Whale Pass, which is up there at
4 the upper right-hand corner, and came around the corner here at
5 the gap in Shelikof Strait, that's when I believe we had our first
6 conversation. I had not talked to him when he was in Kodiak, and
7 I was out a couple of days ahead of him on the *Amatuli*, basically
8 just running my own boat and dealing with the weather conditions
9 we had.

10 Q. Yes, sir. So while you were under way on the *Amatuli*, were
11 you fully connected in terms of the sat phone, radio, email and
12 internet?

13 A. The sat phone, I made sure I could call Gelia, so I called
14 Gelia several times, and just let her know what our progress was.
15 We have text messaging via -- I think we just had an inReach at
16 that point. And I didn't have -- I never had very good luck with
17 it. So generally one of the crew members would hail with that, so
18 they had coverage, because my phone, for some reason, didn't like
19 the inReach. And we had radio. And we had radio too, the
20 sideband radio.

21 So I was receiving, but I wasn't really talking to anybody on
22 the way down. I was mainly just listening, and listened to
23 weather, listened to the normal traffic that goes over the
24 airwaves. Certainly had VHF, no internet. I do have a --
25 (indiscernible) the fleet when I have a fairly limited email

1 program that I can use, but it's, it doesn't give you all the
2 attachments, and it's actually fairly primitive.

3 But they've made a lot of improvements just over the last
4 couple of years, so I don't want to slam them now. I mean, it's a
5 pretty good service now, but at that time I wasn't having much
6 luck with that.

7 Q. So, is it fair to say, and I just want to make sure I'm not
8 putting words in your mouth, but is it fair to say that somebody
9 on your crew had inReach capability? Were there any texts or even
10 emails without attachments that would constitute communication
11 with Captain Cobban?

12 A. No, absolutely not.

13 Q. Okay. And as the *Scandies Rose* departed, you just mentioned
14 that you did not have any communications with him until he passed
15 Whale Pass. But were you aware when the vessel got under way?

16 A. No.

17 Q. So --

18 A. Well, when he called me, you know, and said hey, we're out,
19 you know, we're on our way, just everything's fine, so that's it.

20 Q. And just to refresh my memory because I did not capture it in
21 my notes from the first time we spoke, did he mention to you, did
22 Captain Cobban mention to you the number of pots that they had
23 onboard?

24 A. No, he didn't. The number I got, which is 192, was from just
25 conversation when he decided to bring the boat to Kodiak, which

1 was not normal. We would normally, after king crab, park the boat
2 in Dutch Harbor. But with the disrupted air travel into Dutch
3 Harbor, we said well, you know, we can get a crew into Kodiak a
4 lot easier. And he said yeah, I want to go through these pots.
5 Lance from Dungeness Gill Works said that the spacing in the
6 tunnels wasn't quite right, so we should put a come-along on the
7 tunnels and get that, get this all dialed in before our next
8 season.

9 So I said okay, that makes sense. Go to Kodiak, and do your
10 gill work, and then -- at that time, the number that sticks in my
11 head was he told me 192. And I'm not going to dispute 195 or 198.
12 I mean, I don't know. It's almost impossible to tell down to the
13 pot how many pots are on the boat. You can get a pretty good
14 estimate, but you couldn't be assured, just looking at a stack and
15 saying oh yeah, that's 198, you know, so.

16 Q. Okay. Thank you. So, Lieutenant McPhillips, can you please
17 pull up Exhibit 030, bottom of page 2? And what I'm pulling up
18 right now is the thorough weather report that is put up that
19 sometimes you see. It's text, that forecasts the weather. And I
20 just have a little bit of delay on my end, so bottom of page 2,
21 please. That's for December 30th, as you can see, for the
22 Shelikof Strait. So, based on the transit, the AIS transit that
23 we saw just a few minutes ago, is it fair to say that in December
24 30th, this is the weather that Captain Cobban was going through,
25 the forecasted weather that he was going through?

1 A. Well, that's the forecast.

2 Q. Right.

3 A. But I do not think that that was the actual weather that he
4 was going through.

5 Q. Fair enough. So let me rephrase, and I apologize. Did
6 you -- you mentioned to us that you checked weather, and that you
7 were also dealing with whether yourself, inclement weather
8 yourself on the *Amatuli*. Were you aware of, considering the
9 weather that Captain Cobban and the *Scandies Rose* was experiencing
10 on its transit through the Shelikof Strait?

11 A. No, not really. I mean, Gary was a very good weather
12 captain, and I just assumed that he thought he had a weather
13 window, you know, to get -- you know, I mean, a voyage like that,
14 sometimes you do have to stop. I stopped that one night at Unimak
15 Bight because it just got too foul. I just, I thought it was
16 prudent to stop.

17 So, on a three or four-day voyage, a guy might say, you know
18 I got a weather window, I can get to the Shunigans, or I can get,
19 you know, I can get to Sutwik Island. I can hang out there if
20 things get bad. But I would just expect that Gary would have seen
21 a weather window that he was comfortable going in and then he took
22 advantage of it.

23 Q. Okay. So -- thanks for pulling that down, Lieutenant. So,
24 Mr. -- or Captain Mattsen, did you have any procedure, written or
25 otherwise, that you as an owner required a captain of any of your

1 vessels to call you and discuss a voyage plan, or if that captain
2 had any concerns?

3 A. Absolutely not, especially not with Gary. Gary was a 30
4 percent owner of the boat. I owned 50 percent, so I was
5 technically the majority owner, but Gary had much more experience
6 than I did as a captain, although I've been in the industry for 40
7 years. Gary was a front-line captain from the time he was, you
8 know, just a teenager. So I would never second guess Gary's
9 decision-making on that. I would just trust that he would do the
10 best for himself, for the boat and for the crew.

11 Q. So fair to say that, and not just in terms of the *Scandies*
12 *Rose*, because I understand what you're saying about Captain
13 Cobban, but so there was no -- for the company, there was no
14 written or verbal procedure or expectation to contact you?

15 A. No. It's just a -- I try to -- I would only hire a captain
16 who I -- judgment I trusted. I would not hire somebody who I
17 thought was a wild man, or going to make silly choices. And I'd
18 be looking at what their records were too. Obviously if they had
19 a history of making bad choices, I would pass on putting them in
20 my wheelhouse.

21 Q. Okay. So since the accident, have you considered or
22 implemented any procedures now, in that regard, as far as if the
23 (indiscernible) forecasted and with you as the owner, for any of
24 your captains?

25 A. No, I have not. But then I have, like Peter Wilson is a

1 personal friend. You know, he runs the *New Venture*, and we talk
2 all the time. He would probably, he would probably take it on
3 himself to call me and say yeah, I've got a weather window, I'm
4 going to do it, or else I've got to wait a couple of days. And
5 that's just because Peter has less experience as a captain than I
6 do, and he would probably lean on me a little bit more, something
7 that Captain, or that Gary wouldn't do.

8 Q. Okay. Leading up to the accident, did you have a means to
9 know where each of your vessels were, like physically where they
10 were or what their course and speed, if they were making -- if
11 they were under way?

12 A. Not on the boat. We got that from the beach. We can look it
13 up, and follow the vessel and get a track line and everything
14 else. And that's what Gelia would primarily do. She would, she
15 could keep track of the boats, and say oh, it looks like they're
16 going in, or it looks like they're making a delivery and that kind
17 of thing, and might pass that along to me. But we weren't at that
18 stage of the season, obviously.

19 Q. So just for clarification, you did have some -- I'm not
20 saying it was hard and fast, but some communication schedule with
21 Ms. Cooper where you got that status information on the vessels?
22 Is that a fair statement? Or correct me if it's not.

23 A. Well no, I never even inquired about -- well other than in
24 general terms, is Peter going -- is Peter out there? And yeah,
25 Peter's out there. He anchored up last night, that kind of thing.

1 But it wasn't even like I was calling, saying hey, can you give me
2 the position of the *New Venture*? Can you give me the position of
3 the -- there would be no need for that. And it would be silly to,
4 for me to log that when I'm on another boat.

5 When you're a captain of a boat, you've really got your --
6 your duty is clear. I mean, I can't be running three boats. And
7 I, you know, I run one boat at a time, and that's why I'm the
8 captain. And the reason I'm able to do that is because I have
9 competent people running the other vessels, and I've got support
10 from home, you know, with Gelia keeping track of the boats that
11 are coming in, of the position of the vessels, of the offload
12 schedules, making sure that we're getting, you know, checks or
13 whatever, you know, after we make a delivery and we get paid.

14 But that's what enabled me to take this gig on the *Amatuli*.
15 But I wasn't intending to stay on the *Amatuli* very long. I was
16 just intending to help the new captain get a good start, so he
17 didn't have any incidents getting started and I was more familiar
18 with the vessel, so.

19 Q. Okay. So, do you have support? You know, you mentioned
20 support. Did you have support monitoring the weather, or you
21 mentioned Gelia, who monitors the positions of the other vessels
22 because she's kind of, fair to say, like a dispatcher?

23 A. More of a vessel manager. You know, so --

24 Q. Vessel manager?

25 A. -- she handles all the, you know, the nitty gritty, the

1 details. And yeah, I have -- you know, via FleetOne, you have a,
2 you know, a pretty good weather app. So we can see the -- it's
3 kind of the same thing you'd see on a Windy app. But you can --
4 it's a satellite picture. And you can see air temperature, wind,
5 wave height, that kind of thing, so you get an idea of what's
6 happening. And I'm not even sure you can see wave height there,
7 but you pretty much know what the wind and the fetch involve, you
8 know, what kind of seas you'll see there.

9 Q. So to circle back to the part about positions, do you, to
10 your knowledge, know if Gelia Cooper was communicating with Gary
11 about his position and when he got under way?

12 A. I'm sure she was communicating with him because she -- he
13 made the two, or the last hires, and had to get -- you know, Gelia
14 also ensures that the paperwork, you know, which has gotten more
15 and more complicated, is followed through, you know, that the
16 health questionnaires, that the contracts are signed, that the,
17 you know, the direct deposit information for settlements and
18 draws, and all that gets to her before the vessel leaves.

19 So, she would be in communication with Gary to ensure that
20 that happens, and also just to take care of any last minute, oh I
21 need this or, you know, can you send this out to Dutch Harbor or,
22 you know, just parts and pieces that needed to be -- make it to
23 the boat.

24 Q. So was there any expectation for her to kind of just relay
25 the status, just as the owner? Even though you were double-

1 hatting it as --

2 A. Oh, in the case of something serious, of course she'd say,
3 you know, the starboard generator blew up. I would expect to be
4 informed of that. If they needed new cabinet latches, I would not
5 expect her, and I would actually be a little bit irritated if she
6 called me on the sat phone to tell me that the *Scandies Rose*
7 needed new cabinet latches. You know, it's such a -- it's
8 certainly a judgment call, but anything that was serious, she
9 would tell me about.

10 Q. So you mentioned FleetOne on the *Amatuli*, can you just remind
11 me, did *Scandies Rose* have FleetOne as well?

12 A. No. It had a full internet via KVH.

13 Q. Right.

14 A. So they could, you know, get on the internet easily.

15 Q. That's right. Okay, thank you. You know, you mentioned that
16 you had stopped to seek some shelter on the *Amatuli*. Would you
17 have expected for Gary to do the same, knowing that he was
18 probably going to go through that inclement weather as well?

19 A. Well it was a different situation. As soon as he made it
20 down to Unimak Bight, and -- it kind of depends. I mean, I did it
21 because I was tired, and being a tender, I mean the *Amatuli* has a
22 long history of being a great crab boat, but in recent years it's
23 been tendering salmon and chase boat for "The Deadliest Catch."
24 There's a different configuration of the sodium lights. So I
25 didn't have very good lighting on my starboard side.

1 And if I head through Unimak Pass, you've got to then turn to
2 the southwest, and I would have had the seas on my starboard side
3 the entire way. So, in my judgment, I said I'm tired, I haven't
4 got very good lighting, I'm not going to be able to see what's
5 going to hit me. I said, it's time to knock off and spend the
6 night here in the shelter of the island.

7 Gary wouldn't have that problem with the lighting. And it
8 would really depend upon his, whether he was fatigued or not. And
9 I would suspect, with a seven-person crew, that it wouldn't be the
10 same issue. I had a, you know, a four-person crew. And we
11 were -- you know, I didn't have that, I didn't have the person who
12 I was going to say hey, you take it down there, even though you
13 can't see very well on the starboard side either. I wouldn't hand
14 that over to anybody else.

15 And besides, my charter started on the 1st. So I just
16 calculated the time, and I had plenty of time to anchor up for the
17 night, get up in the morning and then get down to Dutch Harbor and
18 make my charter.

19 Q. So, to the best of your knowledge, there was no reason that
20 Captain Cobban and the *Scandies Rose* would have needed to get to
21 the fishing grounds by a certain point?

22 A. No, no. That wasn't part of our fishing plan.

23 Q. Okay. One witness that we've heard during testimony
24 throughout the hearing stated that they leave written notes for
25 their crew that stand watch, and evaluated new people to their

1 position in the watch schedule, in a way to mitigate risk, you
2 know, less experience, more experience, less experience, more
3 experience, to ensure the safe operation of the vessel.

4 Was there any written policy or procedure for your vessels in
5 the time frame leading up to the accident that's similar to that?

6 A. No. But that's actually my procedure. I think Bryce is the
7 one who said that. That -- Bryce learned that from me. That's
8 the way I always did it when Bryce worked for me for many, many
9 years. I would just do that, and I would always leave -- in the
10 logbook, I'd write down the watch schedule and who was going to do
11 it so that I would space out experienced and less experienced
12 people. And that, but that's just like a good practice, you know,
13 bridge resource management, you know. Just, that's learning how
14 to handle a crew, you know, and how you navigate safely from one
15 point to another.

16 Q. Okay. Would you say that that's the same tact or process
17 that Gary took when assigning watches?

18 A. I would say that it's obvious to everybody here that he
19 didn't do that. So, and I don't know why, and I don't know what
20 his reason was. I mean, there's all sorts of reasons why, you
21 know, maybe Art was busy with a project. You know, maybe Brock
22 was doing something for the deck. I mean, I have no idea there.
23 So there could be mitigating factors, you know, but clearly having
24 the two new people on the boat, back to back on the watch schedule
25 was, in retrospect, a questionable tactic.

1 Q. How about outside of the accident voyage, do you have
2 knowledge of how Gary, how Captain Cobban would assign watches?

3 A. No. But I -- the times that I went on the watch, the boat
4 with him, we didn't let anybody take a watch, because we had two
5 captains onboard. So if Gary needed a nap, or Gary was taking
6 some rack time, I would just take the watch, or pull pots, you
7 know, for that shift. And so we never had anybody else on watch.

8 Q. Okay. We're going to shift gears just a little bit.
9 Lieutenant McPhillips, could you please pull up Exhibit 047, page
10 1. And what we're pulling up, sir, is the 2017 Voluntary
11 Standards, Commercial Fishing Vessel Standards and Best Practices.
12 You mentioned during your initial testimony that after
13 *Destination*, you know, that that did play into you getting another
14 stability test for the *Scandies Rose*. Did you or other owners
15 discuss or implement any of the other voluntary safety initiatives
16 and good marine practices for commercial fishing industry vessels?
17 A. You'd have to show me what those voluntary practices are, and
18 good marine practices.

19 Q. I'd be happy to.

20 A. Yeah.

21 Q. Please go to page 8, to paragraph G. And that is for
22 material condition and surveys. And I'm not sure -- okay. So for
23 the surveys, I think it's sub F there, you know, point three,
24 where it says, "The following items should be examined to verify
25 their structural integrity and service condition," and then point

1 F talks about tanks, voids, (indiscernible) and cam rocker.

2 I know there's -- it's all shoulds. There's no shalls in
3 here. But is this an area that you had perhaps paid attention to,
4 or may have modified your instructions to your marine surveyor in
5 terms of expanding the areas that he or she would look at, in
6 terms of the follow-on surveys?

7 A. No. No. I mean, we always -- we survey every two years, all
8 the time. And of course, every time you haul out, which is every
9 two years, we would be inspecting chaff seals, sea valves, sea
10 chests, rudders, propellers, side shell, planking, et cetera. As
11 far as the tanks, of course we would look at all the tanks, the
12 void through it. We were in both sides of those voids, port and
13 starboard at least every year.

14 And if there was -- there used to be a crane that sat on top
15 of that starboard void. And so they had hydraulic lines running
16 through it, which I think one of the, I think Josh pointed that
17 out. They were hydraulic lines that were no longer hooked up.
18 But they used to be running through there. So occasionally you'd
19 get a -- a hose would break and you'd have a hydraulic leak in
20 there. So we'd have to crawl in and repair the hose, and muck out
21 the void.

22 So that's just -- so we were in there every year. I wouldn't
23 say that we put additional focus on it as a result of the
24 *Destination*.

25 Q. But no specific concern for your marine surveyor to document

1 the condition of those voids or to --

2 A. We would just point out to the marine surveyor if we had done
3 any work on it, or if -- when he'd go down in the engine room,
4 he -- if he would see an open manhole cover, I mean there are no
5 doors on the void. Culver was completely wrong. It's a --
6 there's a 15 by 24 standard manhole cover with studs, you know, on
7 each end of it that are bolted or, you know, weighted down so that
8 they're closed off.

9 Q. So you mentioned that you would talk to the marine surveyor
10 and you'd let them know if any work had been done in there. And
11 if I'm, if my memory serves, the survey was done in like the May,
12 June time frame, because the window was certain, multiple days.
13 But in April, you -- the Aztec Marine did work in that void are on
14 the chutes. So do you recall to the best of your knowledge, did
15 you let the marine surveyor know about the work that was done in
16 those areas?

17 A. I can't say for sure. You know, I'm a bit hazy on that, so I
18 can't say for absolute sure that I pointed out to Jake that we'd
19 had work done. I probably did, because I would go through -- I
20 mean, if you've seen Jake's surveys, he lists the major work that
21 was done each and every year. So you got a, you know, a list of
22 the projects that were accomplished, or the engines that were
23 replaced or whatever, but so I try to be as thorough as I can when
24 I talk to Jake there. But I can't remember the conversation that
25 clearly that I pointed that out to him in April of 2019.

1 Q. Sure. Okay. So actually, Lieutenant, if you could actually
2 pull that exhibit back up, and go to page 10, please. And
3 that's -- I'd like to look at paragraph A of page 10. And again,
4 these are the voluntary standards. And so these are -- have you
5 seen this document before? Like have you seen it before, or --

6 A. (Indiscernible) pass over my desk. Have I -- other than read
7 through it, and put it in a manilla file, I'm not sure that it's
8 been front of mind for me.

9 Q. Absolutely. Not a problem. So, in that page 10 there, and
10 that talks about the stability standards. So, the *Scandies Rose*
11 would have fallen into paragraph A, where it did have a stability
12 document. And from what I can tell, you specifically said in
13 earlier testimony that you -- the *Destination* and other things,
14 discussions that have come out from having talked to other
15 captains and other people in the industry, were some of the
16 reasons that you decided to get another stability report in 2019.
17 Is that an accurate statement?

18 A. I'd say it's, you can pinpoint it more specifically. When
19 the *Destination* rolled over, and I saw the press and everything
20 else, and I lost -- I knew Jeff Hathaway real well, I just said,
21 you know what, our stability report's old, I think it's time to do
22 stability reports, new stability reports on all the vessels. And
23 so I just said, I said that there was no reason to fly naval
24 architects all over the world, but I said when the boats come down
25 for shipyard, we'll just bring naval architects down and do the

1 reports for each one of the vessels. So.

2 Q. Thank you. So could we scroll down a little bit to paragraph
3 C, which talks about the owner, the operator of the vessel should
4 be provided basic training on stability, and the current loading
5 conditions and stability instructions of the vessel. So, Captain
6 Mattsen, did you provide any training or arrange for any training
7 on stability to the operator?

8 A. Well seeing as how the stability reports offered by Captain
9 Crawford has just had two sessions virtually and they were all
10 post incident, I'm going to say no, because there is no really
11 good venue to do that. Now, there is NPFVOA will have, they have
12 a small stability (indiscernible), and they'll try and explain
13 some things. And the Coast Guard was doing some work up in Dutch
14 Harbor prior to some other seasons, trying to explain things. But
15 Gary was well versed in stability.

16 In fact, when we did the, this report, when Mr. Culver did
17 this report, he went through it completely. And he asked for, I
18 think four different scenarios, you know, different tankages. You
19 know, how about if I have the number one tank down and, you know,
20 and because sometimes he'd like to have, just fish under different
21 circumstances. So he kept coming back with different loading
22 conditions and said, can you have him run the numbers on that?
23 And I said yeah, of course. And so I went back to Mr. Culver, and
24 Mr. Culver redid the -- or not redid, but added more loading
25 conditions.

1 Q. To the 2019 one?

2 A. The 2019 one.

3 Q. Do you recall which conditions those were? Were they the
4 later ones, or --

5 A. Yes.

6 Q. Okay.

7 A. Yeah, because we were -- I mean, if it got conditions one
8 through five --

9 Q. Sure.

10 A. -- it didn't make sense to reorder everything. I mean, he
11 just sent us conditions six, seven, eight, you know, that kind of
12 thing, so.

13 Q. So, to the best of your recollection, did you request that
14 the naval architect speak to Captain Cobban as the primary
15 operator of the *Scandies Rose*, to talk out the different stability
16 instruction information that he had?

17 A. No, it would have been difficult. Gary didn't come down. He
18 had fished. He fished the *New Venture* right up until -- and he
19 brought it to Kodiak. And then Peter Wilson drove the *Scandies*
20 *Rose* up that year. And then they just swapped boats, when they
21 got up to Kodiak, because Gary was involved in a major repair on
22 the *New Venture* out of Dutch Harbor. And then it just made sense
23 for him to bring the boat back to Kodiak and then get the
24 *Scandies*. But prior to -- this is prior to the salmon tendering.

25 Q. Okay. Lieutenant, would you pull that exhibit down? Thank

1 you. So, Captain Mattsen, I'm like to shift topics a little bit
2 to get in some clarification on the port engineer. He's been
3 mentioned by various personnel a couple of times but not by name.
4 And I think that I heard two different names. Perhaps one person
5 said Chip and one person said Jamie. Would you provide us some
6 clarity on the person who was designated to be the port engineer
7 for either Mattsen Management or Scandies Rose Fishing Company,
8 LLC?

9 A. It's really, it's all over -- the port engineer would have,
10 works on all the different boats as they come in the shipyard.
11 And it is now Jamie Griggs, who's a licensed chief engineer, and
12 trying not to spend a whole lot of time on the water, would like
13 to -- he likes to get a little bit of time in, but he wants to
14 work on the boats in shipyard. The previous engineer, from many,
15 many, many years, I worked with him for over 30 years, was Chip
16 Wilson. And Chip passed away, so (indiscernible), he was no
17 longer our port engineer.

18 Q. Now sir, could you tell us approximately when that occurred?

19 A. Well it seems like yesterday, but I think -- well, it had to
20 be late -- no, I don't know, spring 2019, very early, I think.
21 But it could have been 2018 too. Just, it all runs together now.
22 I'm just --

23 Q. So, for the benefit of the public, would you please just
24 generally describe what the overall duties and responsibilities of
25 the port engineer working in your company was?

1 A. Really, a port engineer is just somebody who understands
2 boats, who can act as a lead man or supervisor of the repairs that
3 are going on. And we -- it really is just a way to keep me from
4 having to be on the boat every day during the shipyard period.
5 So, we have, supervise the labor crew that's going on, and
6 interact with the shipyard or any vendors that are doing projects.

7 Q. And that was for all of the boats that you have partial
8 ownership in?

9 A. Yeah, yeah.

10 Q. Okay. And then, so depending on when he passed away, was
11 that position vacant? Or were there people in between that filled
12 that position? Because we heard that at one point Gelia Cooper
13 kind of assumed some of those responsibilities.

14 A. No. (Indiscernible) was completely wrong. Gelia has never
15 been the port engineer. She has always been a vessel manager,
16 well since she assumed that position. So Ed was calling her the
17 port engineer, but she was really just acting as the manager of
18 the vessels. That's why she was interacting with him.

19 Q. Okay. So, in the absence of the port engineer, when Mr.
20 Wilson passed away, how did you guys handle those
21 responsibilities? Who stepped in and did those during the --

22 A. I did. I was on the *Scandies Rose* every day during that
23 shipyard, and in part that was because Gary was -- he had a shaft
24 coupling break loose from the shaft of the *New Venture*. So he was
25 in Dutch Harbor, and he just took over there. We didn't send

1 anybody up, because Gary was perfectly competent to work with
2 Magone Marine, and -- or (indiscernible). I think it's now called
3 Resolve Marine. But he was perfectly competent to effect those
4 repairs without any interaction.

5 I mean, Gary would really just talk every few days and he
6 would tell me what was going on, but I didn't need to overlook
7 him. But I just took over the *Scandies Rose*, and worked on that
8 one.

9 Q. And so, Captain Mattsen, so if you took over that one, and if
10 Mr. Wilson passed away either in 2018 or in spring of 2019, were
11 you the one that accepted the work on Aztec Marine Welding in
12 April when they did the doubler plates?

13 A. Yeah. Unfortunately, I was. And -- but Jamie was still
14 working for us. Jamie was working on the *Amatuli*, primarily. We
15 had two boats down there, side by -- not side by side, but front
16 to back, and Jamie was working there. But I was the one who
17 ultimately said that, you know, let's hire Aztec.

18 Q. So you said, let's hire Aztec, but did you check the work?
19 Did you accept he work?

20 A. Well I'm not a -- you know, in retrospect, we should have --
21 you know, I don't know why they didn't have nondestructive testing
22 there. That was a, that was a mistake on my part. We certainly
23 should have had it. But then the boat went up, and I didn't hear
24 a thing about that void until Gary was coming in from king crab.

25 So, this is not a problem that manifested itself at all

1 immediately. But when we had the repair done by Cooper's company
2 up in Kodiak, we mandated, we will do, you know, some dye checks,
3 or nondestructive testing so that we can determine that the welds
4 are 100 percent. You know.

5 Q. So sir, if you were acting in the capacity of the port
6 engineer, which I recognize is not required for commercial fishing
7 vessels, but you were acting in that capacity to do the quality
8 assurance work, did you ask the person in charge at Aztec Marine
9 Welding for their welder certifications? Or did they --

10 A. No, we did not. And they have -- you know, that whole deal
11 was really a cluster, and we got -- we didn't get billed for
12 months. And when we finally got the bill, I looked at the -- I
13 asked for the job sheets, you know, just who worked on what, and I
14 suspected, you know, at that point we might have an issue, because
15 one of the welders was named Ratatouille, and one was named
16 Colorado.

17 And I thought that those were kind of odd names for, you
18 know, a Latin crew. It just seemed like that that would be a
19 little bit out there. So, I just told, you know, Gary about that.
20 And I said, I am going to withhold payment on this job for a
21 while. And he never mentioned it again until he was coming in to
22 Kodiak after king crab and asked that we have Cooper repair it
23 properly. And I said sure.

24 Q. So, those pictures that we saw, I think it was Exhibit 92, of
25 all that Splash Zone, can you confirm for me who put that Splash

1 Zone on there?

2 A. I have no idea.

3 Q. You don't know? So that was a --

4 A. Well, I'm sure it was part of the, you know, the crew, you
5 know, just a --

6 Q. I'm sorry. My question wasn't clear. My fault. Let me
7 rephrase that. It is my understanding that Captain Cobban sent
8 you those pictures.

9 A. Yeah.

10 Q. Via cell phone. So it was either Captain Cobban and/or
11 someone that, member or members of his crew.

12 A. Yes.

13 Q. And that was because they indicated to you that that work was
14 failing, and so they had to put it in on there --

15 A. They --

16 Q. -- as a stopgap measure.

17 A. Yeah.

18 Q. Okay.

19 A. Well he said that it had been put on -- you know, he said
20 I -- you know, Gary tended to be a little bit dramatic. And I
21 mean, this is drama now, you know, but tends to be a little bit
22 dramatic. And he says yeah, we had to put this Splash Zone on so
23 we avoided sinking during king crab. And so, to me that indicated
24 that that's when the problem manifested itself, that sometime
25 during king crab, he -- they noticed they were seeping through

1 those welds, and he had the crew go in there and put Splash Zone
2 on it. But I have no idea who did it.

3 But anybody who's been on a steel boat for any length of time
4 is very familiar with Splash Zone, as a quick epoxy repair, you
5 know, that can cure under water and, you know, get you back to
6 town till you can effect a real repair.

7 Q. So fair to say that it was Captain Cobban and/or his, one or
8 some of his crew during king crab?

9 A. Yeah.

10 Q. Got it.

11 A. Well, the -- I'm assuming during king crab, because that's
12 when he --

13 Q. Contacted you.

14 A. -- told me about that, at that point. But yes, it's fair to
15 assume that.

16 Q. And you said that Captain Cobban sometimes was a little
17 dramatic, but did you and Captain Cobban ever disagree on the
18 scope or extent of repairs of stuff?

19 A. Oh well, not so much on repairs. You know, I mean, if
20 something breaks, the basic rule is you got to either fix it or --
21 fix it, replace it or improve it, you know, put in something
22 better. But certainly we were, you know -- about changing the
23 whole fishing system, and that was a hard sell for Gary to make to
24 me. But we, you know, we did it eventually, but I forced him to
25 look a little bit harder, and we eventually found a good used

1 crane for a reasonable price, that kind of thing.

2 So we would go at loggerheads about the scope of our budget
3 versus what we wanted to do with the boat and everything else, but
4 repair, replace or improve, you know, just is the rule if
5 something breaks.

6 Q. Did you ever have -- did you ever get into a heated argument,
7 or argue about repairs for the *Scandies Rose*?

8 A. Not to my knowledge but, you know, Gary and I were, we
9 weren't buddies. I mean, I miss him, because he was a great
10 captain, and great fisherman there. But we weren't like
11 buddy-buddy there. We're two completely different personalities.
12 And that's why the partnership worked, because I'm a little more,
13 you know, business oriented. I do pay attention to the bottom
14 line. I recognize there are financial limits to what you can do
15 sometimes.

16 And, you know, Gary didn't recognize those limits. You know,
17 he wanted the world. He wanted the boat to be perfect. He wanted
18 the boat to be the *Pinnacle*, you know, which is one of the premier
19 boats, or the *Handler*, you know, Josh's boat there. But -- and it
20 was going -- you know, we were gradually improving the boat, but
21 we were still a 30-year-old boat, you know, 40-year-old boat, so.

22 Q. So fair to say that you did not -- I'm not trying to put
23 words in your mouth. I'm just trying to get a sense of, did you
24 have disagreements when it came to funding either repairs or
25 upgrades?

1 A. Well upgrades. I will agree with you that we definitely had
2 disagreements about upgrades.

3 Q. Could you give me some examples? You mentioned the --

4 A. (Indiscernible). When we bought the *Scandies Rose* we had a,
5 well it's colloquially called a cow catcher, and it picks the pot
6 up, sucks it up there, swings it over to the sorting table. You
7 open the door, crab -- then it goes back, and it drops down. And
8 it was a -- I'll probably get angry phone calls from Leith, the
9 previous owner, you know, about it, but I thought it was
10 tremendously inefficient. We could do better if we found a crane.

11 Well, new cranes cost, you know, \$120,000 or so. And I said
12 well, you know, I'd love to do this, but we really should look for
13 an alternative. And Gary did that, and he found a great crane
14 that was not being used by -- it was actually (indiscernible)
15 again. And so we negotiated for it, bought it, had it completely
16 refurbished and installed it.

17 And yes, it took an extra year to make that change, but we
18 did it in a much more cost-effective way too. And, you know, so
19 things like that, yes, it might take a little bit longer but, you
20 know, if you go broke, you can end up getting into a death spiral,
21 where you -- okay, we haven't got any money, so we can't do those,
22 you know, any repairs.

23 So then you go out fishing, and things don't go nearly as
24 well. You don't make the money you want, so you've got even less
25 money next time for repairs. So you have to -- you know,

1 everything on a commercial fishing boat -- because this is a
2 commercial vessel. We can't go to Congress and say send us, you
3 know, another \$40 million so I fish king crab. I have to
4 actually, if not turn a profit, at least pay all the bills, and
5 pay the crew, and make everybody, you know, reasonably happy with
6 their investments, you know, so we can continue on in this
7 venture. It is a commercial operation.

8 Q. Yes, sir. And thank you for that candid answer. So, we'll
9 shift topics again, because you mentioned the Aztec Marine folks,
10 and you specifically mentioned Ratatouille and Colorado. So,
11 Lieutenant McPhillips, could you please pull up Exhibit 089, and
12 that's the Aztec Marine Welding receipt. And if we could just
13 have it on page 1, and go to the part where it says Colorado. So,
14 Captain Mattsen, in 2019 before the accident, were there issues --
15 so before we go to this, were there issues with the gearbox on the
16 *Scandies Rose*?

17 A. Well, which gearbox? Main gear, I mean for the -- are you
18 talking about for a PTL?

19 Q. Which one had a problem?

20 A. No, I have no idea. I mean, to be honest, I can't recall.
21 We have -- you know, we have problems with machinery every year
22 that have to be addressed.

23 Q. Okay. So nothing, to the best of your recollection, that was
24 a significant, that was significant where it pops in mind that you
25 had a gearbox issue?

1 A. No, no, it's not -- it's just, like I said, we would have, we
2 would oftentimes have to pull out one of the PTL gearboxes. You
3 know, every time a boat came down you might take one of them out.
4 And I don't think we had to pull any of the gearboxes on the main
5 engines, but oftentimes had issues with the control mechanism, how
6 it goes into gear, how it activates the shaft brake or disengages
7 the shaft brake as it was going into gear. So that was kind of a
8 regular maintenance thing.

9 Q. Okay. So then, let's go ahead and talk about the starboard
10 chute and the work that Aztec Marine did. We have talked about
11 the starboard forward overboard sheeting quite a bit, and before I
12 move off of that, did you talk to and get consensus from Gary
13 Cobban about -- or anybody else, about choosing doublers as a
14 repair course of action, as opposed to replacement of that chute?

15 A. No.

16 Q. Is how that --

17 A. Gary was knee deep in the *New Venture* repair up in Dutch
18 Harbor. So now, we way have mentioned that, and you know, may
19 have said, you know, I decided to go with doublers instead, you
20 know, I think that will be fine, but I can't recall. I mean,
21 actually the *New Venture* repair was much more significant. I
22 mean, that was a major repair that had to be effected in Dutch
23 Harbor. We couldn't do -- the boat could not move without the
24 repair, so he was heavily involved in that, and I'm not sure that
25 I talked him about --

1 Q. Okay. So, would it be fair to say that Captain Cobban did
2 not know what type of repair had been done to that starboard
3 forward chute, but knew that it was repaired and you were
4 overseeing it?

5 A. Yeah.

6 Q. Okay. And so, so the document that we have up on the screen
7 and that we're sharing right now, it lists the doublers
8 (indiscernible) because it's a scrapper chute, you know, but do
9 you agree that that's referring to the forward starboard chute
10 that we've heard --

11 A. Yeah.

12 Q. -- referred to as a (indiscernible)? In other words -- okay.
13 So, we see Mr. Colorado did quite a bit of work on that. I did
14 some calculations, and so they did quite a bit of work on that.
15 And moving forward to talk about the old chute as well, they
16 referred to line items in there on different days about the old
17 chute, capping the old chute, logging doublers inside. Well,
18 that's a crab tank, but they referred to the old chute, and
19 putting in an insert.

20 Between Mr. Colorado and Mr. Ratatouille, they spent about
21 50-some-odd hours during the time that they did work onboard the
22 *Scandies Rose*, fitting in an insert on the old chute and capping
23 the old chute. Is that about right, to the best of your
24 recollection?

25 A. Well that's what I was billed for, but I thought it was a

1 little bit extreme for the number of hours they asserted. But I
2 have not -- I didn't pay this bill. I mean, I paid part of it.
3 But I subtracted -- I mean, like I said, they didn't bill me for
4 months, so they might have had issues. And I'm not -- you know,
5 this -- when they didn't -- when guys wait months to send you a
6 bill, it's kind of hard to think back, get in the wayback, you
7 know, machine and try and remember how many hours they were
8 actually down there.

9 So I ended up subtracting the total cost of Cooper's Highmark
10 Welding repair, the proper repair from this bill, and just said
11 paid in full. You know, contact a lawyer if you, you know, think
12 there's any more due, but we had to completely redo your job, you
13 know.

14 Q. So, this work was done in mid to late April, and the Highmark
15 Marine work was done in November time frame of 2019.

16 A. Yes.

17 Q. So, in order for you to, you know, paid in full, and subtract
18 the work from Highmark Marine, you were talking about almost six
19 months' worth of --

20 A. We didn't get billed for months. So, I mean -- and remember,
21 I was running a boat that summer also. So, I mean, when I got the
22 bill for 25-some-thousand dollars, I said just hold onto it here.
23 And I'm not sure if we made a partial payment at that time,
24 because oftentimes, you know, on these small vendors, they've
25 got -- especially if, the smaller the vendor, you want to at least

1 make sure that the guys get paid. So you pay, you might pay a
2 partial.

3 And then, but I wasn't about to give them any profit on this
4 deal, because I thought that the number of hours he put in were
5 way too high. So I waited till I got down, and then that was in
6 September, after I got done with my thing. I looked at the bill
7 and said wow, this is, you know, seems a bit high.

8 And then Gary went fishing in October, and at the end of
9 October he told me about the problem. And I said well, that's
10 going to solve that. We're not going to pay this bill until we
11 effect our repair, and then I'll make an adjustment.

12 Q. Were you aware of Aztec Marine's -- we you aware of any
13 reputation that they might have had, of Aztec Marine's reputation?

14 A. Well they had done some work for us on the *Amatuli* before.
15 And I don't think they'd ever worked on the *Scandies Rose*. I
16 couldn't find any record of it, but they had done some work on the
17 *Amatuli* that was perfectly fine. Now, it wasn't structural or
18 around the hull. It was just on a deck, they made some cradles
19 for the crane boom to, you know, sit in so that it doesn't move
20 back and forth when the vessel's underway.

21 Q. So, would Mr. Wilson, Mr. Chip Wilson have -- would he have
22 arranged for that work had he been --

23 A. Probably.

24 Q. Okay.

25 A. Yeah, probably.

1 Q. And he would have --

2 A. But Chip Wilson was also an expert welder. You know, in
3 addition to being a great hydraulics systems guy and good mechanic
4 and everything else, he was a fantastic welder. So, Chip could
5 hire -- he could hire me to weld, and by the end of the day I'd
6 have a perfectly good weld there. And if he was -- he was very
7 good at knowing, you know, what to do. So, and I don't have that
8 expertise. Very few people in the world have that level of
9 expertise.

10 Q. Okay. And so, but since he had already passed, since Mr.
11 Wilson had passed and you had, you had a vacancy, essentially, in
12 that skillset, you were filling that gap. And so, based on the
13 experience on the *Amatuli* with Aztec Marine, you hired them for
14 *Scandies Rose*?

15 A. Yeah.

16 Q. Understood. So actually, Lieutenant, could you pull that one
17 back up, because I wanted to look at some of the other line items
18 that are on there. They did quite a bit of other work for you as
19 well, Captain Mattsen, including some work on piping, cooling
20 pipes for generators in the engine room.

21 A. Yeah.

22 Q. And additional doublers within the crab tanks. To the best
23 or your recollection, and he can scroll through this document if
24 you'd like, if it helps refresh your memory, but were there any
25 other through-hulls or other hull welding that Aztec Marine did

1 for you?

2 A. No. No, but we wouldn't know. I mean, the crab tanks on the
3 *Scandies* always, they had a false -- they had the actual
4 structural tank, then they had foam, and then kind of a false
5 wall. And however they were constructed, we would often get
6 cracks in that false wall. And just, it was just covering up the
7 foam. So you'd put a quick doubler around there and, just to stop
8 the crack from spreading. It's just a, kind of a defect in the
9 design of the, either the design of the boat or the design of the
10 insulated crab tanks, the insulation in the tanks, you know, so.

11 Q. Okay. So we can go ahead and pull that down. Thanks,
12 Lieutenant. So, we talked a lot about the forward chute, like I
13 said, and we've talked a little bit about the after starboard
14 chute. When you realized, or when Gary contacted you and said,
15 when Gary Cobban contacted you and said, I thought we got this
16 fixed, and you replied, like I'm going to do this, did you at any
17 point develop concerns or direct anyone to check the repairs or
18 the sufficiency of the other work that was done, to include the
19 forward chute that was capped off, and that welding, or any of the
20 welding work for the cooling for the pipes of the generator?

21 A. I assume he would have, the engineer would have known of any
22 problems with the piping for the generators. And obviously there
23 was no problem, because the engineer never told Gary and Gary
24 never told me of any problem with it. So that repair was effected
25 more than adequately. So, and I didn't hear anything about the

1 crab tanks.

2 And generally, what you hear about the crab tanks -- and
3 that's kind of when the boat comes down, and we go through the
4 tanks and just look and see, you know, have we got any more of
5 these, you know, little cracks coming through. And it's not
6 something that's front of mind. It doesn't really affect
7 anything. It doesn't affect your tendering. It doesn't affect
8 your crab fishing. So it's generally when the boat comes down. I
9 don't know if there was any more problems.

10 Q. How about the main chute, though? Sorry.

11 A. Didn't hear anything about it. So again, you know, just the
12 first I heard about the problem was when Gary was coming back
13 after a successful king crab, was driving back and said he wanted
14 Cooper to look at that. And I said sure, you know, which was the,
15 basically my response for any kind of repair like that. If it was
16 inadequate, it would be repaired correctly.

17 Q. Did you direct Captain Cobban or anyone else to -- because
18 that work had been suspect and ended up having an issue, did you
19 direct them to look at other areas to make sure there weren't any
20 issues?

21 A. No, I didn't. Just whatever Gary asked me to do, I said go
22 ahead and do it.

23 Q. Okay. Okay, so we're going to go ahead and shift to a
24 different topic. Again, Captain Mattsen, I know I'm kind of like
25 (indiscernible).

1 A. (Indiscernible).

2 Q. Doing all right?

3 A. I grew up in a lawyer's household. I've been interrogated
4 before.

5 Q. Oh my. Okay. Okay, so I'd like to shift this to the survey
6 and stability reports, so get ourselves into that frame of mind.
7 Prior to the 2019 stability instructions on the *Scandies Rose*, do
8 you recall whether -- what stability instructions were being used
9 onboard the vessel?

10 A. Well, there was a Bruce Culver letter that's posted in the
11 wheelhouse, which had -- is basically the instructions to the
12 master, same thing that's on here. So a copy of that was posted
13 on the, in the wheelhouse. Now the, both Gary and I have looked
14 through the full stability report, and I'm not going to contradict
15 Mr. Culver. I'm not sure. He might not have done the full report
16 in whatever, whatever year he said. But the instructions to the
17 master were definitely a letter from Bruce Culver, and that's what
18 was posted.

19 But we had both looked -- when we bought the boat, we bought
20 the boat with a -- actually we got a bareback charter -- bareback
21 charter, bare boat charter, which was a, well we had for like
22 three years, while we actually ran the boat up to Dutch Harbor.
23 And we would -- so we were testing the main engines, we were
24 running al the generators, we were just taking a look around
25 because we were under a very tight time schedule about getting --

1 taking possession of the boat and getting it up Bristol Bay.

2 So, we actually had this charter that, you know, they could
3 have backed out. And so we went through every system on there,
4 and then read the stability report, make sure that it was going
5 to -- the boat was there to do what we, you know, wanted to do,
6 which was tender and fish crab. And they -- you know, so we
7 looked at it then, but I didn't note -- I didn't -- if some other
8 professional engineer or naval architect did that full report, I
9 couldn't say.

10 But I was just looking at the -- the thing that most
11 fishermen look at is just your basic, you know, that your
12 deckhands can look up there and go, oh I'm confused, we can carry
13 140 pots and we've got 300 on there. That doesn't seem right, you
14 know. You know, I always have those instructions posted up in the
15 wheelhouse. And that's what mainly you would look at.

16 Q. So sir, do you -- did you at any point know, or have any
17 indication that the 1988 stability instructions or calculations,
18 or the 1988 report might not have been complete?

19 A. No, no. None whatsoever.

20 Q. Okay.

21 A. But again, you know, when we do the new one, I mean, it
22 really doesn't matter what the old report said. Just, we assumed
23 that we can hire a professional engineer and get an accurate
24 representation of what the vessel stability was under different
25 loading conditions.

1 Q. Okay. So, I'd like to pull up -- Lieutenant, please pull up
2 Exhibit 036, page 4. And, Captain Mattsen, that's the front cover
3 page of the stability report. It gives the basic information of
4 the *Scandies Rose*, (indiscernible), et cetera. And please scroll
5 down, Lieutenant. A little bit more. So, what I'm trying to show
6 -- what -- that's good, right there -- is that, you know, for
7 timeline purposes, this, the 2019 incline test was done just
8 before the middle of April in 2019 in Seattle.

9 And so, sir, you testified that, you know, and we talked
10 about this, after the loss of the *Destination*, you commissioned a
11 survey report for all of your vessels. Did you consider at the
12 time that any errors in those reports might potentially be
13 overlooked by the same two people in terms of both the survey
14 report and also the stability report? I know I only have the
15 stability report up, but did you ever consider that potentially
16 errors may have been overlooked, by either the surveyor or the nav
17 arc?

18 A. No. No. And especially when the stability report came out
19 with near the same number of pots that were in there before, I
20 mean, it was like okay, well this kind of confirms that, you know,
21 we're okay. You know, so I just didn't -- I was happy that we
22 could carry 208 pots, but that's very difficult to carry on the
23 boat.

24 And I'll just -- it's really -- for example, my -- the boat
25 that I ran this winter, it's stable for 110 pots. You could not

1 put 110 pots on there. I mean, I just don't see how you can
2 actually fit them on there. So, I was very comfortable driving
3 around with my 75 pots or so, and was happy to have a cushion, you
4 know, in stability for the vessel.

5 But yeah, when it came out to be fairly close to what it was
6 last time -- because the boat still has the same basic
7 configuration. There is a new superstructure. After the fire,
8 they built a new wheelhouse on there, because that was what was
9 destroyed, and new crew quarters in there, but it's still the same
10 length, same width that it was before, so it -- and the tankage is
11 still the same.

12 So it has, you know, basically the same configuration. There
13 would just be a little bit more superstructure, and that's why he
14 did the little addendum that turned out to not be the complete
15 stability report that Mr. Culver was talking about, where he just,
16 he said the numbers look pretty much the same as the old one, so
17 he didn't do the full test.

18 Q. Okay. Lieutenant, could you bring us to page 1 of the same
19 exhibit, please? So, sir, what we're pulling up now is the letter
20 that we spoke to Mr. Culver about. And so, please zoom in just a
21 little bit.

22 So this was -- chronology sake, the report was done April
23 12th. This letter was written to you on the 17th of May, sir.
24 And we provided you with two copies of the stability book, to let
25 you know what could be carried, quote, without much difficulty.

1 Specifically though, he noted that --

2 Could you zoom in a little bit, Lieutenant, please? Thank
3 you. Thanks. That's much better for my eyes. Thank you.

4 -- that the light ship weight was heavier than he expected.
5 When you read that, what were your thoughts about that? Did that
6 concern you in any way about there potentially being weight, for
7 the light weight condition, that you didn't consider?

8 A. It didn't concern me at all. I mean, I -- but then again,
9 I'm not an engineer. It just is like oh, okay, I don't know. I'm
10 a little bit heavy. I'm not sure why. You know, just a -- but
11 again, we did the stability report, and the stability report
12 assumes the weight that he calculated. So, I'm not sure if he
13 realized the new wheelhouse that was put on there and at some time
14 before we bought it, that is certainly bigger than the *Patricia*
15 *Lee's* wheelhouse. So it might be a half step higher.

16 So, I'm not sure if he -- if that was the source of the
17 weight or not, but the inclining should have, of course, taken
18 that into account, what the light ship was. So it didn't concern
19 me at all that we were a little bit heavier than the *Patricia Lee*
20 or heavier than he expected.

21 Q. Okay. So, at any point -- I know in this letter it just
22 says, "was a bit heavier," quote/unquote, but was there any
23 correspondence, whether verbal or written, email, where he, where
24 the PE indicated to you what a bit heavier was? Did he ever tell
25 you what, by how much heavier?

1 A. No, he did not, and I didn't ask.

2 Q. Okay. So, to the best of your recollection, sir, did you
3 have any further correspondence on any topic with Mr. Culver about
4 this letter, anything stemming from this letter?

5 A. Not anything stemming from this letter. As I said, I had
6 communicated with him after talking with Gary, after Gary saw the
7 report, and read it, and he wanted different scenarios, several
8 different -- of the loading, you know, character, loading
9 conditions redone, or done so that I communicated with Culver
10 about that, but that was the extent of it.

11 Q. Okay. So, is that why -- so I think I'd like to turn to the
12 instructions for the master. I believe that's page 5. And I
13 think at the bottom, it gives a date, if I'm not mistaken. It's
14 at the bottom. May 28th. Sir, is that why the date on this
15 instruction to the master is, let's say a week or so, ten days
16 past when Mr. Culver sent you that email? Is it because in that
17 time, Captain Cobban said, oh I'd like more conditions?

18 A. To be honest, I really hadn't taken note of that date, but it
19 probably is, because we did get sent new books, or new pages to
20 install in the book. But I'm not sure that he changed this page.
21 I mean, he did the -- when did he do the inclining?

22 Q. April 12th.

23 A. April 12th, yeah. It took about -- well, it took about a
24 month to a month and a half to get the report. I was trying to
25 get it -- in fact I remember I had to make several phone calls and

1 just said we'd really like to get it before the vessel starts
2 tendering, you know, because that was our next season, so how are
3 we doing? And then, you know, and he delivered it, you know,
4 before the vessel started tendering, so I had no complaints at
5 all.

6 Q. Sir, do you -- have you been to an approved stability
7 training, or have you completed one of the courses that we've
8 heard about, in prior testimony?

9 A. No.

10 Q. Did you still feel reasonably comfortable looking at the
11 technical details of the report that was submitted to you?

12 A. Well I looked at the conditions. I mean, it's fairly
13 straightforward to just -- you know, full of fuel, full of
14 consumables, half consumables, quarter consumables. I mean, I'm
15 certainly comfortable reading that kind of thing and saying, okay
16 we can load these pots here.

17 And, you know, the instructions are fairly truncated here
18 but, you know, you can't have -- it's pretty easy for any
19 competent captain to go okay, freeboard can't be less than 6
20 inches. You can't put pots up above the wheelhouse window so you
21 can see. And you should investigate any list. You should know
22 what the cause of the list is before you start taking corrective
23 actions. Those are things that any competent captain can realize.

24 And then when you look at the pots, it's like okay, 208 pots,
25 let me see, you know, and here's what they can -- here's how they

1 assume it's done. So you just -- you know, I mean, the bottom
2 line on the stability report is, you know, don't obstruct the --
3 you know, can you build up to your wheelhouse? And on a
4 (indiscernible) boat, that's really where I draw the line.

5 I mean, I've seen people go out, leave Dutch Harbor with pots
6 stacked up two layers of pots above the wheelhouse, and just a
7 narrow window that somebody can see out of. And I would never do
8 that, and I don't think Gary would either. So, you know, at that
9 level of expertise, they can certainly look at it. And I was very
10 comfortable. I had a boat for 15 years, the *Shaman* that had
11 issues.

12 I mean, it wasn't like the *Scandies Rose*. *Scandies Rose* was
13 very stable under a very wide range of conditions. The, some of
14 the house forward boats that I've run are a lot more
15 temperamental, and you've got to be a lot more careful and very
16 cognizant of icing. And with *Shaman*, you had to be. I mean, I'd
17 monitor my roll period even when I was sleeping. I would be going
18 back and forth, seven seconds, seven seconds.

19 You know, and if it started -- and I swear, I woke up many
20 times when it's like, wait a minute, we're taking too long to
21 roll. Get up there and it's like yeah, you know, we've got quite
22 a bit of ice. Let's get the crew up. You know, and we'd stop and
23 chip ice.

24 But *Scandies* had a lot more leeway that way. It was, you
25 know, stable under many different conditions, with a full load of

1 pots, empty of pots, full of fuel, empty of steel. It could still
2 carry a lot of gear.

3 Q. Would you say that Captain Cobban was the same, in terms of
4 kind of having that intuitive feel for stability?

5 A. I would hope so.

6 Q. Okay. Did you notice a difference in the tankage,
7 (indiscernible) tankage numbers between the 1988 and 2019
8 stability instructions?

9 A. Didn't even look.

10 Q. Okay.

11 A. Again, I'm relying upon the expertise of the engineer. And
12 if he's telling me that I can go this way with one tank down, or
13 with two tanks down, that's -- you know, and it generally aligned
14 with the other report, to the best of my knowledge, but it also
15 didn't contradict any of the ways that we would actually operate
16 the vessel.

17 You know, we would -- with a full load of gear, we would
18 invariably have one tank down, and that's it. You know, that's
19 just -- I was on the boat for king crabs, the starts of king crab
20 and the completion of king crab, and we would just have one tank
21 down when we would put on a full stack. So that's what I can
22 assume the vessel was, you know, acting under during it's final
23 voyage.

24 Q. So sir, prior to the accident date, were you aware of any
25 issues with the naval architect's quality of work, who conducted

1 the *Scandies Rose* stability report?

2 A. No, not -- it's like, *Artic Rose* and *Sea Venture*, I had no
3 idea of those issues. And as far as I was concerned, if he was a
4 licensed engineer, he was probably still competent to perform a
5 stability report. And I don't think you've proven that he's
6 incompetent either. I mean, at this point, it's not for me to
7 say. It's, you know, for other engineers to judge quality of the
8 work.

9 I'm not throwing Mr. Culver under the bus at this time. I'm
10 just -- I'm a fisherman. I'm a pretty damn smart fisherman. And
11 I can read the document without really going through the numbers
12 and understanding why he's got so many figures here. But I
13 understand about righting angle and center of gravity and all the
14 things that a competent crab captain should understand.

15 Q. Sir, would it have cost whoever, from Mattsen Management of
16 from the *Scandies Rose* Fishing Company, would it have cost them
17 more to have selected a brand new naval architect to conduct the
18 survey, because they were starting from zero?

19 A. Well, it would have -- because of the, you know, stability
20 incline test on the *Alaska Challenger* cost probably 70, 60
21 percent, 60 -- more than 2/3 more to do. But they went through
22 every space, every single space, you know, just and opened up
23 every manhole cover. And we had to move racks to get -- you know,
24 so they could actually, the architect could get in, you know, and
25 physically measure these spaces.

1 So, now I hadn't -- I had done -- not I had, I did not do it.
2 But I was the captain of the *Billikin* for quite a few years, and
3 we did a stability for it there after we did some major
4 reconfigurations. And I was in charge of it. I was the captain,
5 and so I helped move the ecology blocks around, and but really
6 didn't know what had been done in the background.

7 So when Mr. Culver came down to do the report he, you know,
8 asked myself and the engineer what tanks were flooded, you know,
9 where the fuel was, you know, the usual questions, but did not go
10 through spaces. And I assumed that that was because he had
11 background knowledge of the vessel itself so he understood what
12 the volumes were.

13 And until I had the, did the report on the *Alaska Challenger*,
14 I didn't realize just how much more could be done, you know, and
15 just how rigorous they were in terms of getting the exact volumes,
16 you know, of everything. It was just a, it was night and day.

17 Q. And when did that particular stability -- when did that
18 evolution take place for the *Alaska Challenger*?

19 A. When did the report take place?

20 Q. When did they do the work and the measuring, to make sure
21 that they had all the proper volumes?

22 A. I've got it right here. So --

23 Q. Even approximate, was it 2019 or --

24 A. No, no, no. No, it was just spring of 2020.

25 Q. Okay.

1 A. Yeah. I -- no, they didn't actually get the stability
2 booklet until October, but they did the incline test before the
3 boat left town and, to go -- spring. And then it just took them a
4 while to actually get the report.

5 Q. So the best of your recollection, how long did that process
6 take, from the measuring of the spaces, tanks, getting all the
7 data and information that they needed?

8 A. Well, it was on the boat three or four times.

9 Q. Okay.

10 A. I wasn't there every day. This was done up in Anacortes, and
11 so we kind of tag teamed it. You know, I would be up there for a
12 few days, and then Gelia would be up there. And so I wasn't there
13 all the time. And the actual inclining only takes a matter of,
14 you know, four or five hours, six hours. You know, just, you just
15 kind of move blocks around.

16 Q. But fair to say that, from what I just got from you is that
17 you saw that there was a significantly different amount of time
18 for prep?

19 A. Yes.

20 Q. Okay. Got it. All right, and then sir, last topic from me,
21 I want to shift a little bit to just a few last questions
22 regarding your medical, and where your role is in that, or where,
23 how the company kind of fits in. So, Ms. Cooper receives the
24 contracts, which contain the medical questionnaires, right? So
25 they also put in a waiver, the crew that signs on, that sign on,

1 they put in a waiver saying that they will allow the employer, the
2 company to release information, like that medical providers can
3 release information to the employer?

4 A. Yes

5 Q. Between all your personnel, how many times have you guys,
6 have you, your company taken the medical self assessment for the
7 crew, and then contacted a medical provider to get more
8 information if you saw something that kind of flagged? Do you
9 know?

10 A. I don't know. I mean, they -- I'm sure there have been times
11 when we've told Gary that, you know what, we can't have somebody
12 with epilepsy on the boat. You know, I mean, just it's silly.
13 Crab fishing is not the place for -- or if somebody has a chronic
14 condition where they're taking, you know, some Vicodin or
15 oxycodone on a regular basis, you know. We just can't, you know,
16 we can't do that. Even though it's medically prescribed, you
17 can't have that.

18 But as far as calling a doctor, no. It's generally going to
19 be pretty egregious. If somebody says they've only got one eye, I
20 can make that call. They're not going to be on my boat. Just,
21 I'm sorry, but you have to be able to, you know, see a whole scope
22 of things. I'm not going to take that kind of risk.

23 But -- and that would very rarely happen, because there's a
24 lot of self selection. Guys, you know, guys have got something
25 that's going to keep them from being a good crab fisherman

1 generally don't want to be a crab fisherman. You know, it'd be
2 kind of an odd mismatch if somebody wanted to be a crab fisherman
3 and they didn't have the abilities to be a crab fisherman.

4 So, you get occasionally, you know, that generally as a guy
5 gets older, you know, he might have some kind of chronic injury
6 that really, you know, necessitates medication and you'll just
7 say, you know, you really can't, you can't come on this boat.

8 Q. So prior to the accident, at what point did you become aware
9 that one of the crew was insulin dependent?

10 A. Did not. I did not become -- you know, if I would have
11 found -- known that, I probably wouldn't have -- I probably would
12 have put the kibosh on that. Yeah, at least I would have -- that
13 would have been one that necessitated a call to a doctor, because
14 I'm not that familiar with, you know, diabetes and the various
15 problems with insulin.

16 Q. Prior to the accident, at what point did you become aware or
17 hear about the hearing issues and heart murmur of the captain?

18 A. Not even aware of that, so. You know, Gary could hear just
19 fine. Yeah, he could hear just fine. I mean, he might have, you
20 know, may have a little ringing in the inner ears because we've
21 worked in a lot of engine rooms over the course of years but there
22 was never any problem. There was never any deafness on one side.

23 You know, and you would notice that, because sometimes I
24 would be to the right of Gary and sometimes I'd be to the left of
25 Gary, and there was never any of that, you know, what, what, you

1 know, just that kind of thing. So that's just a, that's a red
2 herring, if you're going down that road.

3 Q. Could you -- so you just explained it a little bit, but could
4 you explain what your guidance was to, not just Captain Cobban but
5 like other vessel captains, in terms of medical issues and signing
6 on a new crew, since they were the ones responsible to hire on a
7 new crew? Did the captain -- did you have any kind of threshold,
8 or did the captain have to call you if there was person X, but oh,
9 there's this medical condition because we're at Kodiak and I'm
10 having them sign the paperwork. I'm going to send it Gelia, but
11 oh, I see that this person has --

12 A. Mainly that's why we had everything sent to Gelia, so that
13 she could at least, you know, review things, and just look for
14 any, you know, red flags. Gary was pretty old school, and he felt
15 that he knew -- he could look at you and, you know, in 15 minutes
16 of work he can evaluate whether you were going to make it on the
17 crew or not. And it's not a fault there. He was pretty good at
18 it. But we would just make him -- I mean, and that was just a
19 management thing.

20 We enforced the whole, you've got to get the contracts to us.
21 You cannot carry them on the boat. You can't put them in the
22 mail. Figure out a way to get them down to us so that we can make
23 sure all of our Is are dotted and our Ts are crossed.

24 Q. And how about the crew drug test before joining, the
25 preemployment, if you will?

1 A. Well most of the time, you know, we try and do it days
2 before, because you don't want to fly somebody up there and then
3 have to fly them back. But a last-minute hire, you know, just we
4 can always carry drug tests on the boat, just portable ones that
5 you, you know, call the guy up, send him into your, send him into
6 your head, you know, just -- and just say hey, fill up the cup to
7 this line and then we'll take a look.

8 But that was almost just a -- that was for last-minute hires,
9 or post-incident, that if something happened, that when the Coast
10 Guard required drug testing, you know, you really have to do it
11 yourself, because if they get to the emergency room, the emergency
12 room doctors won't drug test.

13 So, if a guy gets injured, once he gets to the emergency room
14 he's out of our control. And we can't -- we've just been going
15 back and forth with some guy, you know, an injury on the *Amatuli*
16 this last, just about three weeks ago. And I've tried to drug
17 test, and the emergency room refused to do it.

18 Q. So prior to the accident, did you have any guidance for your
19 vessel captains about notifying either you or Ms. Cooper about any
20 irregularities when it came to the drug tests?

21 A. Oh yeah. Yeah. I mean, if a guy failed the drug test, he
22 could not go out fishing. You know, that was just, it was just
23 about why. But we did -- you know, we did -- because you cannot
24 find -- you can't -- if you pulled up seven people here and tried
25 to put them on a boat, you could -- in the state of Washington,

1 you could not find seven people who would pass for pot. That's
2 just a fact. In seven random people you would -- somebody would
3 fail.

4 So, if we've had one guy who we know really well, we would
5 send him up there and let him ride the boat up to Alaska, and say
6 we're going to test you as soon as you get there. And until you
7 get there, you can't take a watch. You can't -- you know, you can
8 clean up the galley and you can do that, but you can't run the
9 cranes or do any of the equipment. And we'll test you as soon as
10 you get there. And you better pass, or else we're going to be out
11 for a plane ride. And you're going to come right back.

12 And generally, a guy would either -- you know, at that point,
13 he would either say well, I'm pretty chronic, man. I'm not going
14 to pass in a week. Or else he'd say yeah, it was just a stupid
15 thing. I was at a party. There'll be no problem, I'll pass. You
16 know, and invariably they did.

17 Q. So were you notified before the *Scandies Rose* departed of any
18 issues of drug tests, like any irregularities for any of the drug
19 tests for any of the crew?

20 A. I was told by -- let me see, how did Gary say that? Not
21 before they departed. But when he got out, he told me -- because
22 frankly, I had questions about one of the crew members. I said,
23 he passed the drug test? And he goes yeah, he passed. It was
24 great. I wasn't really expecting it either. So I was like, okay.
25 You know, it just -- if he passed. And I'm not going to mention

1 his name unless you ask me to, so.

2 Q. All right. I have nothing. Thank you for your time, and
3 your candid answers.

4 CDR DENNY: Captain Callaghan, I have no further questions at
5 this time.

6 CAPT CALLAGHAN: Thank you, Mr. Mattsen. At this time, we've
7 have you for an hour and a half straight. I'm going to ask, if
8 you don't mind, we'll take a five-minute recess, and then we'll
9 finish up from there, sir.

10 THE WITNESS: Okay.

11 CAPT CALLAGHAN: Okay. It's now 1630. We'll go into a
12 five-minute recess and resume at 1635.

13 (Off the record at 4:30 p.m.)

14 (On the record at 4:35 p.m.)

15 CAPT CALLAGHAN: It's 1635. This hearing's now back in
16 session.

17 Mr. Mattsen, thanks for your patience. We're now going to
18 move to our colleagues at the National Transportation Safety Board
19 for any follow-ups.

20 Mr. Barnum?

21 MR. BARNUM: Thank you, Captain.

22 And Mr. Mattsen, I echo Captain Callaghan's appreciation for
23 your testimony and all your help thus far. I have no questions.

24 THE WITNESS: Thank you.

25 CAPT CALLAGHAN: Thank you, Mr. Barnum.

1 Sir, we're now going to go a party of interest,
2 representatives for the two survivors.

3 Mr. Stacey?

4 MR. STACEY: Thank you, Captain.

5 Thank you again for joining us, Mr. Mattsen. I have no
6 questions for you, sir. Thank you for your testimony.

7 THE WITNESS: You're welcome.

8 CAPT CALLAGHAN: Thank you, Mr. Stacey.

9 And now to Mr. Barcott.

10 MR. BARCOTT: No questions. Thank you, Captain.

11 CAPT CALLAGHAN: Thank you very much, sir.

12 BY CAPT CALLAGHAN:

13 Q. Sir, I just, I forgot a follow-up for you. I want to pull up
14 a photo, just -- you've operated the *Scandies Rose* a number of
15 times. I just want -- if you'd take a moment to picture the
16 bridge, specifically the port side of the bridge. Do you recall a
17 white phone located to the side of the windows on the port side?

18 A. Yes.

19 Q. Do you recall where that phone -- what that phone was used
20 for?

21 A. It could be used to call out. It was part of the KVH system.
22 We had two phones there that we had access to make phone calls to
23 and from the boat. And that -- we used -- the port side one was
24 kind of the crew one, and then the one next to the pilot station
25 was, you know, for boat business and for people to call Gary.

1 Q. Okay. Thank you, sir. And sir, one last question just had
2 to do with immersion suits. Any general -- 46 C.F.R. Part 28 has
3 a requirement for there to be proper size immersion suits for each
4 member of the crew. Are you aware of, internal to the company or
5 to each of your vessels, if there's a process to ensure that each
6 crew member has the proper size?

7 A. That's done just on a season by season basis. On the *Amatuli*
8 I've got three jumbos, four regulars, one intermediate and one
9 child. And I'm not sure why we have the child one, but somebody
10 must have brought a really small person onboard at some point in
11 the boat's history.

12 And we just make sure that whatever your crew is configured
13 of, that you have those immersion suits at the front of the pile,
14 you know, so that if you've got -- we oftentimes have a -- like
15 well my wife has been cooking for our tender season, and she's an
16 intermediate size. And the other two crew member wore regulars
17 and I wear the jumbo. You know, so we just make sure that those
18 are the ones that were in the front, and the other ones were
19 stowed in less handy places.

20 But that's not a written procedure. It's just a matter that
21 the captain has to make sure that he's got appropriate survival
22 suits for everybody onboard.

23 Q. Okay. Thank you for that sir. Sir, I don't have any further
24 questions for you. We'd like to offer you the chance -- so
25 certainly we've gone through quite a bit of questions with you.

1 We'd like to offer you a chance, if there's any question or any
2 topics that you think may benefit us here today as part of the
3 investigation --

4 A. No, I would just say, Gary is a, was a very good captain.
5 And he was doing his best to get the boat to a safe place. You
6 can say that probably there were some mistakes. You know, having
7 two people who weren't familiar with the vessel back to back on
8 the watch at that time was probably not best practice. But he
9 knew the area, and he was trying to get his crew (indiscernible)
10 so he could deal with the problem.

11 And, you know, I think that he was probably just, didn't have
12 enough time to process all the information that was coming at him.
13 And I think he had a lot of faith in the boat. He'd been through
14 a lot with it, and knew that it was a good ride. And, you know,
15 even the stability instructions say, you know, don't correct a
16 list until you know what's causing it. And I think he was making
17 sure that it was, you know, it was icing, you know, or he sent Art
18 down. And he ran downstairs immediately. And then he came back
19 up, according to the survivors.

20 And I am sure that when (indiscernible) send Art down in the
21 engine room quickly, just take a look, see what you see. And, you
22 know, because there could be ways that you could have a fuel valve
23 open on a manifold and, you know, you can start developing a list
24 if you've got a valve cracked. You could be transferring all the
25 fuel over to the starboard side or something. But I think Gary

1 was trying to get a handle on what was happening, and I think that
2 things got away from him. Things went south very quickly, once
3 the boat heeled over.

4 CAPT CALLAGHAN: Thank you for that, sir. And, you know,
5 again, I can't tell you enough how much we appreciate just your
6 time and, you know, with the amount that you've endured since the
7 accident occurred. So we greatly appreciate your time and your
8 testimony, and just your participation since the accident in
9 helping keep us informed and collecting evidence, so we can gather
10 the most information possible.

11 And, you know, sir, as a matter of practice, we've shared our
12 condolences, but this is a personal loss for you of friends and
13 part of your business, and for that we offer our condolences to
14 you for your loss.

15 THE WITNESS: Thank you.

16 CAPT CALLAGHAN: At this time, sir, you are now released as a
17 witness from this formal hearing. We thank you for your testimony
18 and cooperation. If at a later date we determine that this Board
19 needs additional information from you, we'll contact you through
20 counsel.

21 If you have any questions about the investigation, you may
22 contact the Investigation Recorder, Lieutenant McPhillips. And
23 that's all for today, and we thank you very much, sir.

24 THE WITNESS: Thank you.

25 (Witness excused.)

1 CAPT CALLAGHAN: I'd like to thank all of our witnesses for
2 their testimony today. It was very informative. For the record,
3 again, all exhibits presented today will be posted to our MBI
4 media website.

5 Tomorrow, we will hear from one representative from Coast
6 Guard Headquarters Office of Investigations and Analysis. And
7 then we will enter into closing remarks from our parties in
8 interest, from the National Transportation Safety Board, and then
9 from the Marine Board.

10 It is now 1643 on March 4th. The hearing will now adjourn
11 for today and resume at 0800 tomorrow, March 15th.

12 (Whereupon, at 4:43 p.m., the hearing was recessed.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: March 4, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Pamela Jacobson
Transcriber

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

* * * * *

In the matter of: *

*

MARINE BOARD OF INVESTIGATION *

INTO THE SINKING OF THE *SCANDIES ROSE* *

ON DECEMBER 31, 2019 *

*

* * * * *

Edmonds Center for the Arts
Seattle, Washington

Friday,
March 5, 2021

APPEARANCES:

Marine Board of Investigation

CAPT GREGORY CALLAGHAN, Chairman
CDR KAREN DENNY, Member
LCDR MICHAEL COMERFORD, Member

Technical Advisors

LT SHARYL PELS, Attorney Advisor
KEITH FAWCETT, Technical Advisor

National Transportation Safety Board

BARTON BARNUM, Investigator in Charge
PAUL SUFFERN, Meteorologist

Parties in Interest

MICHAEL BARCOTT, Esq.
Holmes Weddle & Barcott
(On behalf of Scandies Rose Fishing Company, LLC)

NIGEL STACEY, Esq.
Stacey & Jacobsen PLC
(On behalf of survivors Dean Gribble and John Lawler)

Also Present

LT IAN McPHILLIPS, Recorder

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P R O C E E D I N G S

(8:00 a.m.)

1
2
3 CAPT CALLAGHAN: It is 0800 on March 5, 2021, and this
4 hearing is now in session. Good morning, ladies and gentlemen.
5 I'm Captain Greg Callaghan, United States Coast Guard Chief of
6 Prevention for the 11th Coast Guard District. I'm the chairman of
7 this Coast Guard Marine Board of Investigation, and the presiding
8 officer over these proceedings.

9 The Marine Board has established a COVID mitigation plan to
10 comply with federal, state, and local requirements. As a result,
11 no members of the public will be permitted to be at this hearing
12 in person. The Board will receive witness testimony through a
13 hybrid of in-person, virtual, and telephonic means. The members
14 of the Board have been spaced out far enough at the main table to
15 remove their masks while seated, to maximize clarity and minimize
16 disruption. Members are to place masks back on at any time when
17 leaving the table, and whenever approached by another person. I
18 would ask that anyone who is unable to maintain social distancing
19 please keep their masks on, unless actively speaking into their
20 microphones.

21 Due to the extensive technology used to support this hearing,
22 and the potential for unanticipated delays or challenges, I ask
23 that you please be patient with us in the event of any disruption.

24 The Commandant of the Coast Guard has convened this Board
25 under the Authority of Title 46 U.S.C. Section 6301 and Title 46

1 C.F.R. Part 4 to investigate the circumstances surrounding the
2 sinking of the commercial fishing vessel *Scandies Rose*, with the
3 loss of five lives, on December 31, 2019, while transiting in the
4 vicinity of Sutwik Island, Alaska. There were two survivors.

5 I'd like to take this opportunity to express my condolences
6 to the family and friends of the five crew members who were lost
7 at sea. I note that many of you are watching this hearing on
8 livestream due to the COVID restrictions in place, and we
9 appreciate your being with us.

10 Upon completion of the investigation, this Marine Board will
11 submit its report of findings, conclusions, and recommendations to
12 the Commandant of the United States Coast Guard. Other than
13 myself, the members of this Board include Commander Karen Denny
14 and Lieutenant Commander Michael Comerford. The legal counsel to
15 this Board is Lieutenant Sharyl Pels. The recorder is Lieutenant
16 Ian McPhillips. Coast Guard technical advisors to this Board are
17 Mr. Scott Giard and Mr. Keith Fawcett. The Board's media liaison
18 is Lieutenant Commander Scott McCann.

19 The National Transportation Safety Board is also
20 participating in this hearing. Mr. Bart Barnum, Investigator in
21 Charge for the NTSB *Scandies Rose* investigation, is here with us.

22 Witnesses are appearing before the Board to provide valuable
23 information that will assist this investigation. We request that
24 all members of the public be courteous to the witnesses and
25 respect their right to privacy.

1 The members of the press are welcome to attend virtually, and
2 provisions have been made during these proceedings to allow the
3 media to do so. The news media may question witnesses concerning
4 the testimony they have given after I have released them from
5 these proceedings. I ask that any such interviews be conducted
6 with full consideration of the COVID mitigation procedures that
7 the Marine Board has established.

8 The investigation will determine as closely as possible the
9 factors that contributed to the incident so that proper
10 recommendations for the prevention of similar casualties may be
11 made; whether it's evidence that any act of misconduct,
12 inattention to duty, negligence, or willful violation of law on
13 the part of any licensed or credentialed person contributed to
14 this casualty; and whether there is evidence that any Coast Guard
15 personnel or any representative or employee of any other
16 government agency or any other person caused or contributed to the
17 casualty.

18 The Marine Board convened this hearing to examine all events
19 relating to the loss of the *Scandies Rose* and five crew members.
20 This hearing has explored crew member data and qualifications,
21 shore side support operations, vessel stability, weather factors,
22 effects of icing, safety equipment, the operations of the vessel
23 from the past up to and including the accident voyage, and survey
24 imagery of the vessel in its final resting place. The hearing
25 also included a review of industry and regulatory safety programs,

1 as well as the Coast Guard Search and Rescue activities related to
2 the response phase of the accident, after notification that the
3 *Scandies Rose* was in distress.

4 The Coast Guard has designated parties in interest to this
5 investigation. In Coast Guard marine casualty investigations, a
6 party in interest is an individual, organization, or other entity
7 that under the existing evidence or because of his or her position
8 may have been responsible for or contributed to the casualty. A
9 party in interest may also be an individual, organization, or
10 other entity having a direct interest in the investigation in
11 demonstrating the potential for contributing significantly to the
12 completeness of the investigation or otherwise enhancing the
13 safety of life and property at sea through participation as a
14 party in interest.

15 All parties in interest have a statutory right to employ
16 counsel to represent them, to cross-examine witnesses, and have
17 witnesses called on their behalf. Witnesses who are not
18 designated as parties in interest may be assisted by counsel for
19 the purpose of advising them concerning their rights. However,
20 such counsel are not permitted to examine or cross-examine other
21 witnesses or otherwise participate in the investigation.

22 I will now read the list of those organizations and
23 individuals whom I have previously designated as parties in
24 interest. *Scandies Rose Fishing Company, LLC*, represented by
25 counsel here with us today; crewpersons Mr. Dean Gribble and

1 Mr. John Lawler, represented by counsel appearing virtual today;
2 Mr. Bruce Culver, not present at this time.

3 The Marine Board will place all witnesses under oath. When
4 testifying under oath, the witness is subject to the federal laws
5 and penalties for perjury for making false statements under Title
6 18 U.S.C. Section 1001. Penalties could include a fine of up to
7 \$250,000 or imprisonment up to five years or both.

8 The sources of information to which this investigation will
9 inquire are many and varied. Since the date of the casualty, the
10 NTSB and Coast Guard have conducted substantial evidence
11 collection activities, and some of that previously collected
12 evidence will be considered during these hearings. Should any
13 person have or believe he or she has information not brought forth
14 but which might be of direct significance, that person is urged to
15 bring that information to my attention by emailing
16 uscg.scandiesrosembi@gmail.com. This email address will be
17 continuously monitored throughout the proceedings.

18 Mr. Barnum will now say a few words on behalf of the NTSB.

19 MR. BARNUM: Good morning. I am Bart Barnum, Investigator in
20 Charge for the National Transportation Safety Board's
21 investigation of this accident. The Safety Board is an
22 independent federal agency which under the Independent Safety
23 Board Act of 1974 is required to determine the cause or probable
24 cause of this accident, to issue a report of the facts,
25 conditions, and circumstances related to it, and to make safety

1 recommendations for measures to prevent similar accidents.

2 The NTSB has joined this hearing to avoid duplicating the
3 development of facts. Nevertheless, I do wish to point out this
4 does not preclude the NTSB from developing additional information
5 separately from this proceeding if that becomes necessary.

6 At the conclusion of the hearing, the NTSB will analyze the
7 facts of this accident and determine the probable cause,
8 independent of the Coast Guard. At a future date, a separate
9 report of the NTSB's findings will be issued, which will include
10 our official determination of the probable cause of this accident.
11 If appropriate, the Safety Board will issue recommendations to
12 correct safety problems discovered during this investigation.
13 These recommendations may be made in advance of the report.

14 In addition, on behalf of the NTSB, I would like to offer my
15 deepest condolences for the families and those affected by this
16 tragic accident. Thank you.

17 CAPT CALLAGHAN: Thank you, Mr. Barnum.

18 Today we will hear from the representative from the Coast
19 Guard Office of Investigations and Analysis, followed by closing
20 statements from parties in interest, the National Transportation
21 Safety Board, and the Marine Board. At this time, we will now go
22 to recess and resume at 0815.

23 (Off the record at 8:07 a.m.)

24 (On the record at 8:15 a.m.)

25 CAPT CALLAGHAN: The time now is 0815. This hearing is now

1 back in session. We'll now hear from Commander Baxter Smoak from
2 Coast Guard Office of Investigations and Analysis.

3 Commander Smoak, Lieutenant McPhillips will now administer
4 the oath and ask you a few preliminary questions.

5 Lieutenant McPhillips?

6 LT McPHILLIPS: Good morning, Commander. Please stand and
7 raise your right hand.

8 (Whereupon,

9 CDR BAXTER SMOAK

10 was called as a witness and, after being first duly sworn, was
11 examined and testified as follows:)

12 LT McPHILLIPS: Thank you. Please be seated. Please state
13 your full name and spell the last name.

14 THE WITNESS: My name is Baxter Smoak. Last name spelled
15 S-m-o-a-k.

16 LT McPHILLIPS: Please identify counsel or representative, if
17 present.

18 THE WITNESS: Lieutenant Commander Matthew Pecoske is my
19 legal counsel.

20 LT McPHILLIPS: Counsel, please state and spell your last
21 name, as well as your firm or company relationship.

22 LCDR PEKOSKE: Lieutenant Commander Matthew Pecoske.
23 P-e-k-o-s-k-e. U.S. Coast Guard Judge Advocate and witness
24 counsel to Commander Baxter Smoak.

25 LT McPHILLIPS: Thank you, sir.

1 Commander Smoak, please tell us, what is your current
2 employment and position?

3 THE WITNESS: I currently work at Coast Guard headquarters,
4 in the Office of Investigation and Analysis, where I'm the chief
5 of the Compliance Analysis Division.

6 LT McPHILLIPS: What are your general responsibilities in
7 that job?

8 THE WITNESS: My staff and I are the primary providers of
9 Coast Guard marine safety data to internal and external customers.
10 We answer over 200 requests for data each year. Some are
11 relatively simple, like extractions from MISLE, while others are
12 more complex, require manual review of records, analysis, and
13 generation of reports and presentations. Our mission is to
14 deliver the information and analysis necessary to ameliorate the
15 value of, drive change to, and improve the utility of the marine
16 safety mission of the Coast Guard.

17 LT McPHILLIPS: Can you briefly tell us your relevant work
18 history?

19 THE WITNESS: Yes. I've been involved in the Coast Guard's
20 marine safety program for most of my 17 years. I served as a
21 prevention officer afloat and ashore. I have field experience as
22 a marine inspector, port safety control officer, marine
23 investigator, and marine enforcement officer. In my current
24 position, I routinely present marine safety data to industry
25 partners and other government agencies.

1 LT McPHILLIPS: What is your education relating to your
2 position?

3 THE WITNESS: I hold a Master's of Science degree and an MBA,
4 Master's of Business Administration.

5 LT McPHILLIPS: Thank you. Do you hold any professional
6 licenses or certificates related to your job?

7 THE WITNESS: No licenses, but I hold six Coast Guard marine
8 inspection qualifications, five port safety control examiner
9 qualifications, three investigating officer qualifications, and
10 I'm also certified ISO9001 quality management system unit auditor.

11 LT McPHILLIPS: Thank you, Commander. Captain Callaghan will
12 now have follow-up questions for you.

13 EXAMINATION OF CDR BAXTER SMOAK

14 BY CAPT CALLAGHAN:

15 Q. Okay. Thank you, Commander, for joining us this morning. I
16 understand you've prepared a presentation to walk us through.
17 Before we bring that presentation up, I just want to ask that you
18 try and reduce or try and eliminate the use of acronyms to the
19 best extent possible, just for the best understanding of the
20 general public.

21 In utilizing this virtual platform, you'll see, once we pull
22 that up, it will -- it should show in front of you, and Lieutenant
23 McPhillips can advance slides. When we're ready, I would just ask
24 that as you get through each slide, give us a minute to digest the
25 slides, see if we have any questions, and then we'll give you an

1 indication to move on to the next slide.

2 A. Understood.

3 Q. Lieutenant McPhillips, can you bring up Commander Smoak's
4 presentation, please? All right. We'll turn it over to you.

5 A. Thank you, and good morning, everyone. Before I begin my
6 presentation, I'd like to offer my most sincere condolences to the
7 survivors and the families that lost loved ones on the *Scandies*
8 *Rose*. In the data that I'll present and discuss, I'll be
9 referring to losses of life and injuries, and I want to impress
10 upon the group that we take our role of looking at and providing
11 this data very seriously, and understand that there are people and
12 families behind these numbers.

13 Please advance to slide number 2.

14 As I mentioned in my introduction, my staff and I support a
15 variety of internal and external stakeholders. I apologize for
16 the eye chart and all the acronyms here on this slide, but our
17 customers can most easily be broken down into four broad
18 categories: our marine based or marine related federal advisory
19 committees, quality partnerships -- which are typically chartered
20 between the Coast Guard and industry trade groups like the
21 Passenger Vessel Association or American Waterway Operators --
22 other government agencies, and then also internal Coast Guard
23 headquarters offices, as well as field units and investigating
24 entities like this marine board or, if the investigation is at the
25 field level, IOs individually.

1 Any questions? If not, please advance to slide 3.

2 Before diving into the data, I think it might be valuable to
3 quickly discuss the Coast Guard's marine investigation process and
4 the data collected and stored within Coast Guard databases.
5 Annually, the Coast Guard conducts approximately 19,000
6 preliminary investigations. This involves receiving a report of
7 an incident, collecting basic information about the incident, and
8 involved subjects, people, vessels, companies, facilities and
9 waterways, and making a determination on authority and
10 jurisdiction.

11 When a preliminary investigation reveals that a reportable
12 marine casualty per 46 C.F.R. Part 4 has, in fact, occurred, the
13 level of investigation shall be raised by the investigating
14 officer. For incidents that are reportable marine casualties,
15 there are differing levels of investigative effort based on the
16 severity of the incident.

17 Formal investigations like this are reserved for the most
18 serious incidents, from which most value can be gained. Marine
19 Boards convened by the Commandant, formal investigations convened
20 by the district commander or OCMI, Office in Charge of Marine
21 Inspection, or captain of the port fit into this category.

22 Informal investigations are less exhaustive than formal
23 investigations but include the determination and reporting of
24 causal factors of the casualty, and documenting of this
25 information within our MISLE system. Data collection activities

1 do not require much significant investigative effort, and usually
2 only consist of collecting basic factual information and entering
3 it into MISLE for future reference and analysis. Only minimum
4 follow-up is required to verify accuracy and completeness.

5 Separate from the levels of investigative effort are
6 designations of marine casualties. We have major marine
7 casualties, significant marine casualties, serious marine
8 incidents -- or often referred to as SMIs; these include incidents
9 that meet the threshold that require post-casualty drug testing
10 and alcohol testing -- and then the lowest level being a routine
11 incident. Just for a little perspective, the *Scandies Rose*
12 sinking and loss of life was a reportable marine casualty, which
13 also met the serious marine incident threshold, meaning the
14 operator would be required to conduct post-casualty chemical
15 testing for individuals deemed directly involved in the accident.

16 This incident was also determined to be a major marine
17 casualty, because the *Scandies Rose* was a mechanically propelled
18 vessel greater than 100 gross tons, and was lost at sea. This
19 requires the Coast Guard to inform the NTSB, in accordance with
20 Title 46 C.F.R. Part 4.40. On the *Scandies Rose*, it was
21 determined that the Coast Guard would lead and that the NTSB would
22 join the investigation and be a part of the Marine Board, as they
23 are today.

24 By policy, the level of investigative effort to this incident
25 was a formal investigation, because tragically it involved the

1 loss of multiple lives. Additionally, the Coast Guard Commandant
2 felt that this investigation -- or this incident warranted a
3 Marine Board of Investigation and convened this Board on January
4 16th of last year. For those that aren't aware, a Marine Board of
5 Investigation is the highest level of investigation within the
6 Coast Guard.

7 If there aren't any other questions, move to the next slide,
8 please.

9 Q. Okay. Commander, just for the perspective of the general
10 public who is receiving this, could you give us a sense of how
11 many Marine Board of Investigations are opened on average per
12 year?

13 A. Yes, there are relatively few, and it depends on the year.
14 There's some more than others. But typically there is a couple a
15 year. And then, there are other investigations that are opened at
16 the district commander level, and there are several of those.
17 And then, even fewer at the OCMI or local level. The bulk of our
18 marine casualty investigations falls into the informal
19 investigation and data collection activities.

20 Q. Great. Thank you.

21 A. So the marine casualty investigation process. At its most
22 basic level, you have an incident or marine casualty which
23 requires an on-scene investigation and evidence collection,
24 followed by analysis, documentation, and continued investigation
25 as necessary. Decisions on if safety recommendations are needed,

1 or enforcement actions are warranted, those are considered. And
2 then finally, the routing and closure of cases. I think it's
3 important for folks to understand that all incident investigation
4 activity -- so all investigations that are a reportable marine
5 casualty are routed to and closed at the headquarters level.

6 In complex systems such as the marine transportation system,
7 there are many interactions between operational parts of system,
8 including mariners, shore side workers, vessel traffic services,
9 the vessel itself, equipment, facilities, charts, publications,
10 and even environment. Because of the complexity of the marine
11 transportation system, there is a constant danger that critical
12 information may be overlooked or lost during a marine
13 investigation.

14 To avoid this, the Coast Guard's marine investigation
15 process, which is based on and mirrors the approach prescribed by
16 the International Maritime Organization, was developed. The
17 detailed steps of this process are listed in the figure to the
18 right, which is directly out of the Coast Guard's Marine Safety
19 Manual. I know it's a little hard to read. The major parts are
20 generate a timeline, conduct causal and human analysis, draw
21 conclusions, and issue safety recommendations, if warranted.

22 The Coast Guard's investigation management documentation
23 requirements are defined in CG-INV Policy Letter 003-2018,
24 specifically sections 3(c)(1) and (2), discuss endorsements and
25 final action, which are the last two steps in this process.

1 For investigation reports, the endorsement is the
2 documentation from the Office in Charge of Marine Inspection
3 and/or, depending on the level of the investigation, it might have
4 both the district commander stating, one, that they approve or
5 otherwise of the investigating officer's report; two, the action
6 taken with respect to the recommendations; and three, whether or
7 not any enforcement actions have been or are recommended. All
8 endorsements are documented within the report of investigation.

9 Final action, also referred to as Commandant action, is
10 documentation from the Commandant stating that final approval or
11 otherwise of the investigating officer or, in this case, the
12 Marine Board's report; number two, any action that has been or
13 will be taken or recommendations; and three, that the
14 investigation is completed and closed. Just like endorsements,
15 the final action is documented within the report of investigation.

16 If no questions, next slide.

17 So, as the investigations are documented within the Coast
18 Guard's Marine Information for Safety and Law Enforcement. We
19 refer to it as the MISLE database. As previously discussed,
20 initial investigations are documented in MISLE through a
21 preliminary investigation activity. This was the 19,000 number
22 that I mentioned earlier. And if the threshold for a reportable
23 marine casualty is met, an investigating officer will create an
24 incident investigation activity within MISLE. There are also
25 enforcement activities and boarding activities and other

1 activities within MISLE, but from an investigative perspective,
2 there are PIAs -- preliminary investigation activities -- incident
3 investigation activities, and enforcement activities.

4 The amount of information collected and entered into MISLE
5 depends on the level of investigative effort that I mentioned
6 earlier, data collection, informal, or formal. Within the IIA,
7 investigator documents vessels; facilities; waterways; parties,
8 the people and organizations that are involved; their roles --
9 whether they're a witness, subject of investigation, their
10 location, or if they were just cited in the area; their status --
11 whether they're damaged or undamaged, at risk, not at risk,
12 injured, missing, or deceased.

13 Within the database, these associations tie to existing or
14 new records for these people, vessels, organizations, and places.
15 From a data perspective, you have one IIA, one incident
16 investigation activity, for each incident. But it will be
17 associated with multiple parties -- multiple people, multiple
18 vessels, multiple waterways and facilities, depending on the scale
19 and scope of the investigation.

20 For instance, a collision or drowning with a tug pushing 15
21 barges most people think is a -- it is a single incident, but
22 there are 16 vessels that are tied to that activity. So some of
23 those vessels may be listed as grounded while some others are not.

24 Along with other critical information on the incident,
25 including evidence, correspondence, causal analysis, conclusions,

1 and safety recommendations, the investigator develops an incident
2 timeline. This was the first step in the process that I had
3 mentioned earlier. This incident timeline is comprised of
4 actions, conditions, and events that are important to the process
5 of the investigation, but are also important for follow-on
6 analysis.

7 Actions are things that people do. For example, the crew
8 placed X number of crab pots on the vessel or the master placed
9 the throttles full ahead. A condition is some existing
10 circumstance, like weather, a worn part, or an individual's level
11 of training. Events are things that happen to things, for
12 example, a material failure of a part, an injury of a person, or
13 the flooding of a vessel. Within the timeline in the MISLE
14 casework and in the database, the investigating officer documents
15 the initiating event, which is the first unwanted or negative
16 outcome in the timeline.

17 From an analysis perspective, this is important, and I'll
18 give you an example why. A vessel grounding that was preceded by
19 a material failure event and then a loss of vessel maneuverability
20 event is quite different than a grounding without any preceding
21 events. Understanding this when looking at especially broad data
22 sets of 10 to 40 years of reportable marine casualties involving
23 commercial fishing vessels -- this understanding is important.

24 Any questions on this slide? Next slide please.

25 So the MISLE system documents and stores Coast Guard data.

1 And it was introduced back in 2001. It contains information on
2 all Coast Guard activities, from Search and Rescue planning and
3 sorties to pollution response and marine law enforcement
4 boardings, vessel inspections and facility inspections, to marine
5 casualty investigations and enforcement actions.

6 While MISLE goes back to 2001, my staff and I have access to
7 records on our legacy marine safety data systems all the way back
8 to 1981. The Coast Guard as a whole accesses MISLE through the
9 database itself, or the use of Coast Guard Business Intelligence
10 program, which we refer to as CGBI. CGBI is an IT integration
11 tool which turns Coast Guard data from disparate but authoritative
12 into a searchable analytic data warehouse for decision-making.
13 While helpful, CGBI does not get to all the data elements stored
14 within MISLE, especially within the casualty data set. My staff
15 and I have direct access to all MISLE data elements via open
16 database connectivity to the MISLE data warehouse or the MISLE
17 extract, and are able to query all data within MISLE.

18 Public access is available through the Coast Guard Maritime
19 Information eXchange -- we call it CGMIX -- and the Port State
20 Information eXchange -- PSIX -- which are web-accessible and
21 contain vessel specific information, including the results of
22 boardings, examinations, and inspections, all derived from MISLE
23 itself. Also publicly available, there are two large data files
24 available for download: the Marine Casualty and Pollution Data
25 file provides details about marine casualties and pollution

1 incidents investigated by the Coast Guard, and the Merchant
2 Vessels of the United States Data file, which contains information
3 on all documented U.S. merchant and recreational vessels.

4 Commercial fishing vessels are involved in approximately 850
5 reportable marine casualties per year. This is on average over
6 the last decade or so. For perspective, remember the Coast Guard
7 investigates about 3,500 reportable marine casualties annually.

8 If there are no questions on this slide, go to slide 7,
9 please.

10 So what you see here on this slide is a breakdown of vessels
11 involved in reportable marine casualties on the left. On the
12 right shows vessels involved in serious marine incidents. Please
13 note that these are vessels involved, so the numbers are
14 reflective of vessel counts, not individual incident
15 investigations.

16 If you go to the next slide -- we can go back if there are
17 questions, but if you go to the next slide, it shows the number of
18 major marine casualties by involved vessel or service. I caution
19 the Board and public from making any broad assumptions based on
20 these charts, as vessel services are not apples to apples
21 comparisons. Their operating conditions, inspection reviews,
22 fleet sizes, et cetera, are all different. Additionally, as I
23 mentioned, this shows vessels involved. And the towing industry
24 looks to be involved in more casualties, which is true from a
25 vessel count perspective, but this is because most towing

1 casualties involve multiple vessels, like the example I gave
2 earlier of a tug pushing 12 barges would be counted twice in this.

3 I'm sure the question is -- I mentioned earlier from a
4 reportable marine casualty perspective, there's about 850 on
5 average a year that involves at least one commercial fishing
6 vessel. And we have about 3,500 a year. So that's about 25
7 percent, if you look at just an incident investigation raw count.
8 I tend not to put those numbers up, because they don't add up to
9 100 percent, because of the duplicate vessels involved. But, for
10 your perspective, about 25 percent of all reportable marine
11 casualties involve a fishing vessel.

12 We'll talk a little bit more about -- go into some more
13 details about commercial fishing vessel casualties, but, if you
14 bring up the next slide, I'd like to talk about the fleet in
15 general.

16 The Coast Guard estimates that there are nearly 58,000
17 commercial fishing vessels in documented service. I'm unsure of
18 how exactly the Coast Guard's Commercial Fishing Vessel Safety
19 Division arrives at this number, because there are only about
20 17,000 in MISLE. These are captured in MISLE because of some
21 Coast Guard interaction -- a boarding, an investigation, or a
22 safety exam. At the bottom, there's a table that shows the 2019
23 domestic annual report numbers for the commercial fishing vessel
24 decal program. As you can see, there are about 3,800 safety
25 decals issued and about 10,000 deficiencies identified and

1 documented.

2 Next slide.

3 So this slide, then, shows the most prevalent deficiencies
4 for commercial fishing vessels in 2019. And if you go to the next
5 slide, we'll -- I'll show you the 2020 statistics. So, while the
6 2020 annual report has not been published, here is the data from
7 calendar year 2020. As you can see, there's a slight decrease in
8 the number of decals and deficiencies issued, as compared with
9 2019. This is likely a result of the COVID pandemic. The top
10 deficiency areas that are listed on the bottom half of the screen
11 are fairly consistent with the 2019 data.

12 Any questions?

13 Q. I think we --

14 A. So go to the next slide -- oh, excuse me. Go ahead.

15 Q. Just saying we're good, clear to proceed.

16 A. All right. Next slide.

17 Okay, so this slide shows some additional commercial fishing
18 vessel data. Starting in the upper left, you can see that the
19 most prevalent commercial fishing vessels subtype is a fish
20 catching vessel, making up nearly 99 percent of the active
21 documented fleet in MISLE.

22 One thing I'll note here, you probably noted in the NIOSH
23 presentation that they had data on the fishery involved. So,
24 while MISLE doesn't have a lot of detail on the vessel type, in
25 2005, our office made a change to MISLE to allow -- to require IOs

1 to capture the fishery that the vessel was involved in when
2 they -- the vessel was working when they were involved in the
3 casualty. So that's where that data comes from; it's not from the
4 actual vessel type.

5 From a tonnage perspective, which is the next -- the upper
6 right, about 86, 87 percent are under 100 gross tons. On the very
7 left, you can see that -- the age data, almost 99 percent of the
8 1,700 vessels in MISLE do not have a keel laid date, which leaves
9 much to be desired. Lastly, only about 62 of the 1,700 commercial
10 fishing vessels have an international or coastwise load line
11 certificate documented in MISLE.

12 Any questions?

13 Q. I've just got one, and this -- maybe it referred back to the
14 previous slide with -- regarding deficiency statistics. Now, the
15 statistics on deficiencies, does that include offshore law
16 enforcement boardings or offshore fishing vessel boardings?

17 A. No, it does not.

18 Q. Or is that just dockside?

19 A. These are just from the decal program. These are not law
20 enforcement boarding activity deficiencies. If that's something
21 that's needed by the Board, we could query it and provide it.

22 Q. No, I appreciate that. I just wanted to make that
23 clarification. Thank you.

24 A. Next slide.

25 Over the next several slides, I'll show you some marine

1 casualty data for incidents involving commercial fishing vessels.
2 All right. This first graph shows you reportable marine
3 casualties in blue and serious marine incidents in red that
4 involved at least one commercial fishing vessel for a little over
5 the past decade. The counts here are individual incident
6 investigation activities, so singular incidents.

7 Over the last decade, there's been a slight downward trend in
8 reportable marine causalities, while serious marine incidents have
9 been relatively steady. In calendar year 2020, we saw a reduction
10 in both SMIs -- serious marine incidents -- and reportable marine
11 casualties across all fleets, most likely due to decreased
12 activity as a result of the COVID pandemic.

13 All right. Next slide, please.

14 So this pie chart shows a breakdown of initiating events. So
15 this is the first unwanted event in the timeline for reportable
16 marine casualties. As you'll see, the most prevalent are material
17 failures at a little over 32 percent, and pollution incidents and
18 personnel casualties, which are injuries, deaths, or missing
19 individuals.

20 The next slide.

21 This is similar data, except for it's only serious marine
22 incidents. So, as you can tell, almost 50 percent of serious
23 marine incidents are because of a personnel casualty, then
24 material failures, then followed by collisions and allisions.
25 It's important to note when looking at serious marine incident

1 data that any injury that's reportable is automatically an SMI.

2 Incidents at slide 16.

3 So this shows commercial fishing vessel personnel casualties,
4 which include injuries beyond first aid, a death, or a missing
5 person. Numbers on this chart are counts of individuals, so not
6 singular incidents, meaning one incident that resulted in multiple
7 injuries or death is counted as the number of people hurt, dead,
8 or missing.

9 Slide 17 shows the same data, but here the missing and dead
10 are combined into one data field.

11 Please advance to slide 18.

12 These tables show commercial fishing vessel injuries and
13 fatalities by the documented accident type. So injuries are on
14 the left, and as you can see, the most prevalent type are contact
15 injuries, with over 80 percent as some type or form of contact
16 injury. For fatalities, the most prevalent accident type is
17 preexisting medical conditions, at nearly 20 percent, followed by
18 falls into the water and asphyxiation, which is typically due to
19 smoke inhalation or drowning.

20 As you may remember, the threshold for post-accident chemical
21 testing is a serious marine incident. And as previously shown,
22 the leading initiating event for a serious marine incident are
23 personnel casualties. This chart shows the post-casualty alcohol
24 testing conducted for commercial fishing vessel casualties, and
25 the resultant positive tests. I draw your attention to the fact

1 that in 2020, 25 percent of the casualty drug testing included a
2 positive test result.

3 Please advance to slide 20.

4 Q. If I may, sir --

5 A. Yes.

6 Q. -- just in looking at that slide, has there been any analysis
7 on relative states to where those casualties have occurred, and
8 whether or not those are in states that have legalized some sort
9 of drug use?

10 A. No, we have not broken that down by state. No, sir.

11 Q. Roger. Thank you.

12 A. So here we have commercial fishing vessel loss data for the
13 past decade, and as you can see, approximately 30 percent of the
14 commercial fishing vessel losses occur in the Pacific Northwest,
15 Coast Guard Districts 13 and 17. I'll just give you a moment to
16 look and see if you have any questions.

17 If you go to the next slide, we've broken commercial fishing
18 vessel losses down by age, and as you can see, the majority of the
19 fishing vessels that are lost are between 25 and 50 years old.
20 Earlier, I mentioned that the vessel age data, particularly the
21 keel laid date, left much to be desired. What I'd point out here
22 is that it appears that our casualty investigators are collecting
23 and documenting vessel age when they are lost, as only 11 percent
24 of the vessels lost lack age data, as opposed to the nearly 99
25 percent of the rest of the fleet.

1 Q. And is there initiative -- I know it's, you know, new
2 policies and everything, but are there any initiatives to try and
3 narrow that down a little bit, in the field, as far as recording
4 that data?

5 A. The program office for that subject area -- like, so, CBC-3,
6 a commercial vessel -- excuse me, Commercial Fishing Vessel Safety
7 Division, is the one that would set the policy for what things are
8 required to be entered into MISLE. So I'm not exactly sure what
9 their data entry requirements are for commercial fishing vessels,
10 but I do know that on the investigation side, IOs are documenting
11 the age when known, as shown by this data.

12 Q. Okay. But outside of the internal INV policy letter, they're
13 not -- you're not aware of any policy from the Office of
14 Commercial Fishing Vessel Safety that would require capturing of
15 the keel laid date.

16 A. No, sir.

17 Q. Thank you.

18 A. So, if we go to the next slide, marine casualty
19 investigations, particularly formal investigations, often result
20 in safety recommendations. The purpose of safety recommendations
21 are to identify corrective actions the Coast Guard or other
22 substantially involved federal agencies should take to address
23 discovered unsafe conditions, actions, or other unwanted outcomes,
24 to prevent future casualties and improve safety of life at sea.

25 Coast Guard-INV Policy Letter 002-2018 sets the policy for

1 safety recommendations, safety alerts, and findings of concern,
2 formerly known as lessons learned. In this policy letter,
3 specifically section 4, it discusses safety recommendations and
4 outlines their purpose, basis, content, the submission process,
5 the process for review and endorsement, final action, tracking of
6 actions, and documentation. Investigation officers or Marine
7 Boards of Investigation shall consider making safety
8 recommendations when their investigation concluded that laws,
9 regulations, or the policies, tactics, techniques and procedures
10 that implement those laws are inadequate or missing.

11 Safety recommendations are not expected for every
12 investigation. If the findings of an investigation do not warrant
13 changes to laws or regulations or policy, then a safety
14 recommendation should not be issued. Each safety recommendation
15 shall be submitted and subjected to a process of review and
16 endorsement through the relevant Coast Guard chain of command, in
17 order to evaluate its merit for implementation. Each endorsement
18 shall indicate whether the reviewing unit or command concurs or
19 does not concur with the recommendation, and provide an
20 explanation for the determination.

21 So, over the past 30 years, there have been nearly 7,000
22 safety recommendations made by Coast Guard IOs. 80 percent have
23 been adjudicated with some final agency action determination.
24 Approximately 1,000 have been forwarded to headquarters or
25 district and are awaiting final agency action. Of the 70,000

1 safety recommendations, over 18 percent came from a case that
2 involved a commercial fishing vessel. Regardless of a safety
3 recommendation status, we consider them all living, meaning that
4 they are always available for analysis and can influence policy or
5 regulatory decision. Over time, recommendations that may not have
6 been concurred with may be reconsidered, based on new or numerous
7 similar recommendations that followed.

8 I'll pause for questions on this slide, and then go into a
9 little bit more detail on the fishing vessel recommendations.

10 Okay. Advance to slide 24, please.

11 In order to assist this MBI with reviewing and understanding
12 the nearly 1,300 previous safety recommendations that involve a
13 commercial fishing vessel, we search for recommendations within
14 this subset with particular keywords that may be of interest. The
15 raw data and results can be provided for further analysis by this
16 Marine Board if desired. This table here just shows the keywords
17 that we looked for and the results within the safety
18 recommendations and the status of those safety recommendations.

19 Please advance to slide 26 -- or 25, excuse me.

20 As I'm sure you're aware, the NTSB also issues safety
21 recommendations based on their investigations. While these are
22 not tracked within MISLE, I asked my colleagues in CG-INV to
23 provide me access to their internal tracking of NTSB safety
24 recommendations. These recommendations are not categorized by
25 vessel type, recommended action, or even the safety theme.

1 However, I queried the 1,400 recommendations from 1967 for fish,
2 to catch fish, fishing, fishery vessel, and identified 64
3 recommendations that may be -- that are related to -- potentially
4 related to commercial fishing vessels.

5 If you advance to slide 26, you'll see the same keywords that
6 were queried for the Coast Guard safety recommendations, and these
7 are the results here, which can also -- the raw data, so the text
8 of the safety recommendations and the keywords associated, can be
9 provided to this MBI if desired.

10 Q. This is really helpful, and I think what I'd also probably
11 look at -- maybe we'll reach out and contact you -- is an analysis
12 of -- in this regard, since 2010, and follow it -- you know, for
13 recommendations that have been made to the Coast Guard following
14 the 2010 auth act, and more recent.

15 A. Sure. I'm just taking a note, Captain. Yes, sir, we can do
16 that. And if the Board will let us know if there are any
17 additional keywords. I was able to tune in a little bit earlier,
18 so we can search icing or any other words that the Board would be
19 interested in. Just let me and my staff know.

20 Q. Absolutely. And I think that would be definitely one. I
21 think as we've -- as the hearing has progressed, I think that has
22 become a pretty common theme that we'd be interested in trying to
23 get a deeper analysis of.

24 A. Yes, sir.

25 If you'll proceed to the next slide, if there are no further

1 questions.

2 So I'd like to close my presentation by highlighting a chart
3 created by my office and often used by the Commercial Fishing
4 Vessel Safety Division here at headquarters. I'm sure you've
5 already seen this over the course of the past two weeks. This
6 chart shows operational commercial fishing vessel losses and
7 related crew deaths. Think of these as vessel losses and
8 fatalities at sea, underway fishing or transiting to or from a
9 commercial fishing vessel area. This data does not include vessel
10 losses in port or at anchor, like a fire or sinking at the pier.
11 So this is a subset of all commercial fishing vessel losses and
12 deaths.

13 I'd like to point out the numbers that I presented previously
14 did not delineate between operational and nonoperational, so this
15 is a subset of the data that was previously presented. So, for
16 perspective, about 70 percent of commercial fishing vessel losses
17 that occur are deemed operational in nature, and approximately 55
18 percent of the fatalities are deemed operational. The loss of the
19 *Scandies Rose*, and tragic loss of her crew, was deemed operational
20 in nature. While this 38-year perspective shows a marked
21 improvement in commercial fishing vessel safety, I think it can be
22 misleading.

23 Please advance to slide 28.

24 If you look at the past two decades, you'll see what I mean.
25 The number of vessel losses and fatalities seem fairly stagnant,

1 even more so if you focus on the last decade.

2 Please advance to slide 29.

3 Since 2010, we have lost over 430 commercial fishing vessels
4 and 217 lives. Remember, these are just operational statistics.
5 If you count nonoperational accidents, we've lost twice that
6 number of fishermen and over 100 additional vessels. There is
7 room for improvement. This should not be considered a cost of
8 doing business in this industry, and we can all do better.

9 Please advance to slide 30.

10 This concludes my formal presentation. And I'd be happy to
11 go back and answer any additional questions you may have about
12 data or any of the processes we discussed.

13 Q. Commander, thank you very much. I mean, this has been
14 extremely informative. I greatly appreciate that breakdown and
15 explanation, in the later graphs, and the delineation on how
16 that's broken out in only a subset to better understand the
17 operational nature of that -- of those casualties.

18 In looking at that and realizing that you -- when you look at
19 the graph all the way back from start to now, it looks like
20 there's some major changes and drop-offs. But as you pointed out,
21 in the last decade or so, it does remain pretty stagnant, and it's
22 -- there aren't major fluctuations in any direction. Is there
23 anything that's being attributed to the initial drop-off that
24 forced -- that kind of created some of that initial change before
25 things kind of leveled off again?

1 A. So you're talking about back in 1982, when the drop there? I
2 am not familiar with all of the commercial fishing vessel
3 regulations and policies over the last 40 years and what markers
4 hit around, you know, the 1990s and 2000. I think that would be a
5 question better for the Commercial Fishing Vessel Safety Program,
6 but -- so you're right, there is marked improvement. It just
7 seems to stagnate over the past decade or two.

8 Q. And so I think the other important feature -- the other
9 important thing to emphasize here is I think, somewhere in there,
10 what we maybe need to do a little more analysis of, in comparison
11 to total number of vessels at those timeframes, as well, to maybe
12 paint a better picture. We've heard things like rationalization
13 have had a major impact at times of just the number of vessels
14 that operate in the fishery, so it would be interesting to see how
15 that -- how these numbers of casualties and losses relate to the
16 total number of vessels over the same timeframe.

17 CAPT CALLAGHAN: So I'm going to try and pass it around -- go
18 around for questions. I want to start with our colleagues at the
19 National Transportation Safety Board.

20 Mr. Barnum?

21 MR. BARNUM: Thank you, Captain.

22 Thank you, Commander Smoak, for that very good presentation.
23 I just had one follow-up on slide 12.

24 Lieutenant McPhillips, if you can bring up the presentation
25 again, please.

1 BY MR. BARNUM:

2 Q. Commander Smoak, just for my knowledge here, I'm looking at
3 the upper right table, the commercial fishing vessel tonnages by
4 vessel subtype. So the 100 ton to 199.9, is there an ability or
5 do you have a sense of these 2,072 vessels, what the average age
6 of those would be?

7 A. I don't know off the top of my head. But the data that
8 created these tables, I have the raw data for, so we could very
9 easily look at that raw data and see what the age of those 2,000
10 or so fish catching vessels that are between 100 and 200 gross
11 tons, so --

12 Q. Great. Thank you. And --

13 A. In the recess, I can look.

14 Q. Okay. I can just follow up with you after, sir, if it's --
15 or you can follow up with the Board. That's fine. And that's
16 taking into account only -- on average, only one percent of the
17 total 58,000 vessels have a keel laid date. So we might not be
18 able to get -- every one of those 2,000 vessels might not have a
19 recorded keel laid date.

20 A. Right.

21 Q. Okay. And it was premature on taking the slide down. Sorry,
22 Lieutenant. I have one more question on that slide for Commander
23 Smoak. And then the bottom left-hand table -- I'm sorry, bottom
24 right-hand table. And so, the vessels that are 79 -- this is the
25 commercial fishing vessel fleet with international or coastwise

1 load lines certificates. So my understanding the load line offers
2 -- it's a more stringent inspection of the vessel and some more
3 stringent requirements. So the vessels that are 79 to 199.9 feet,
4 there's 35, and I was just curious if there -- if we could
5 calculate, you know, the percentage of total vessels of that size.
6 And I'm sorry, that's improper questioning, but --

7 A. I understand what you're asking.

8 Q. Yeah. Okay.

9 A. It's -- of the vessels that are 79 to 200 feet in length, 35
10 of them have a load line certificate. What's the percentage
11 compared to the other subset of the 17 that are that same length?

12 Q. Thank you. That don't have the load line. Yes, that's
13 correct.

14 A. Right.

15 Q. Yes, sir. And that might be something I could follow up with
16 you on as well.

17 A. Absolutely.

18 Q. Thank you, Commander Smoak. I really appreciate it.

19 MR. BARNUM: That's all the questions I have, Captain.

20 CAPT CALLAGHAN: Thank you, Mr. Barnum.

21 And Commander Smoak, I'm going to now go to our parties in
22 interest, starting with counsel representing the two survivors,
23 Mr. Stacey.

24 MR. STACEY: Thank you, Captain Callaghan.

25 And thank you, Commander Smoak, for your testimony. Can you

1 hear me okay, sir?

2 THE WITNESS: I can. Thank you.

3 MR. STACEY: Wonderful. Just very, very briefly, Lieutenant
4 McPhillips, if you could please bring up page 23 of the
5 commander's presentation, Exhibit 108. Thank you, Lieutenant.
6 That's actually perfect.

7 BY MR. STACEY:

8 Q. So I see on there that you have about 79 percent of the
9 safety recommendations that are issued have been adjudicated. Is
10 there anything similar about the 21 percent that are not
11 adjudicated, or any trends as to why some are issued but not
12 adjudicated?

13 A. So the un-adjudicated safety recommendations are likely --
14 they're the newer ones. They're more recent. So they're still
15 going through the process, which is extremely slow.

16 Q. So, over time, would you expect that percentage to continue
17 increasing?

18 A. The number of un-adjudicated -- so, we -- we'll always have
19 safety recommendations coming in, but we're also always clearing
20 them. That backlog, if you will, is decreasing for the first time
21 in recent history. The Office of Investigations and Analysis, the
22 division that oversees the safety recommendations, is being
23 proactive with that backlog and starting to chip away at it. So
24 we expect it to go down over time, but it's -- as you said,
25 there's a large backlog, and we're working through it. Some of

1 those haven't reached our office, headquarters level. They're at
2 the district level and being adjudicated down there before they're
3 endorsed and routed to us.

4 Q. All right. Thank you, Commander.

5 MR. STACEY: Thank you, Captain Callaghan. Those are all the
6 questions I have.

7 CAPT CALLAGHAN: Thank you, Mr. Stacey.

8 And now, to counsel representing the vessel owners,
9 Mr. Barcott.

10 MR. BARCOTT: Thank you, Captain. I don't have any questions
11 for Commander Smoak, but thank him for the presentation.

12 CAPT CALLAGHAN: Thank you very much, Mr. Barcott.

13 And I will double-check, any members of the Board?

14 (Pause.)

15 CAPT CALLAGHAN: No follow-up questions.

16 Commander, thank you very much for your presentation. I
17 think, as you kind of got through there, there's some pretty
18 eye-opening stats, particularly with regards to -- you know, if we
19 draw a graph starting from 40, 50 years ago, sure, it looks like
20 there's been some marked improvement. But when you really narrow
21 down into a smaller time frame, in comparison with the fleet size
22 itself, we start to realize that there's still plenty of room for
23 improvement and that those numbers are seemingly level over the
24 past decade or so, and not necessarily continuing to drop off.
25 You know, I think that should be eye-opening, and it does fit in

1 with some of the discussions that we've had over the past two
2 weeks in this hearing. I think we've got some follow-on that
3 we'll reach out to you on, to see if we can narrow some of those
4 stats down, as we look to move this investigation on further.

5 So, again, thank you very much for your time. This has been
6 a fantastic presentation. And at that point, you are now released
7 as a witness from this formal hearing. Thank you for your
8 testimony and cooperation. If I later determine that this Board
9 needs additional information from you, we'll contact you through
10 counsel. If you have any questions about the investigation, you
11 may contact any member of the Board or the investigation recorder,
12 Lieutenant Ian McPhillips.

13 Commander Smoak, thank you very much for your time.

14 THE WITNESS: You're very welcome. Have a great day.

15 (Witness excused.)

16 CAPT CALLAGHAN: Okay. This now concludes witness testimony
17 for this formal hearing. At this time, all witnesses are now
18 released from these formal proceedings. Coast Guard exhibits
19 presented today will be posted to the Coast Guard media site, and
20 remaining Coast Guard exhibits that were not presented during the
21 hearing will be posted to the media site at a later date, to
22 maximize transparency of the investigation.

23 We will now take a short recess, and we will -- are currently
24 scheduled to begin closing remarks at 1000. We will post updated
25 time, if we intend to start sooner, on livestream. And we will

1 resume with closing remarks from parties in interest, the National
2 Transportation Safety Board, and this Coast Guard Marine Board.

3 We'll now go into recess.

4 (Off the record at 9:12 a.m.)

5 (On the record at 9:30 a.m.)

6 CAPT CALLAGHAN: It is now 0930. This hearing is now in
7 session.

8 Before beginning formal closing remarks from parties in
9 interest and the National Transportation Safety Board, I would
10 like to express the Board's gratitude for all the support and
11 cooperation to make this hearing what it was in this -- over these
12 last ten days. To Sara Mixson and the crew here at the Edmonds
13 Center for the Arts, you have all been outstanding hosts and have
14 gone above and beyond to support this hearing.

15 Coordination in the virtual environment also took a lot of
16 Coast Guard support here locally and at Coast Guard units who
17 hosted witnesses. I'd like to thank District 13 staff, the
18 District 17 staff, Sector Puget Sound, Sector Anchorage, Marine
19 Safety Detachment Kodiak, and Marine Safety Detachment Dutch
20 Harbor. I'd also like to thank Customs and Border Protection for
21 hosting a witness to facilitate additional virtual testimony.
22 Additionally, I'd like to thank everyone involved for their strict
23 and consistent adherence to the Board's COVID mitigation plan.

24 I will now ask NTSB to make their closing remarks, and I will
25 have formal remarks later to close out the hearing session.

1 Mr. Barnum?

2 MR. BARNUM: On behalf of the entire NTSB, especially the
3 team conducting this investigation, as I've said daily in my
4 opening statement, I want to extend my deepest condolences to the
5 families who've lost loved ones in this tragic accident.

6 I would like to thank Captain Callaghan and the Coast Guard
7 Marine Board for including our agency in these hearings and for
8 their exceptional cooperation throughout this investigation.

9 I would also like to thank the parties of this investigation
10 for their continued support throughout the last 14 months by
11 providing their firsthand accounts of the accident, their
12 expertise, sharing hundreds of documents, conducting several
13 technical interviews, and assisting in interviews and supporting
14 our investigation while continuing their daily lives.

15 At a future date, a separate report of the NTSB's findings
16 will be issued which will include our official determination of
17 the probable cause of this accident. We will continue to collect
18 evidence, develop findings, conduct analysis, and issue
19 recommendations based on all facts developed throughout this
20 investigation.

21 In closing, I would like all the family members, especially
22 those who have been watching the hearing day after day over the
23 course of the two weeks, to know how much this accident has
24 personally affected every one of us, as so many of us have spent
25 years at sea. Assisting the investigation and following the

1 hearing so attentively demonstrates your dedication to your loved
2 ones and to each other and further empowers us to ensure we are
3 doing everything to prevent similar tragedies from happening in
4 the future.

5 Thank you very much.

6 CAPT CALLAGHAN: Thank you, Mr. Barnum.

7 Now we'll start closing remarks from our parties in interest,
8 and I'll start with counsel representing the two survivors,
9 Mr. Stacey.

10 MR. STACEY: Thank you, Captain.

11 Good morning to the Board and to everyone listening on
12 livestream. I want to thank Captain Callaghan and the entire
13 Board on behalf of Dean Gribble and John Lawler for the important
14 work that's been done over the past two weeks. I want to thank
15 all the witnesses who participated. As Mr. Barnum said, their
16 expertise and their analysis will prove invaluable as will their
17 experience to this Board in making their determinations and more
18 importantly in making the seas a safer place to work.

19 John and Dean also want me to explicitly thank Coast Guard
20 Search and Rescue again for their heroic actions that allowed them
21 to be brought back to their families safely. Their testimony
22 spoke for themselves regarding their appreciation. But I want to
23 echo their families' thanks as well.

24 We also want to thank the Board for allowing Dean and John to
25 participate as parties in interest. They hope that their

1 testimony has helped the Board complete its mission. Dean and
2 John wanted to voluntarily appear before this Board. They did so
3 with the hopes of assisting the Board in discovering the cause of
4 this terrible tragedy and bringing some peace to the families of
5 their lost shipmates, to those who were lost in other casualties,
6 and to prevent future mariners and their families from having to
7 suffer through the pain of a similar disaster in the future.

8 As you could see in their testimonies, John and Dean continue
9 to struggle every day to understand why they were spared. Like
10 other casualty survivors, not a day goes by they don't battle with
11 survivor's guilt. Those who witnessed John and Dean's testimony
12 saw how discussing or even thinking about the casualty brings back
13 the raw pain 15 months later and probably will for the rest of
14 their lives. Their pain illustrates the importance of this
15 Board's mission to prevent similar casualties happening in the
16 future.

17 This often crippling pain is made much worse when, after
18 their testimonies, they read public comments such as they're
19 heroes only in their own mind and those who proclaim from behind
20 the computer screen that they should have gone down with their
21 shipmates. Especially in light of these comments, I want to thank
22 the Board, Captain Callaghan, Mr. Barnum, for their public and
23 private condolences to all the victims of this tragedy. As
24 Captain Callaghan stated throughout these hearings, these are
25 people and families being discussed, so we cannot overstate the

1 importance and appreciation for the support that John and Dean
2 have received from the fishing community in front of this Board.

3 John and Dean know they're lucky to be with us here today.
4 They're looking for ways to make their second chances at life as
5 best as it can be. Both are searching for a new purpose in this
6 new life. They avow that part of this purpose will be looking to
7 help ways for mariners and their families to cope with tragedies
8 and to work to prevent another. Their shipmates will always be
9 remembered and honored by John and Dean.

10 Thank you very much, Captain. That's all we have.

11 CAPT CALLAGHAN: Thank you very much, Mr. Stacey.

12 And now I will go to counsel representing vessel owners,
13 Mr. Barcott.

14 MR. BARCOTT: Thank you very much, Captain.

15 I'd like to begin my remarks by thanking all the members of
16 this Board. It has been evident to us from the day we first met
17 14 months ago that your mission was to find the truth and
18 hopefully to help this industry in the future not have to convene
19 another one of these boards. We have appreciated the way you have
20 gone about the gathering of information. We hope we have been
21 helpful in that process. We have appreciated that it was not a
22 blame game, that it was only to find out what happened. It has
23 been our pleasure to work with you, and Lieutenant Pels as your
24 attorney liaison has been -- it has been a delight to call her a
25 colleague.

1 In our first meeting, if you recall it, Dan Mattsen told you
2 that he hoped you'd find out what happened to the *Scandies Rose*.
3 And I think we have, and I'll talk about that.

4 Let's go through what we know. Here is what we know based on
5 the evidence -- and many people have got many things to say about
6 this tragedy and the *Scandies Rose*, but we rely on evidence, and
7 the evidence that we have tells us this was a good and well-kept
8 boat. Fishermen referred to it as a Cadillac, and in fisherman
9 speak, that's as high a compliment as you can get about the
10 quality of the machinery.

11 This was a good and experienced crew who knew that boat. No
12 one has said anything to the contrary, and so often in these
13 proceedings, people come forward with hurtful things to say. And
14 maybe that's happened behind the scenes, but no one here has
15 testified that this vessel and her crew were anything other than
16 top notch.

17 This was a good, well-respected captain who knew this area
18 better than almost anyone else, and Bryce Buholm told you that.
19 This was an owner who spent the money that needed to be spent to
20 keep this boat in tip-top condition, and we know that from
21 Mr. Jacobsen and his surveys, and he specifically called that out
22 in a footnote to one of his surveys; this is the best vendor boat
23 he'd ever seen in the Northwest.

24 Drills were regularly performed, thank goodness. The mayday
25 drill saved Mr. Lawler and Mr. Gribble. The safety equipment was

1 well maintained. The two life rafts did just what they were
2 supposed to do. They popped to the surface when the hydrostatic
3 releases let go, and they saved Mr. Gribble and Mr. Lawler.

4 After the *Destination*, Mr. Mattsen spent the money to have
5 his vessel have a new stability report done. He followed the
6 Coast Guard's recommendation. He weighed his pots -- or rather
7 the Coast Guard weighed his pots, and he had a new stability
8 report done. And that stability report said that he could
9 carry -- or the *Scandies Rose* could carry 208 pots in icing
10 conditions. And Gary Cobban built a little margin of safety in
11 that and was carrying probably 195 pots. He was acting even safer
12 than his stability letter required.

13 So this is not a picture of a vessel or her owner or her
14 captain who would take unreasonable risk. Captain Cobban had his
15 vessel at stake. He had his crew's lives at stake. He had his
16 own life at stake, and he had his son on board. You wouldn't
17 expect him to be taking unreasonable risks.

18 There was no time pressure to get to the fishing grounds.
19 Cod fishing was open for another 15 days. They only needed to
20 make one delivery, so time pressure is not a factor in this case.

21 There have been a lot of issues raised, including the Coast
22 Guard's self-introspective look, and all of those are good. I'm
23 going to only address a couple of those issues in my closing
24 remarks, and I'm going to look really carefully at one.

25 But I want to start with a discussion about the discharge

1 chute. I can understand why there would be an interest in this
2 discharge chute. At one time, it was a faulty piece of equipment
3 on this vessel, but not when it left on December 30th. The same
4 welding company that works on your vessels in Kodiak, Mr. Young,
5 did the welding on the new chute, and there is not a word of
6 evidence -- we rely on evidence -- not a word of evidence that
7 that discharge chute was anything other than perfect.

8 I trust you are all familiar with Occam's razor where there
9 is a simple, straightforward explanation for something. It is not
10 appropriate to look at a complex one. Mr. Lawler and Mr. Gribble
11 believe that there was water inside this vessel, and I think there
12 was, too, but it didn't come from the discharge chute, and I'll
13 get to that in a bit.

14 I also want to talk about tarps, just a brief sidetrack here.
15 There was a discussion that tarps might provide a way to mitigate
16 the dangers of icing. And you heard Bud Bronson tell you he is a
17 sailor, and he knows what it's like to grab a hold of a big,
18 flapping tarp. But I bet Mr. Bronson's never done it in 30-foot
19 seas, and I'll bet he's never done it when the wind is blowing
20 50 miles an hour, and I'll bet he's never done it from the top of
21 an iced-up stack of crab pots. Using tarps, Mr. Lone uses that as
22 a way to mitigate the danger, and in some circumstances, might
23 work just fine, but as a general fix is -- I don't need to tell
24 you how dangerous that situation is.

25 So the *Scandies Rose* shoved off on December 30th with icing

1 in the forecast, severe icing. Why? Why did they leave? And we
2 are never going to know that answer for sure. But I think the
3 investigation done here, and with the evidence that has come out
4 in these hearings, there is an answer. Gary's stability book done
5 seven months previously told him he could go to sea in icing
6 conditions with 208 pots, and he had 195. Of course he felt safe.
7 He had a margin of safety built into his own numbers.

8 Here's what he didn't know. At no place did his stability
9 book tell him that if ice was over six-tenths of an inch on a
10 vertical surface and 1.3 inches on a horizontal surface that he
11 was in trouble, because that is what the stability book was based
12 on. At no place in that book did it tell him that if ice forms
13 unevenly on a vessel, he's in trouble, because the calculations in
14 his stability book assumed an even ice level.

15 At no place did he -- was he told that this icing was based
16 upon a 1977 convention in Torremolinos, Spain, which did not
17 consider the porous surface of a crab pot. At no place did it
18 tell him that no one had ever actually done a study on icing on
19 crab vessels in the real world. At no place did it tell him that
20 that book, the one you asked us for on the first day we met and
21 every one of these proceedings that I've ever been in, it is the
22 first thing that's requested. Can we have the stability book, and
23 can we have the surveys? At no place did anybody ever tell him
24 that this book was a work of fiction.

25 If his stability booklet had truthfully conveyed to him what

1 he needed to know in icing conditions, what the naval architecture
2 world knew, this is what it would have said.

3 May I have my first slide, please?

4 Take a moment and read this slide. This is what his
5 stability book would have said if it were truthfully representing
6 the science. And for those who might be attending by telephone,
7 let me read this.

8 Icing conditions. There are no studies on how ice
9 accumulates on crab pots. There are no studies on how much weight
10 ice can add to even one crab pot, let alone a stack. One
11 unscientific demonstration has shown over a ton of ice added to
12 one pot. There are icing standards contained in the federal
13 regulations, but those standards have no relationship to icing on
14 crab vessels. Ice is bad for vessel stability, and icing on one
15 side of your vessel is even worse, but it cannot be quantified in
16 any meaningful way to tell you how many pots to carry in icing
17 conditions.

18 Good luck. That's what it shows here. That's the truth.
19 That's what naval architects know about icing on crab boats. They
20 know it's bad, but they have nothing to add by way of quantitative
21 numbers. As ridiculous as this slide seems, it would have been
22 better than what he was told in his stability book.

23 Could I have the second slide, please?

24 This is the portion of Mr. Cobban's *Scandies Rose* stability
25 book related to icing. And it tells him that he can carry 208

1 pots in icing conditions and non-icing conditions. These words in
2 his booklet, and for those of you who have seen the stability
3 book, it's a page or two instructions to the mariner. That's
4 where this comes from. And then it is pages and pages and pages
5 of charts and numbers and math, and it all looks so scientific.
6 Who could possibly doubt this book? It gives the impression it
7 can be relied on. It lures people into a false sense of security.
8 The number fishermen turn to when they most need it, when they're
9 headed into icing conditions and they want to know what they can
10 do, so they look at their book, and this is what they see. And it
11 is based on no useful data whatsoever.

12 The warning in this book was more dangerous than the one I
13 suggested because the one I suggested, at least the fishermen
14 would know. They would know there is no scientific information
15 that supports the numbers that are in their books. At least they
16 wouldn't be lured into believing that they could carry 208 pots or
17 195.

18 I want to thank so much Jonathan Parrott and Bud Bronson and
19 Paul Zankich who just came forward. They've been in this business
20 for a combined more than century, and they knew and they finally
21 had to speak up. And if you look back at the *St. George*, the
22 *Northwest Mariner*, the *Lynn Jamie* [sic], the *Destination*, you will
23 see this same story in every one of those events. Finally,
24 somebody came forward and explained this to people with no agenda.
25 If you'll excuse the colloquialism, they had no dog in this fight,

1 but they wanted people to know about this problem. So this
2 problem's been identified, and you have done a remarkable job of
3 bringing people to this hearing to express the breadth of
4 ignorance about this critical condition on crab boats.

5 So it transcends this event. Every crabber operating in the
6 Bering Sea has a stability letter, and every one of those letters,
7 every one of them -- I haven't seen them, but I know what's in
8 them -- tells these operators how many pots they can carry.
9 During the course of this hearing, I have been in touch with
10 various skippers about this, and at least they're beginning to
11 understand the problem. My hope is that the report coming out of
12 these hearings will clearly point out this deficiency. My hope is
13 that in -- and in a perfect world, data will be collected, and a
14 regulation might be promulgated -- or maybe not, but a regulation
15 might be promulgated with accurate information or at least
16 requiring -- the very least requiring naval architects to express
17 very clearly the limitations of these stability books.

18 You will find tremendous support from the fishing industry
19 and organizations like the North Pacific Fishing Vessel Owners'
20 Association if you reach out and form a task force of people
21 without an agenda but with knowledge. It will take a long time,
22 but you'll find tremendous support for this.

23 I understand, and I hope the public understands, that all
24 this Board can do is make a recommendation. This Board doesn't
25 have the power to enact any regulations, and that needs to go up

1 the chain. I hope the Board makes a strong recommendation. Hope
2 it is recommendation number one. But I realize that the Coast
3 Guard has a number of missions, and especially since 9/11 your
4 resources are spread very, very thinly. But these -- excuse me.
5 These 60 boats matter. This little corner of the United States
6 matters. And if there is no change, we'll be back here again.

7 This hearing has done a lot to raise awareness of this issue.
8 And you have learned that it is common, it is almost universally
9 common that these crabbers don't start breaking ice until they've
10 got two or three inches on their crab pots. And those pot are
11 coated in the inside. Goodness, Mr. Lone talked about having six
12 inches before he would break it.

13 Question has been raised by some people I've talked to, if
14 this is such a big deal, why aren't there more losses? Why aren't
15 boats going down all the time? And I have a few suggested answers
16 to that. One is actually, if you look back, there have been quite
17 a few. Some operators carry fewer pots than their stability
18 letters allow, and some quite a few fewer. They instinctually
19 know something's wrong. Gary Cobban carried fewer. Even this
20 horrible data has big margins of safety, and that makes some
21 difference.

22 The other thing we don't know is how many near misses have
23 there been? If the *Scandies Rose* had gotten to Sutwik Island and
24 broken the ice, we'd have never known about this event. How many
25 of those have there been as close as this boat was to going over?

1 And if you look at the statistics -- and you've already made note
2 of this -- this problem only arises typically at the beginning of
3 opening season, typically when the boats are loaded with pots and
4 they're loaded with fuel. And if there's not a big storm -- icing
5 storm right then, well, we don't have any events. But when those
6 factors come together, when those factors coalesce, this is the
7 result.

8 What happened to the *Scandies Rose*? I actually think it is
9 fairly clear what happened to the *Scandies Rose*. I've listened to
10 all of the evidence, and I've seen evidence that wasn't even
11 presented here but you all know. When Gary Cobban took the helm,
12 there was some icing, and it progressed. And he was listing --
13 the number 20 degrees has been used, and I'm not sure that's
14 right, but he was listing pretty seriously. And we know from his
15 conversation with Oystein Lone that he did not want to send his
16 crew out on the deck in those seas, in those conditions. He was
17 looking out for the safety of his crew, so he didn't send them out
18 to break ice.

19 In retrospect, maybe it would have been better if he did, but
20 his decision was a good one. He was thinking about his crew. And
21 he wasn't particularly worried, and we know that because he had
22 this long conversation with Oystein Lone, just kind of matter of
23 fact, or at least if he was worried, he wasn't letting other
24 people know about that. He was headed towards Sutwik Island. We
25 know that from the conversation with Mr. Lone. He was going to

1 take shelter, and he was going to break ice, maybe drop the pick.
2 Everything would have been just fine if he'd made it. He was
3 looking for a place to hide, and he knew these waters. But
4 something went terribly wrong in the few minutes before his vessel
5 capsized.

6 If you talk to your naval architects in your offices, the
7 description that Mr. Lawler and Mr. Gribble give of what happened
8 -- and we're so fortunate to have their testimony about this one
9 piece -- it is almost a textbook description of what happens in a
10 freeze-surface event, when water is sloshing around in a vessel.
11 Now people have looked for the chutes as where that water might
12 be. It's not. There's so much -- such a simple explanation,
13 because in an ice storm like they were in, it's not just the crab
14 pots that ice up, and it's not just the rails that ice up. The
15 freeing ports ice up. The things that get water off the deck on
16 the starboard side of this vessel will be iced over almost surely.
17 One wave breaks over the side of that vessel and puts water on the
18 deck, and it's got nowhere to go, and it knocks the vessel down.
19 This is a textbook situation.

20 And then what happens? Then what happens is that
21 downflooding point that evidently, from the study you did, would
22 come into play at a 45-degree list is underwater. And at that
23 point, water pours into the engine room. And Mr. Lawler was
24 right. There was water in this vessel, and that's where it was.
25 And there's such an easy explanation. You don't have to have a

1 chute collapse. There's a huge hole in the side of the vessel
2 under those stairs, and once the downflooding began, the boat
3 wasn't coming back up. That was the end. It's no more
4 complicated than that.

5 But we haven't heard a lot about freeing ports. And the
6 freeing port regulations, how big do they have to be for certain
7 vessels, presume they're open. So among the things that should be
8 looked at in icing is we need to take another look at how big
9 freeing ports should be for vessels that ice up. Take a good,
10 hard look at that.

11 Public awareness is a really good thing. Mr. Crawford and
12 Mr. Walsh started a class to teach skippers about stability, and
13 we can educate the skippers about the shortcomings of their
14 stability reports. But a better fix is to fix the problem, not
15 just teach people about the problem. Hal Bernton of the *Seattle*
16 *Times* and Jessica Hathaway and her colleagues at *National*
17 *Fisherman* and others can publish articles about this, and bless
18 them for doing so. And the public is so much more aware of this
19 problem now than they were two weeks ago. But, again, that just
20 points out the problem. It doesn't fix it.

21 So my last point, and here I'm speaking hopefully to people
22 who may be watching, and that is political awareness. Things
23 happen in Washington D.C. when powerful politicians are
24 interested. Senators Murkowski and Sullivan and Congressman
25 Young, the entire Alaska congressional delegation has been briefed

1 on this issue. Their staff knows about this issue. I assume
2 Senators Cantwell and Murray would be very interested, and that
3 encompasses the whole body of politicians on a national level that
4 really have an interest in this.

5 I'm going to suggest to the members of the public who may be
6 watching, if you've never written a letter to a senator or a
7 member of Congress, now's the time to do it. And you don't need
8 to be articulate. You don't even need to say very much. Just
9 reference the *Scandies Rose*. Enclose Hal Bernton's article from
10 the *Seattle Times* of last week. They will be well received. They
11 already have that article.

12 Now, in closing, I am no fan of excessive government
13 regulation, and I will tell you my clients are even less enamored.
14 You almost need a law degree to operate a fishing vessel in these
15 fisheries with the various regulations. But my fervent hope is
16 that ten years from now, at some Thanksgiving dinner, a crab
17 fisherman is complaining to his brother-in-law about how tough it
18 is to make a living with all these government regulations: you
19 know, we used to be able to carry 200 crab pots in icing
20 conditions, and now, because of the Coast Guard and the
21 government, we can only carry 100, and it's tough to make a
22 living. The important fact in that story is that he's home for
23 Thanksgiving.

24 Five men died on the *Scandies Rose*. Let's make something
25 positive come of that. Thank you.

1 CAPT CALLAGHAN: Thank you, Mr. Barcott.

2 For the record, Mr. Culver, the last party in interest, has
3 chosen not to make any closing remarks.

4 Today, this formal hearing now comes to a close, and the
5 Marine Board and National Transportation Safety Board
6 investigations transition to the analysis phase. Although there's
7 always a chance that a short hearing session could be convened if
8 new witnesses are identified as the report is being written, I
9 believe we have gathered the factual evidence necessary to proceed
10 with our analysis. However, the Marine Board of Investigation
11 will continue to collect and review any evidence collected or
12 submitted in the future, including submissions to the
13 uscg.scandiesrosembi@gmail.com email address.

14 This investigation and formal hearing faced additional
15 challenges over the past year due to the global COVID-19 pandemic,
16 and although the Board was not able to travel or conduct this
17 hearing as originally scheduled, the Board was able to utilize the
18 time to collect nearly 1,000 pieces of evidence. The amount of
19 information shared with this Board is a testament to the strength
20 and unity of the fishing industry within Alaska and our commitment
21 to be as thorough as possible to best inform potential
22 recommendations to prevent future such incidents.

23 The Coast Guard weighs all evidence and conducts analysis
24 independently from any other party. I'd like to take the
25 opportunity to sincerely thank the National Transportation Safety

1 Board, our parties in interest, government agencies, maritime
2 organizations, company representatives, commercial fishermen, and
3 the individual witnesses who dedicated their time and resources to
4 this monumental endeavor. The collective expertise of those
5 involved in this process has helped to clarify numerous technical
6 and regulatory matters that the commercial fishing industry
7 grapples with on a regular basis.

8 I have also been personally inspired by the solidarity and
9 the selfless spirit which has been clearly displayed throughout
10 the investigation process by those impacted by this incident.
11 Your feedback and suggestions have aided the overall investigation
12 and your commitment to preventing a similar tragedy in the future
13 is noble and appreciated.

14 In closing, I want to emphasize that the members of this
15 Marine Board of Investigation are conducting this investigation
16 with a profound sense of duty to identify the incident's causes to
17 the best of our ability and push for any needed changes to enhance
18 maritime safety. Even though the public side of this
19 investigation is coming to an end, please rest assured that we
20 will work to continue in earnest as the report is drafted and the
21 recommendations are generated.

22 In the interim, I'm confident that conducting the proceedings
23 in this virtual public forum and making them available on the
24 Internet has helped to raise important safety issues that are
25 actively being identified and addressed around the world as we

1 speak today. The industry and those watching these proceedings
2 are talking. From a basic experiment aboard the Coast Guard
3 Cutter *Polar Star* to the call for more detailed analysis of
4 stability and the effects of icing on crab pots, the seed has been
5 planted, and collectively, there's a call to act.

6 For anyone that was not able to see portions of the hearing,
7 all sessions are on Coast Guard livestream site to view at your
8 convenience, and I would recommend that you do so.

9 I encourage industry participation in seeking and promoting
10 positive change to help prevent the loss of life and property at
11 sea. It is your voice that matters the most. You carry with you
12 the long traditions of life working the sea that includes the loss
13 of loved ones and shipmates. We heard numerous times for the past
14 two weeks the call for better regulations during this hearing. On
15 behalf of the Board, I ask you to be involved. Utilize the many
16 resources that were highlighted during these proceedings to
17 implement voluntary interim safety measures. As has been stated
18 multiple times, the regulatory process takes significant effort
19 and time, and while that takes place, there is nothing that
20 prevents proactive implementation, especially if the call for
21 change is coming from within your own community.

22 Additionally, on behalf of the entire Board, I'd like to
23 express our deepest condolences to the families, friends, and
24 shipmates of the fishermen who were lost at sea during this
25 accident, and to the survivors, Dean Gribble and John Lawler, that

1 continue to live through the accident daily. It has been
2 difficult to watch and listen as the struggle to come to terms
3 with this tragedy continues on a daily basis for those affected.
4 It is also important for us as investigators to observe the
5 emotional toll, as that strengthens our resolve.

6 The goal of this Board is to carry out our investigation in a
7 manner that honors loved ones lost in this incident and those that
8 commit their lives to work on the sea. And it is my sincere hope
9 that this formal investigation -- this formal hearing represented
10 that goal.

11 Looking for the right words, I came across this short poem by
12 Christy Ann Martine that I'd like to read for Gary, David, Seth,
13 Brock, and Art:

14 Dance with the waves,
15 move with the seas.
16 Let the rhythm of the water
17 set your soul free.

18 Lieutenant McPhillips, please bring up the prepared slide.

19 Finally, before we adjourn, I'd like to call for another
20 moment of silence to honor those we lost. If everyone could
21 please stand at this time.

22 (Pause.)

23 CAPT CALLAGHAN: Thank you. You may all now be seated. The
24 time is 1015 a.m., March 5th. This hearing is now adjourned.

25 (Whereupon, at 10:15 a.m., the hearing was adjourned.)

CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Marine Board of Investigation
Into the Sinking of the *Scandies Rose*
On December 31, 2019

PLACE: Seattle, Washington

DATE: March 5, 2021

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.



Jane Gilliam
Transcriber



Karen Ehatt
Transcriber