

OFFSHORE HELICOPTER SAFETY INQUIRY

January 21, 2010

Tara Place, Suite 213, 31 Peet Street

St. John's, NL

January 21, 2010

PRESENT:

John F. Roil, Q.C./

Anne Fagan.....Inquiry Counsel

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

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

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

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

Nick Schultz Canadian Association of Petroleum Producers (CAPP)

Laura Brown Laengle Government of Newfoundland and Labrador

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

Jamie Martin.....Families of Deceased Passengers

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

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

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

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1 January 21, 2010
 2 COMMISSIONER:
 3 Q. Good morning, ladies and gentlemen. Now, Mr.
 4 Roil, you've finished with your questioning,
 5 haven't you? I ought to, for the record, go
 6 through the list, I think. Mr. Mahoney, you
 7 would go last if you have questions of
 8 witnesses.
 9 MR. MAHONEY:
 10 Q. Thank you, Commissioner.
 11 COMMISSIONER:
 12 Q. Thank you. Counsel for C-NLOPB.
 13 MS. CROSBIE:
 14 Q. Good morning, no questions.
 15 COMMISSIONER:
 16 Q. Thank you. Transport Canada, I don't think is
 17 here. Counsel for CAPP, anyone --
 18 MR. SCHULTZ:
 19 Q. No, thank you, sir.
 20 COMMISSIONER:
 21 Q. Now HMDC and Husky, counsel for these?
 22 Questions?
 23 MACDONALD, Q.C.:
 24 Q. No questions.
 25 COMMISSIONER:

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1 Q. Counsel for Cougar?
 2 WHALEN, Q.C.:
 3 Q. No questions, Mr. Commissioner.
 4 COMMISSIONER:
 5 Q. Thank you. Helly Hansen is not present.
 6 Counsel for Memorial University, the Marine
 7 Sciences Centre. No questions, Mr.
 8 Rutherford. Government of Newfoundland?
 9 MS. BROWN LAENGLE:
 10 Q. No questions.
 11 COMMISSIONER:
 12 Q. Thank you. Mr. Harris not here. All right
 13 then, Mr. Earle.
 14 MR. GARY VOKEY, MR. BRIAN STACEY, MS. MICHELE FARRELL:
 15 EXAMINATION BY V. RANDELL J. EARLE, Q.C.:
 16 EARLE, Q.C.:
 17 Q. Good morning.
 18 MR. STACEY:
 19 A. Good morning.
 20 MS. FARRELL:
 21 A. Good morning.
 22 EARLE, Q.C.:
 23 Q. I'm going to start off by saying something on
 24 behalf of the members of CEP Local 2121. I
 25 said the same thing to HMDC the other day. We

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1 certainly don't want to give a false
 2 impression, and notwithstanding the way things
 3 sometimes go at the negotiating table, as a
 4 union, CEP believes in building bridges with
 5 employers, not setting up walls, and that is
 6 that the members of CEP Local 2121 are pleased
 7 with the very strong safety record that exists
 8 in their workplace with Suncor, as we now know
 9 it, and while we have reservations about how
 10 helicopter safety fits into the picture and
 11 has fit into the picture, and feel that there
 12 are lessons to be learned, we don't want,
 13 particularly those who are viewing on TV, to
 14 be left with the impression that the world is
 15 negative in terms of safety at the Suncor
 16 workplace because the exact opposite is true,
 17 and no doubt you're sitting there saying,
 18 well, now he's buttered us up, we'd better
 19 duck. However, we don't intend to butter you
 20 up. You went through your resumes and, I
 21 guess, if you will, once over lightly. I'm
 22 just wondering which of you has the background
 23 and training in the area of safety? I mean,
 24 safety has become a discipline in itself.
 25 Which of you has formal training in that, or

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1 are you all just managers?
 2 MR. STACEY:
 3 A. All of us.
 4 MS. FARRELL:
 5 A. We all do.
 6 MR. VOKEY:
 7 A. Maybe I'll start, if I can, Mr. Commissioner.
 8 All our employees and contractors are
 9 instructed in safety and safety management,
 10 and safety is core -- is a core value for our
 11 company. So safety doesn't rest with any one
 12 individual. All leaders have a responsibility
 13 for safety. As I've indicated previously, as
 14 asset manager for Terra Nova, I ultimately
 15 have accountability for it, but approximately
 16 10 percent of our people are dedicated to the
 17 profession of safety and the various aspects
 18 of safety, and that comes under Ms. Farrell's
 19 department.
 20 EARLE, Q.C.:
 21 Q. I suppose, my question is because I have some
 22 questions in the area of safety, and, you
 23 know, to be fair, I don't want to ask someone
 24 whose area it isn't, and I'm particularly
 25 familiar because of obviously commonalities in

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1 area of work in the past with Ms. Farrell's
 2 background, is it anyone of you, you know,
 3 somebody who is a safety person in your
 4 background? Have either of you ever been a
 5 safety person, someone who, if you will, has
 6 the training in safety, moved to a higher
 7 level than every manager and every employee
 8 should have?
 9 MR. STACEY:
 10 A. Specific to your question, I do not have any
 11 formal safety training per se, but as I did
 12 indicate, we've all received safety
 13 instruction throughout our careers and I am
 14 trained in emergency command. I'll echo Mr.
 15 Vokey's statement, which is we're all safety
 16 professionals. We may not hold professional
 17 designations in safety, but certainly
 18 throughout my career safety has been a focus
 19 area and an area of continuous improvement. I
 20 think as well, Ms. Farrell.
 21 MS. FARRELL:
 22 A. Yeah, I'll just speak to my experience. I've
 23 mentioned the fact that I've been the manager
 24 of this group of 20 individuals, and it's a
 25 team of quite distinct areas of safety

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1 speciality. I wouldn't say there is one, I
 2 would say that, in fact, there are a multitude
 3 of individuals in my group with a broad range
 4 of experience, and that's in my current role,
 5 but in my past and you're probably familiar
 6 with other organizational models where safety
 7 doesn't always report to a dedicated safety
 8 team, but I've also supervised safety
 9 professionals in my past experience as well.
 10 So it's not an area where I'm unfamiliar, so
 11 I'd suggest if you've got specific questions,
 12 ask and we'll figure out who's the best to
 13 answer.
 14 EARLE, Q.C.:
 15 Q. It seems to me then that by the nature of your
 16 work, you're probably the best person to
 17 address questions on principles of safety, if
 18 you will. Now -- and as you addressed the
 19 issue of the helicopter transportation suits,
 20 Ms. Farrell, I'd like to start with you. I'd
 21 like to see if there are, in fact, a number of
 22 things that we can agree upon in this area. I
 23 sense from your evidence given yesterday that,
 24 in fact, there are some things that are
 25 common, and that is I heard you say that at

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1 the end of the exercise of the post-March 12th
 2 examination of suit fit, that there were 29
 3 individuals who did not fit a suit that was
 4 available to them, it was not possible to get
 5 a good feel?
 6 MS. FARRELL:
 7 A. That's not what I said.
 8 EARLE, Q.C.:
 9 Q. Pardon?
 10 MS. FARRELL:
 11 A. That's not what I said.
 12 EARLE, Q.C.:
 13 Q. What did you say then?
 14 MS. FARRELL:
 15 A. What I said yesterday was, and this is between
 16 the period from March 12th prior to returning
 17 to service, we had asked people to bring
 18 forward issues and concerns. I said that 28
 19 people post-March 12th had brought forward
 20 issues and concerns. I didn't say that they
 21 were not able to fit in a suit. At that
 22 point, they brought forward concerns -- it
 23 could have been into May or June before those
 24 individuals actually got to Helly Hansen and
 25 got assessed.

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1 EARLE, Q.C.:
 2 Q. Thank you for clarifying that because I
 3 misunderstood you, and it gives me a good
 4 opportunity to remind you to project, because
 5 I suspect the reason that I misunderstood you
 6 was that those of us who are sitting down that
 7 way had some difficulty hearing you yesterday.
 8 So do you know the figure then that after the
 9 checks were made, you know, and literally
 10 going through person by person and seeing do
 11 we have a suit that fits this person, for
 12 Suncor, do you know how many of your people it
 13 was determined who were, if you will,
 14 authorized for offshore travel, found that
 15 there was not a suit that fitted them?
 16 MS. FARRELL:
 17 A. Are you asking the return to service flight
 18 suit fitting? Is that your question?
 19 EARLE, Q.C.:
 20 Q. Pardon?
 21 MS. FARRELL:
 22 A. Are you asking about the return to service
 23 flight suit fitting, at the end of that
 24 process? Is that what you're asking?
 25 EARLE, Q.C.:

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1 Q. I'm not talking about after the new suit came
 2 in. I'm talking about the evaluation that was
 3 done of the E-452, I believe it is, suit.
 4 MS. FARRELL:
 5 A. So I think in the joint panel, they indicated
 6 that it was approximately 10 percent of the
 7 entire workforce.
 8 EARLE, Q.C.:
 9 Q. Uh-hm.
 10 MS. FARRELL:
 11 A. That were placed on the "no fly" list by
 12 virtue of no face seal or no fit in the E-452.
 13 EARLE, Q.C.:
 14 Q. So you don't -- you don't have a figure for
 15 Suncor, as such?
 16 MS. FARRELL:
 17 A. Some of our contractors are shared between
 18 facilities, so they might travel to multiple
 19 facilities. So we were managing the list as
 20 the full list for the basin, and not managing
 21 it specifically to Suncor people. They were
 22 all in the same -- they were all on the same
 23 list.
 24 EARLE, Q.C.:
 25 Q. So then can we say somewhere in the range of

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1 9/10 percent of the entire offshore workforce,
 2 and likely -- because that's a fair size
 3 sample, likely as well amongst Suncor
 4 employees, somewhere in the 9/10 percent?
 5 MS. FARRELL:
 6 A. That would be the offshore and onshore
 7 workforce. We were fit testing onshore people
 8 who travel offshore as well.
 9 EARLE, Q.C.:
 10 Q. Yeah.
 11 MS. FARRELL:
 12 A. So 9/10 percent is, I think, the number that
 13 was presented.
 14 EARLE, Q.C.:
 15 Q. Yeah, get on a helicopter, you want a suit
 16 that fits?
 17 MS. FARRELL:
 18 A. Correct.
 19 EARLE, Q.C.:
 20 Q. Yeah, okay, and would you agree that in
 21 addition to this 9/10 percent who could not be
 22 fitted, you know, after a -- you know, a
 23 fairly rigorous attempt to define a fit for
 24 them, that prior to this exercise there were
 25 as well people who were flying offshore with

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1 suits that did not have a good fit because
 2 they were essentially self-selecting?
 3 MS. FARRELL:
 4 A. That may be the case.
 5 EARLE, Q.C.:
 6 Q. Yeah, and you have indicated that the
 7 Occupational Health and Safety Committee was
 8 advised, and your quote in your presentation
 9 is right out of the Minutes of the
 10 Occupational Health and Safety Committee that
 11 there was an issue with tight wrist seals and
 12 improper face seals due to individual
 13 features, and, Mr. Commissioner, everybody has
 14 been supplied with copies of what I'm
 15 referring to.
 16 COMMISSIONER:
 17 Q. I think that's correct, or at least Mr. Roil
 18 was telling me they're available to be
 19 distributed.
 20 EARLE, Q.C.:
 21 Q. I'm sorry, I thought -- I had understood --
 22 certainly the witnesses have them, do they?
 23 MS. FARRELL:
 24 A. Yes, I do.
 25 EARLE, Q.C.:

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1 Q. Yeah. These are all redacted, Mr.
 2 Commissioner, as per Suncor's wishes and they
 3 are Minutes of -- we have a bundle here of
 4 Minutes of Occupational Safety Committee
 5 meetings from April 19th, 2008, through to
 6 February 28th, 2009. Just going to refer to
 7 the second page of the bundle, you'll see the
 8 quote there which is underlined, which is a
 9 little bit more than what was in the
 10 presentation, although I'm not suggesting that
 11 there was anything particular from the fact
 12 that the full quote wasn't in the
 13 presentation. So at this April 19th, 2008
 14 meeting, it was raised that, "There was an
 15 issue with tight wrist seals and improper face
 16 seal due to individual features. Helly
 17 Hansen, Brett, to attend Cougar to review and
 18 determine way forward. Some modifications to
 19 suits may be required", and then if we go to
 20 the next page, we'll see there was a response
 21 and it says, "A joint meeting of east coast
 22 operators, Cougar Helicopters, and Helly
 23 Hansen representatives was held on March 31st,
 24 2008. During the meeting, issues relating to
 25 seals and zippers were discussed. Several

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1 actions are in place", and this is a little
 2 different than your evidence was yesterday, I
 3 believe, "Cougar personnel will survey
 4 outbound and inbound passengers for a six week
 5 period to determine whether seal and zipper
 6 issues are continuing to cause concerns.
 7 Cougar personnel will continue to check all
 8 outbound passengers to ensure personnel are
 9 able to properly zip the suits and don the
 10 hood prior to departure. Helly Hansen is
 11 continuing to apply products to the zipper to
 12 increase flexibility. As the cycle time on the
 13 suits increases, they expect the material and
 14 the zippers will relax. Helly Hansen also
 15 report that wrist seals are easing as cycle
 16 times on the suits increases. A follow-up
 17 meeting will be held in June, 2008, to discuss
 18 any continuing issues/concerns and determine
 19 whether any additional actions are required".
 20 So we're common ground this was what was
 21 before the Occupational Health and Safety
 22 Committee?
 23 MS. FARRELL:
 24 A. I think that's what I communicated yesterday.
 25 EARLE, Q.C.:

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1 Q. Yes. Now you notice that this says that
 2 Cougar will do the survey, and I think your
 3 evidence was that Helly Hansen was to do the
 4 survey?
 5 MS. FARRELL:
 6 A. Helly Hansen designed the survey, Cougar
 7 administered it. Helly Hansen compiled the
 8 results.
 9 EARLE, Q.C.:
 10 Q. Okay. That clarifies that. So the issue was
 11 on the table, and it appears actually to have
 12 been on the table back in March of 2008,
 13 right, because the response to something
 14 raised at an April meeting refers back to a
 15 meeting that was held in March?
 16 MS. FARRELL:
 17 A. I can't speak to what was on the March agenda.
 18 It came to my attention in April.
 19 EARLE, Q.C.:
 20 Q. You're not understanding me. You see the
 21 response on the second page of that Minute, it
 22 says, "A joint meeting was held on March
 23 31st".
 24 MS. FARRELL:
 25 A. Yes.

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1 EARLE, Q.C.:
 2 Q. So I think we can conclude from that, that the
 3 issue related to seals and zippers was on the
 4 table, if you will, extant any other words you
 5 want to use, prior to it coming up at this
 6 meeting of the Occupational Health and Safety?
 7 MS. FARRELL:
 8 A. I'm saying I became aware of it in April.
 9 There would be regular meetings between our
 10 supply chain people, the other operators
 11 supply chain people, and Helly Hansen. They
 12 would occur on a regular basis at this time,
 13 anyway, so I can't speak to what was in the
 14 OHS Minutes prior to this. I can simply say
 15 it came to my attention in April.
 16 EARLE, Q.C.:
 17 Q. That would be because you get copies of the
 18 OHS Minutes?
 19 MS. FARRELL:
 20 A. And I was asked to follow up on items, yes.
 21 EARLE, Q.C.:
 22 Q. Yeah, so somebody was dealing with it prior to
 23 yourself because clearly, you know, the whole
 24 business of the survey, the whole business of
 25 six week period of check, and the follow up on

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1 June 8th, this had come up at a March 31st
 2 meeting, right? Do you agree with that? If
 3 you could answer orally; remember now, this
 4 don't go on the transcript.
 5 MS. FARRELL:
 6 A. Okay.
 7 EARLE, Q.C.:
 8 Q. Okay, and in addition to yourself, this
 9 information would have gone to the -- I think
 10 you people use the EHS acronym. So the EHS,
 11 Environment Health and Safety Advisor, who
 12 attends all occupational health and safety
 13 meetings, one of the people in your
 14 department, Ms. Farrell, that person had that
 15 information and now we know from what you just
 16 told us that you had that information?
 17 MS. FARRELL:
 18 A. As of April, yes.
 19 EARLE, Q.C.:
 20 Q. And it was only after the crash, and town hall
 21 meetings, it was suggested by HMDC the other
 22 day that information on Robert Decker's body
 23 temperature triggered things, that the impetus
 24 arose that, you know, we've got a major
 25 problem here, if you will, to use the

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1 phraseology that has been used earlier, "We
 2 have to drill deeper on this one", that there
 3 was a long process of interaction, but after
 4 the crash, the engagement on the issue went
 5 way up?
 6 MS. FARRELL:
 7 A. From Suncor's perspective, I wouldn't agree
 8 with that statement. I think what we
 9 presented yesterday was a long series of
 10 issues, actions, investigations, and actions
 11 to try and get to the bottom. By December of
 12 2008, we had communicated to our workforce, if
 13 there are issues, bring them forward, we need
 14 to address them.
 15 EARLE, Q.C.:
 16 Q. Yeah, and --
 17 MS. FARRELL:
 18 A. The return to service work was not because we
 19 believed there was a systemic issue. The
 20 return to service work was what we felt was
 21 the appropriate due diligence, particularly
 22 given that people hadn't been flying for
 23 almost two months.
 24 EARLE, Q.C.:
 25 Q. Let me put something to you, Ms. Farrell, and

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1 I'm just trying to look at this from the point
 2 of view of someone at Suncor, actually trying
 3 to put myself in your boots. As we will see
 4 when we look at the Minutes, at a point in
 5 time there was an e-mail went out to all
 6 employees and said -- which I haven't seen the
 7 actual e-mail, but my sense of the content was
 8 if you have a problem with the fit of your
 9 suit, please bring this to the attention of
 10 your supervisor.
 11 MS. FARRELL:
 12 A. That e-mail, in fact, referenced the December
 13 communication to the OHS committees. The e-
 14 mail was actually requested by the OHS
 15 Committee as a follow-up to ensure that there
 16 was -- that everyone understood our
 17 expectations from the December OHS Committee
 18 meeting.
 19 EARLE, Q.C.:
 20 Q. Just do this by bits.
 21 MS. FARRELL:
 22 A. I thought I was, sorry.
 23 EARLE, Q.C.:
 24 Q. You agree that that e-mail went out?
 25 MS. FARRELL:

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1 A. Yes, it did.
 2 EARLE, Q.C.:
 3 Q. And it was quite explicit?
 4 MS. FARRELL:
 5 A. And it was requested in the OHS --
 6 EARLE, Q.C.:
 7 Q. And it was requested by the Occupational
 8 Health and Safety --
 9 MS. FARRELL:
 10 A. It was requested in the OHS Committee meetings
 11 of February and March, yes.
 12 EARLE, Q.C.:
 13 Q. Yeah, and it didn't get a response?
 14 MS. FARRELL:
 15 A. The e-mail in April got a response, and, in
 16 fact --
 17 EARLE, Q.C.:
 18 Q. The e-mail in April.
 19 MS. FARRELL:
 20 A. And, in fact, individuals were coming forward
 21 before that e-mail to identify their issues
 22 and concerns.
 23 EARLE, Q.C.:
 24 Q. Individuals were coming forward before. My
 25 sense from reading the Minutes, Ms. Farrell,

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1 is that the e-mail, the initial e-mail that
 2 went out, did not cause a number of people to
 3 come forward and say my suit doesn't seal.
 4 MS. FARRELL:
 5 A. Well, it's unfortunate, because you're getting
 6 that from the Minutes. I can tell you that by
 7 the 27th of March, I had names of individuals
 8 who were requesting assessment in their suits.
 9 EARLE, Q.C.:
 10 Q. That's the 27th of March. That brings a
 11 crucial date into play. Before the 12th of
 12 March, what kind of response were you getting?
 13 MS. FARRELL:
 14 A. We had one individual that came forward.
 15 EARLE, Q.C.:
 16 Q. That's my point, that you had made the request
 17 a considerable period of time before the 12th
 18 of March?
 19 MS. FARRELL:
 20 A. Yes, because we wanted to understand the
 21 issues, concerns, and investigate them.
 22 EARLE, Q.C.:
 23 Q. Right. As I say, I'm trying to look at this
 24 thing from the position of Suncor, and from
 25 the position of the Occupational Health and

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1 Safety Committee. The request went out to
 2 people, "tell your supervisor if your suit
 3 doesn't seal", in so many words, and before
 4 March 12th, it did not elicit a response
 5 anywhere like the response that it elicited
 6 post March 12th?
 7 MS. FARRELL:
 8 A. I would say that that's consistent with the
 9 fact that we had even throughout 2008 a very
 10 small number of individuals, and as the
 11 Minutes will tell you, that were talking about
 12 face seal. We had a large number of
 13 individuals that were talking about zippers,
 14 wrist seals, and the overall comfort of the
 15 suit. So the fact that many people didn't
 16 come forward, I think that's consistent with
 17 what we saw in the basin. We didn't have any
 18 reason to believe that there was a systemic
 19 issue with the suits.
 20 EARLE, Q.C.:
 21 Q. But you did have reason to believe that one
 22 individual was flying with a suit that didn't
 23 fit?
 24 MS. FARRELL:
 25 A. I didn't -- I can't say that his suit didn't

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1 fit. We had an individual that raised a
 2 concern and we took a series of steps to try
 3 and investigate the concern.
 4 EARLE, Q.C.:
 5 Q. Well, you had one individual, and we'll get
 6 the Minutes, I think you will have to agree
 7 was persistent in saying my suit does not fit?
 8 MS. FARRELL:
 9 A. And I think that we were persistent in trying
 10 to understand and address all of the issues
 11 that were coming to us. I hear your point,
 12 but I can tell you that we don't get these
 13 issues and disregard them, and I think you'll
 14 see through the Minutes, through the
 15 presentations, we were investigating, engaging
 16 the workforce, and I think there was also a
 17 very high level of communication back to the
 18 workforce to explain what we were doing.
 19 EARLE, Q.C.:
 20 Q. Nobody is saying you disregarded these things.
 21 The issue, and we'll go through the Minutes so
 22 we got them on the record -- I think we are
 23 also agreed that it is a major problem if
 24 someone goes in the water with one of these
 25 suits that doesn't seal right, and we're

Page 23

1 talking about a life threatening problem in
 2 our environment. Do you agree with that?
 3 MS. FARRELL:
 4 A. There's no question that water ingress in a
 5 suit will compromise the performance of the
 6 suit.
 7 EARLE, Q.C.:
 8 Q. And threaten the life of the individual?
 9 MS. FARRELL:
 10 A. Agreed.
 11 EARLE, Q.C.:
 12 Q. If they're in the water for any length of time
 13 without thermal protection, we're talking
 14 survival time reduced to minutes, right?
 15 MS. FARRELL:
 16 A. I can't speak to survival times. I can say
 17 that water ingress in a suit has the potential
 18 to impact the health of the individual,
 19 absolutely.
 20 EARLE, Q.C.:
 21 Q. Well, are you familiar with the survival times
 22 for somebody with no suit?
 23 MS. FARRELL:
 24 A. Yes.
 25 EARLE, Q.C.:

Page 24

1 Q. Yeah. We're talking minutes, right?
 2 MS. FARRELL:
 3 A. That's correct.
 4 EARLE, Q.C.:
 5 Q. Yeah.
 6 MS. FARRELL:
 7 A. Potentially.
 8 EARLE, Q.C.:
 9 Q. Do we have any reason to believe that a suit
 10 that will take in water is any better than no
 11 suit?
 12 MS. FARRELL:
 13 A. I'm sorry, your question?
 14 EARLE, Q.C.:
 15 Q. Do we have any reason to believe that a suit
 16 that will take in water from the environment
 17 is better than no suit?
 18 MS. FARRELL:
 19 A. I'm afraid I don't understand your question.
 20 EARLE, Q.C.:
 21 Q. Then I'll ask it again.
 22 MS. FARRELL:
 23 A. Well, perhaps you could rephrase it.
 24 EARLE, Q.C.:
 25 Q. We know that if you go in the water in

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1 offshore Newfoundland with no suit on, you
 2 literally have the potential of dying from
 3 hypothermia as a result of being there for
 4 minutes.
 5 MS. FARRELL:
 6 A. That's correct.
 7 EARLE, Q.C.:
 8 Q. And my question is are you any better off if
 9 your suit leaks?
 10 MS. FARRELL:
 11 A. These aren't dry suits, and I think there is a
 12 bit of a misconception that the helicopter
 13 transportation suit will keep you completely
 14 dry. There will be over time water ingress
 15 into the suit. The CGSB standard, though,
 16 actually deals with the fact that water
 17 ingress is potential and the thermal
 18 insulation requirements have been designed to
 19 address that, and so I think it's important to
 20 understand it's not a dry suit.
 21 EARLE, Q.C.:
 22 Q. No, it's not a dry suit. I'm talking about a
 23 suit that takes in more than the standard,
 24 substantially more than the standard.
 25 MR. VOKEY:

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1 A. If I can just say, the seals that we're
 2 talking about are face seals, and those suits
 3 are designed to keep your face out of the
 4 water, so it's just on initial going in the
 5 water, but with the life vest, those suits are
 6 designed to keep individual's heads out of the
 7 water.
 8 EARLE, Q.C.:
 9 Q. Mr. Vokey, your face is not out of the water
 10 if the helicopter is submerged.
 11 MR. VOKEY:
 12 A. But these suits are not designed for submerged
 13 helicopters at any depth. It's for brief
 14 period of time, less than a minute.
 15 EARLE, Q.C.:
 16 Q. The whole point is, Mr. Vokey, as we heard
 17 from Mr. Decker, in the brief period of time
 18 that he was under water, there was ingress of
 19 water and we know his body temperature went
 20 down to 28 degrees.
 21 MS. FARRELL:
 22 A. We also know from the Transportation Safety
 23 Board that Mr. Decker was not wearing a suit
 24 that fit his body.
 25 EARLE, Q.C.:

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1 Q. Pardon?
 2 MS. FARRELL:
 3 A. The Transportation Safety Board has also
 4 indicated that Mr. Decker was not wearing an
 5 appropriately sized suit.
 6 EARLE, Q.C.:
 7 Q. Yes, and that's -- thank you, that's the exact
 8 point, if you don't have an appropriately
 9 fitting suit.
 10 MR. VOKEY:
 11 A. But there is also evidence that he wasn't just
 12 under the surface of the water, that it was
 13 some significant distance below the surface of
 14 the water, which would have a definite impact
 15 too.
 16 EARLE, Q.C.:
 17 Q. Yes, exactly, and there's no guarantee, you
 18 know, that someone in a helicopter crash is
 19 not going to be at some point submerged.
 20 MR. VOKEY:
 21 A. Then again these suits are designed to a
 22 standard and the depth of submersion is not
 23 meant to be, you know, 15 to 20 metres.
 24 That's not what they're designed for and
 25 that's not what the standard is.

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1 EARLE, Q.C.:
 2 Q. The point, Mr. Vokey, and this -- I got to say
 3 this is one of the areas where I really part
 4 with you. You seem to have forgotten that
 5 there are two elements. It's one thing to
 6 have a properly designed suit, a suit that's
 7 certified. It's another thing to have the
 8 right suit for the individual who's in it.
 9 MS. FARRELL:
 10 A. And I think --
 11 EARLE, Q.C.:
 12 Q. And they are two separate issues, and it's the
 13 latter issue that we're exploring, how we got
 14 to a situation where we had these people with
 15 suits that didn't fit out there flying, and
 16 what we have learned from how we got there.
 17 That's where I'm going.
 18 MS. FARRELL:
 19 A. So perhaps it is worthwhile to go through the
 20 Minutes of the meeting because I think that
 21 does give you a sense of exactly what we
 22 understood, exactly what we did to address,
 23 and then ultimately to have Suncor on a path
 24 to have people coming forward in December of
 25 2008 if they had an issue or concern. We were

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1 prepared to address it.
 2 EARLE, Q.C.:
 3 Q. Like Mr. Roil with Mr. Stacey yesterday --
 4 MS. FARRELL:
 5 A. Pardon me?
 6 EARLE, Q.C.:
 7 Q. Like Mr. Roil with Mr. Stacey yesterday, I
 8 determine the order of questions here.
 9 MS. FARRELL:
 10 A. Carry on.
 11 EARLE, Q.C.:
 12 Q. Now I suggest to you, and -- you know, just
 13 get your head out of the blame game for a
 14 minute. I suggest to you that -- forget for a
 15 moment where the possible breakdown is. The
 16 fact of the matter that we had these people
 17 flying in suits that did not seal by anyone's
 18 standard qualifies a near miss. What do you
 19 think of that?
 20 MS. FARRELL:
 21 A. I think that we tried very hard through our
 22 hazard identification program to understand
 23 where there might have been issues with a suit
 24 that was certified to a dual standard, and we
 25 were working very hard to understand how to

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1 modify the suit and maintain the standard.
 2 That's what I can say, and that was the focus
 3 of significant efforts through all of 2008.
 4 In addition to deal with zippers, wrist seals,
 5 that was a significant effort.
 6 EARLE, Q.C.:
 7 Q. I believe you, but I see two issues there.
 8 One, the problem was identified, how do we
 9 solve it, and we've heard considerable effort
 10 was placed on that, and a second issue which I
 11 see as earlier in time is how was it that it
 12 wasn't picked up, and let me just put to you a
 13 couple of possible scenarios. One, there was
 14 a failure in the contract with Helly Hansen
 15 because the contract did not provide for
 16 Cougar people to be trained to see that there
 17 was a proper fit, did not provide for Helly
 18 Hansen person to come in and instruct
 19 individuals or Cougar how to ensure they had a
 20 proper fit. That's one scenario, one possible
 21 problem.
 22 MS. FARRELL:
 23 A. So --
 24 EARLE, Q.C.:
 25 Q. Another possible problem --

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1 MS. FARRELL:
 2 A. So in response to that --
 3 EARLE, Q.C.:
 4 Q. Just a --
 5 MS. FARRELL:
 6 A. Okay, all right. Helly Hansen were there.
 7 Helly Hansen did instruct people for the first
 8 six weeks.
 9 EARLE, Q.C.:
 10 Q. I know that, I know they were here, but you
 11 were hear, you heard what Mr. Collins said in
 12 answer to the questions as to what their
 13 contract was. Another scenario, there was a
 14 failure in communications to the individual
 15 wearers in that individual wearers of the
 16 suits should have had some instruction so they
 17 could self-check for fit. Now do you agree
 18 that those are two possible weaknesses that --
 19 MS. FARRELL:
 20 A. I can't agree that there was a failure in the
 21 contract. We had Helly Hansen there. I
 22 wouldn't necessarily agree that there was a
 23 failure in communication. Helly Hansen was
 24 there and instructed people, and in addition,
 25 when people did their basic survival training,

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1 they got additional instruction from the
 2 instructors at MI. I know when I did my basic
 3 survival training recurrent in 2008, the
 4 instructors were particularly helpful with me
 5 in giving me instruction on how to get the
 6 appropriate seal in the suit.
 7 EARLE, Q.C.:
 8 Q. The problem with that is if you rely on your
 9 BST recurrent, we have a new suit --
 10 MS. FARRELL:
 11 A. I didn't say we were solely relying on that.
 12 I said Helly Hansen was also there.
 13 EARLE, Q.C.:
 14 Q. Yes, but Helly Hansen -- you heard Mr. Collins
 15 tell us. He said it was not their
 16 responsibility to see to it that individuals
 17 fit the suits, and secondly, it was not their
 18 responsibility to train Cougar personnel to
 19 see to it that individuals had proper fit for
 20 the suit.
 21 MS. FARRELL:
 22 A. As I recall Mr. Collins' testimony, he said
 23 that they did not do the type of fit testing
 24 that occurred from May of 2009 onwards, but
 25 Helly Hansen were at the heliport and did

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1 instruct individuals as they went through and
 2 donned the suits in the proper donning
 3 techniques for the suits.
 4 MR. VOKEY:
 5 A. I think, Mr. Commissioner, we have to rely on
 6 what happened, not what was in the contract.
 7 There are occurrences where as things evolve
 8 things in the contract change. So while it
 9 might not have been a financial or commercial
 10 obligation by Helly Hansen, we do know that
 11 they did do fit testing at the heliport.
 12 EARLE, Q.C.:
 13 Q. When?
 14 MR. VOKEY:
 15 A. When the suit was rolled out initially.
 16 EARLE, Q.C.:
 17 Q. When the suit was rolled out?
 18 MR. VOKEY:
 19 A. As a new suit, yes.
 20 EARLE, Q.C.:
 21 Q. For every individual?
 22 MS. FARRELL:
 23 A. We asked Helly Hansen to be present -
 24 EARLE, Q.C.:
 25 Q. No, no.

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1 MS. FARRELL:
 2 A. - at the heliport.
 3 EARLE, Q.C.:
 4 Q. I'd like Mr. Vokey -
 5 MR. VOKEY:
 6 A. I can't say -
 7 EARLE, Q.C.:
 8 Q. He interrupted and wanted to answer. I'd like
 9 you to answer that question, Mr. Vokey.
 10 MR. VOKEY:
 11 A. I apologize. I didn't mean to interrupt. I
 12 meant to clarify. We do know they were there
 13 for a period. Now whether they hit 100
 14 percent or not, I can't say, but there was a
 15 dedicated effort to ensure that people were
 16 sized in the suits appropriately.
 17 MS. FARRELL:
 18 A. And when the issue -
 19 EARLE, Q.C.:
 20 Q. My understanding, Mr. Vokey -- I understand,
 21 Mr. Vokey, from Mr. Collins' evidence is that
 22 they had someone there about two weeks. Is
 23 that your understanding?
 24 MR. VOKEY:
 25 A. No.

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1 MS. FARRELL:
 2 A. No, they were there for six weeks.
 3 EARLE, Q.C.:
 4 Q. They were there for six weeks?
 5 MS. FARRELL:
 6 A. Yes, and when this issue came up in 2008, you
 7 see that we took the action to ask Cougar to
 8 make sure that people could fully don their
 9 suits, and I think some of the joint panel
 10 members actually testified to the fact that
 11 that occurred on a regular basis. We asked
 12 that of Cougar.
 13 EARLE, Q.C.:
 14 Q. Well then, I put it to you that this must be a
 15 possible scenario, if you believe that it was
 16 Helly Hansen's job to ensure proper fit, then
 17 they didn't do their job.
 18 MS. FARRELL:
 19 A. I think I've already said Helly Hansen were at
 20 the heliport for six weeks when the suits were
 21 introduced. They were clear. The fit testing
 22 that started in 2009 with return to service
 23 had not been done previously. It was the
 24 first of its kind. It is a best practice
 25 that's been recognized. Have we learned from

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1 this? Absolutely.
 2 EARLE, Q.C.:
 3 Q. Okay. It takes a while to get you people
 4 around. Did you do a formal TapRoot analysis
 5 to get to that, to get to your conclusions?
 6 MS. FARRELL:
 7 A. To which conclusion?
 8 EARLE, Q.C.:
 9 Q. The conclusion that a different level of
 10 testing for fit was required.
 11 MS. FARRELL:
 12 A. When we asked Helly Hansen to go to the
 13 heliport with return to flight, it was not
 14 because we felt there was a systemic issue
 15 with the suits. It was because we wanted to
 16 ensure that people were fully oriented into
 17 the suits again, particularly given that
 18 they'd been away from flying for two months.
 19 What came from that was ultimately where we
 20 are now, which is we ended up with ten percent
 21 not being able to achieve an appropriate seal.
 22 But, and I want to be clear, Helly Hansen were
 23 not there in May of 2009 because we felt that
 24 there was a systemic issue with the suit.
 25 EARLE, Q.C.:

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1 Q. Okay. So what you're saying is -- I'm glad
 2 you made that point because this is a
 3 different impression than I had from HMDC in
 4 their evidence. What you're essentially
 5 saying is the effort by Helly Hansen in May of
 6 2009 was simply a part of the return to flying
 7 exercise and that was what uncovered the large
 8 problem?
 9 MS. FARRELL:
 10 A. I wouldn't say simply. I would say that this
 11 was a significant effort on the part of the
 12 operators to ensure due diligence with return
 13 to flying operations.
 14 EARLE, Q.C.:
 15 Q. So, and straightforward simple, when do you
 16 see the larger problem of a ten percent non-
 17 fit being discovered?
 18 MS. FARRELL:
 19 A. As we started to put people through that
 20 flight suit fit testing process and Helly
 21 Hansen flagged that there were concerns, that
 22 is when ultimately we could conclude we have a
 23 significant issue.
 24 EARLE, Q.C.:
 25 Q. Okay, and what was the impetus for that

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1 testing?
 2 MS. FARRELL:
 3 A. We asked Helly Hansen to be there, again, to
 4 provide the due diligence. As part of that,
 5 and the work that Suncor had already started
 6 to ensure that people were fitted, they were
 7 measured. I'll be honest, the path that we
 8 were on, and I think I said that in the
 9 presentation yesterday, the path that we were
 10 on is one that started with Suncor, that
 11 rolled into the work that started at the
 12 heliport with return to service and ultimately
 13 we are where we are.
 14 EARLE, Q.C.:
 15 Q. The question I asked you, Ms. Farrell, was
 16 what was the impetus? What caused this higher
 17 level of fit testing to be engaged?
 18 MS. FARRELL:
 19 A. Our due diligence.
 20 MR. VOKEY:
 21 A. And if I can just comment, there was a
 22 heightened sensitivity and we did have more
 23 individuals coming forward, and as Ms. Farrell
 24 indicated, for quite a period of time, the
 25 issue was tight wrist seals, which wouldn't

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1 impede, it was a comfort issue, and the issue
 2 with the seals around the face was thought, by
 3 all concerned, including Helly Hansen, to be a
 4 function of the stiffness of the zippers and
 5 the fact that the suits were new.
 6 EARLE, Q.C.:
 7 Q. Okay, it was -- the impetus was the heightened
 8 concern?
 9 MR. VOKEY:
 10 A. That is part of it, yes.
 11 EARLE, Q.C.:
 12 Q. Yeah.
 13 MS. FARRELL:
 14 A. And our need as operators to ensure that our
 15 people who are travelling offshore are doing
 16 so safely.
 17 EARLE, Q.C.:
 18 Q. Yeah, but simply put, and we know from the
 19 minutes, and let's go through them now.
 20 Starting at April 19th, we have at least one
 21 person saying the suit doesn't seal.
 22 MS. FARRELL:
 23 A. There was a person that indicated a concern
 24 with face seals, yes. I can't conclude from
 25 this that it didn't seal. The person had a

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1 concern with the face seal.
 2 EARLE, Q.C.:
 3 Q. Well, there was a person saying it didn't
 4 seal.
 5 MS. FARRELL:
 6 A. I think the words are there.
 7 EARLE, Q.C.:
 8 Q. Yeah, that was a person at risk.
 9 MS. FARRELL:
 10 A. Correct, it was a hazard.
 11 EARLE, Q.C.:
 12 Q. And, but what we see is, on the next page, is
 13 that the action is closed, and I take that to
 14 mean that it is considered to be dealt with by
 15 that response?
 16 MS. FARRELL:
 17 A. You actually need to speak to the members of
 18 the OHS committee. I don't get to close
 19 actions. They have to agree in their meeting
 20 to close it. I think you'll see in the next
 21 meeting that the action gets reopened.
 22 EARLE, Q.C.:
 23 Q. Yeah.
 24 MS. FARRELL:
 25 A. And in fact, in some cases, there are several

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1 actions that end up getting rolled into one.
 2 EARLE, Q.C.:
 3 Q. But is there an established criteria -- I
 4 looked at your materials and couldn't find it,
 5 but you know, your materials are fairly
 6 voluminous and we didn't have a long time to
 7 go through them, given that we're dealing with
 8 other witnesses. Is there an established
 9 criteria for closing an action?
 10 MS. FARRELL:
 11 A. Agreement of the committee.
 12 EARLE, Q.C.:
 13 Q. So simply agreement of the committee. Is that
 14 the same with ProAct?
 15 MS. FARRELL:
 16 A. I'm sorry, I don't understand. ProAct -
 17 EARLE, Q.C.:
 18 Q. Well, as I understand, anyone can initiate a
 19 ProAct.
 20 MS. FARRELL:
 21 A. These items here are actually ProActs.
 22 EARLE, Q.C.:
 23 Q. I know.
 24 MS. FARRELL:
 25 A. Yes, okay.

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1 EARLE, Q.C.:
 2 Q. But is that the same with -- I mean, I don't
 3 have to be a member of the Occupational Health
 4 and Safety Committee if I'm one of your
 5 employees to initiate a ProAct.
 6 MS. FARRELL:
 7 A. Anyone can close a ProAct that's been assigned
 8 to them, and -
 9 EARLE, Q.C.:
 10 Q. Okay, well just, I need a bit more from you to
 11 understand that. As I understand it, somebody
 12 in your process module, take it away from
 13 helicopters for a moment, they think there's a
 14 safety issue. They can open a ProAct and then
 15 the accountable persons have to respond?
 16 MS. FARRELL:
 17 A. Yes.
 18 EARLE, Q.C.:
 19 Q. Is there a criteria for closing and who
 20 closes? Is it closed by the person who opens
 21 or is it closed by the person who responds?
 22 MS. FARRELL:
 23 A. It depends on the use of ProAct. In the
 24 example that you're talking about, an
 25 individual will open a ProAct, they will

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1 assign it to somebody for response. The
 2 individual who's assigned the accountability
 3 for response responds back to the individual
 4 and if they choose to close the ProAct, the
 5 individual is notified of the response and
 6 that the ProAct has been closed. If they
 7 don't agree, they simply reopen the ProAct.
 8 EARLE, Q.C.:
 9 Q. Okay, so that's how you have to deal with it?
 10 If you don't agree, you reopen it?
 11 MS. FARRELL:
 12 A. And I think you'll see that's what happened
 13 here.
 14 EARLE, Q.C.:
 15 Q. And that's what happened. If we go to the May
 16 10th minutes on page three, and it's described
 17 as "survival suit sizing issue not addressed
 18 for all travellers. Action closed? Action:
 19 the suit sizing was not covered in the two
 20 actions that were closed. Note that the
 21 actions were closed but an additional action
 22 was opened for ES&SR advisor to communicate
 23 back to committee after the 2008 meeting.
 24 Another ProAct action will be opened regarding
 25 suit size for individuals that may require

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1 modifications to fit." So the committee is
 2 saying no, no, this has got to stay on the
 3 agenda?
 4 MS. FARRELL:
 5 A. And it continues, I think, to current day.
 6 EARLE, Q.C.:
 7 Q. And then we see May 31st, 2008. The action is
 8 described as "the Helly Hansen suit does not
 9 fit all personnel offshore. Custom sizes are
 10 required for some individuals who have unique
 11 sizing. Onshore follow up required. Please
 12 update this entry with actions to follow" and
 13 then there's a response. "The flight suits
 14 currently in use have been designed to meet
 15 Transport Canada and Coast Guard certification
 16 requirements. We are working with Helly
 17 Hansen to determine if suit modifications can
 18 be performed while still meeting the
 19 certification standards. Helly Hansen are
 20 working with Transport Canada and Coast Guard
 21 to further assess what will be required for
 22 compliance purposes and will keep us informed
 23 as the process continues. Until we are
 24 satisfied that Helly Hansen can modify the
 25 suits while maintaining the certification

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1 requirements, we will not be in a position to
 2 entertain requests for individual flight suit
 3 modifications. Moved to close" and then "will
 4 continue to track." Now there seems to be a
 5 little bit of difference within the committee
 6 there as to -
 7 MS. FARRELL:
 8 A. No, that's specific to moving to close a
 9 particular ProAct and agreeing to track it
 10 under a different ProAct. That's what that
 11 means.
 12 EARLE, Q.C.:
 13 Q. It appears to me, from reading this, that the
 14 issue is being perceived at this point in time
 15 as the fit of the suits in the sense of they
 16 are cumbersome, you know, lots of excess
 17 material for the person, not a comfortable
 18 fit. Is that how you saw it at that time?
 19 MS. FARRELL:
 20 A. No.
 21 EARLE, Q.C.:
 22 Q. You did not?
 23 MS. FARRELL:
 24 A. No, it was -- I was not looking at this as a
 25 comfort issue. That's not -- that was not my

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1 perception.
 2 EARLE, Q.C.:
 3 Q. So did you -
 4 MS. FARRELL:
 5 A. We were working -
 6 EARLE, Q.C.:
 7 Q. At that point in time, did you still see this
 8 as a question of seals?
 9 MS. FARRELL:
 10 A. We were working with Helly Hansen to
 11 understand how to modify the suits while
 12 maintaining a dual standard, which is what --
 13 we're required to fly people in a certified
 14 suit. It's not like a suit that you can take
 15 to the tailor shop and modify. If you change
 16 it, you no longer have a certified suit. So
 17 from our perspective, there was a considerable
 18 effort associated with understanding the CGSB
 19 standard, the rigour that goes into that
 20 testing requirement and the impact of
 21 modifying a suit. That's what this is about.
 22 EARLE, Q.C.:
 23 Q. Ms. Farrell, this is a very important
 24 question. Did you, as the senior person in
 25 this division, see this as being a situation

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1 where the question of seal of the suit for at
 2 least one individual was still outstanding?
 3 MS. FARRELL:
 4 A. What I understood and what we were
 5 investigating is multiple things. Whether the
 6 zippers were impacting the face seal, and as I
 7 indicated yesterday, we took a series of steps
 8 to try and address and understand that, and at
 9 the same time, we were proceeding down the
 10 path of understanding the implications of
 11 modifying suits for whatever reason.
 12 EARLE, Q.C.:
 13 Q. Now, you will recall that the very first
 14 notation was not about zipper on face seal.
 15 It was about facial features, and my question
 16 really is oriented to the fact that I would
 17 have thought that if at this point in time you
 18 thought that there was a person out there who
 19 didn't have a suit that properly sealed around
 20 their face, you would have said "look, someone
 21 go find that individual and get it checked
 22 out, whether their suit fits or not, because
 23 this is no different than if we've got
 24 somebody who's using a respirator which is
 25 defective or we've got somebody who's using

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1 safety glasses that are defective. We don't
 2 want this sort of thing happening." So I need
 3 to know where Petro-Canada's mind, which I
 4 take you to be representative of in this
 5 issue, was at that point in time.
 6 MS. FARRELL:
 7 A. I can speak for all of us when I can say that
 8 not only were we trying to address the face
 9 seal zipper issues, the wrist seal issues, we
 10 were also trying to simultaneously understand
 11 and address suit modification issues for a
 12 suit which, again I will say, was certified to
 13 a Transport Canada aviation and marine
 14 standards with robust testing associated with
 15 those standards. That is exactly where we
 16 were at this point in time.
 17 MR. VOKEY:
 18 A. Excuse me.
 19 EARLE, Q.C.:
 20 Q. Are you saying that you were prepared, at that
 21 point in time, unlike your later position
 22 where people who didn't fit, didn't have suits
 23 fit, went by boat, that you were prepared, at
 24 that point in time, to tolerate people flying
 25 with suits that did not fit while the problems

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1 were sorted out?
 2 MS. FARRELL:
 3 A. I think I've said we did not have any
 4 indication of a systemic issue with a
 5 certified suit.
 6 EARLE, Q.C.:
 7 Q. But you -
 8 MS. FARRELL:
 9 A. We had an individual who complained about a
 10 face seal and we were working to understand
 11 the extent to which the zipper issue impacted
 12 the face seal issue.
 13 MR. VOKEY:
 14 A. And that's a key point here. In the early
 15 phase of this, back at that period, the face
 16 seal and the zipper issue were thought to be
 17 linked because if you move that zipper a half
 18 an inch either way, the potential is there
 19 that the seal would not necessarily be intact
 20 as it was in the previous position. So both
 21 of them were thought to be linked. We were
 22 working the zipper issue.
 23 EARLE, Q.C.:
 24 Q. You would agree, Mr. Vokey, that in the first
 25 notation, there is not linkage, is there?

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1 MS. FARRELL:
 2 A. There's actually two notations that come
 3 together. The first is in relation to zippers
 4 and then the second is in relation to the face
 5 seal. We were getting both simultaneously.
 6 Frankly, we were getting a lot more issues
 7 around the zippers clearly than we were around
 8 the face seal. So again, I think you have to
 9 recognize where we were at this time and the
 10 number of issues.
 11 EARLE, Q.C.:
 12 Q. Exactly, that's exactly what I'm trying to
 13 find out, where you folks were, and -
 14 MR. STACEY:
 15 A. Could I make a -- offer a comment?
 16 EARLE, Q.C.:
 17 Q. Sure.
 18 MR. STACEY:
 19 A. I think, in fact, where we were, from my
 20 perspective, the introduction of the E452 suit
 21 was a continuous improvement effort that the
 22 industry had made. From my experience in
 23 flying in the Mustang suit and previously with
 24 no suits that in fact the introduction of the
 25 E452 was continuous improvement and the vast

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1 majority of the workforce were wearing the
 2 suit and although it had bulkiness and other
 3 issues with it, it was an improvement, and the
 4 fact that one individual came forward, and
 5 this was still followed through to completion,
 6 and in fact began a process that is now a best
 7 practice, I think is an indication of the
 8 commitment to safety in our workforce. It is
 9 easy for us to be self critical in hindsight
 10 when we have all the information at hand. But
 11 my perception was during the time that this
 12 was going on that we were in a state of
 13 improvement and in fact, it's a sign of the
 14 confidence that everyone has in aviation and
 15 helicopter transportation. That's my
 16 perception.
 17 EARLE, Q.C.:
 18 Q. So what you're saying is, "listen, if it
 19 wasn't fitting for one person, we shouldn't be
 20 too upset because chances are with the Mustang
 21 suit, we had lots of people who weren't being
 22 fit." Is that what you're saying?
 23 MR. STACEY:
 24 A. No, I didn't say that the Mustang suit, lots
 25 of people weren't fitting. I was saying that

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1 this effort was continuous improvement. As
 2 with many other things that we do in our
 3 business, we're always looking for ways to
 4 improve, and in fact, we're interested in what
 5 Phase 1B has to say about how we addressed the
 6 suits and the best practice that's now in
 7 place and that Transport Canada has recognized
 8 and is sharing with other areas of the
 9 industry, and yes, can we do things faster?
 10 Certainly. That's what we do is we go back
 11 and we look at the lessons learned and try to
 12 be better, but I certainly didn't share that
 13 perception.
 14 EARLE, Q.C.:
 15 Q. Well, that's what I'm trying to get you
 16 fellows to tell us is what you've learned from
 17 this process. I mean, I told you, I see it,
 18 my client sees it as a near miss, and
 19 everything you tell us and everything we know
 20 about you says that if there's a near miss,
 21 you go back and you find out why there was a
 22 near miss, and I'm trying to -- I know you
 23 think I'm here to beat up on you, but -
 24 MS. FARRELL:
 25 A. All I would say is -- and again, I go back to

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1 the minutes because the work that we did, the
 2 engagement that we did with our employees, the
 3 survey that we asked Helly Hansen to do,
 4 you'll find in here a copy of a slide deck
 5 that we presented to the C-NLOPB in the middle
 6 of August, or middle of July of 2008, all of
 7 which talked about what do we know, what are
 8 we doing, what are our next steps, and
 9 ultimately we maintained that level of
 10 communication with our workforce throughout.
 11 So I believe that we did as much as we could,
 12 knowing what we did at the time.
 13 EARLE, Q.C.:
 14 Q. Could we go to the survey? It's Exhibit
 15 00090. That's a Helly Hansen exhibit.
 16 REGISTRAR:
 17 Q. Helly Hansen?
 18 ROIL, Q.C.:
 19 Q. Helly Hansen exhibit.
 20 EARLE, Q.C.:
 21 Q. I think you're probably going to have to
 22 rotate it, yeah. Let me tell you, Mr. Vokey,
 23 that's exactly where I was on my home computer
 24 at 6:00 this morning.
 25 MR. VOKEY:

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1 A. I was going to make a comment, but I decided
 2 not to.
 3 EARLE, Q.C.:
 4 Q. Okay. Go up to view, I think you can -
 5 REGISTRAR:
 6 Q. This might be a good time for a break.
 7 COMMISSIONER:
 8 Q. Who rotates it? Do you or -
 9 MS. FARRELL:
 10 A. It's not us.
 11 REGISTRAR:
 12 Q. -- or the lady could do it with her mouse, if
 13 they wish.
 14 MS. FARRELL:
 15 A. Oh, I'm sorry, okay.
 16 COMMISSIONER:
 17 Q. This is above and beyond the call of duty
 18 really. I think we'll take the break and
 19 somebody will rotate it.
 20 MR. VOKEY:
 21 A. Oh, there we go.
 22 MS. FARRELL:
 23 A. We got it.
 24 ROIL, Q.C.:
 25 Q. Just keep rotating.

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1 EARLE, Q.C.:
 2 Q. We have the technology, Mr. Commissioner.
 3 COMMISSIONER:
 4 Q. Oh, I know you -
 5 MR. STACEY:
 6 A. It's a fast mouse.
 7 MS. FARRELL:
 8 A. It's a very fast mouse.
 9 MR. VOKEY:
 10 A. There we go.
 11 COMMISSIONER:
 12 Q. All right.
 13 EARLE, Q.C.:
 14 Q. If you look at the answers, and well, before
 15 we look at the answers, did you have any input
 16 into the survey questions?
 17 MS. FARRELL:
 18 A. The design was done by Helly Hansen. No, it
 19 was done by Helly Hansen.
 20 EARLE, Q.C.:
 21 Q. Okay. You would have received this survey
 22 result on or about June 3rd?
 23 MS. FARRELL:
 24 A. I reference in the update to the committee in
 25 August that we had a July meeting with Helly

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1 Hansen where we met and discussed the survey
 2 results. So I can't say that I saw it on June
 3 3rd. I can say there was a July meeting with
 4 Helly Hansen and that's where the results
 5 were.
 6 EARLE, Q.C.:
 7 Q. In any event, somewhere, June/July, it came to
 8 your notice?
 9 MS. FARRELL:
 10 A. Yes.
 11 EARLE, Q.C.:
 12 Q. And you -- because I believe you've been here
 13 for the entire hearing pretty well, Ms.
 14 Farrell. Is that correct?
 15 MS. FARRELL:
 16 A. In addition to my day job, yes.
 17 EARLE, Q.C.:
 18 Q. Yes, and you'll recall the exercise I went
 19 through with Mr. Collins on the first two
 20 answers?
 21 MS. FARRELL:
 22 A. Yes.
 23 EARLE, Q.C.:
 24 Q. And the fact of the matter is that when we
 25 look at it, we have 30 percent who strongly

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1 disagree or disagree that they have no
 2 difficulty completing the face seal for take
 3 off and landing, but we only have 22 percent
 4 who strongly disagree or disagree that I am
 5 able to pull zipper suit all the way to the
 6 top. So interestingly enough, an eight
 7 percent difference. When that came to you
 8 people, did that trigger any thought there may
 9 be an issue here other than the zipper?
 10 MS. FARRELL:
 11 A. As I said to you yesterday, the zipper was the
 12 primary focus because in the absence of a
 13 zipper that is -- or I guess, with a very
 14 stiff zipper, it is very difficult to achieve
 15 the face seal. So we were still investigating
 16 the extent to which the zipper -- one was, in
 17 fact, a knock on effect into the other, and so
 18 our focus was to try and get the zippers to
 19 relax to the point where we could then assess.
 20 EARLE, Q.C.:
 21 Q. But my question is, did that difference
 22 trigger any concern on your part that there
 23 might be an issue other than zippers that was
 24 leading to a poor face seal?
 25 MS. FARRELL:

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1 A. As I said, our focus was on the zippers and
 2 trying to correct the zippers. Then we would
 3 move to the next step.
 4 EARLE, Q.C.:
 5 Q. I take it then your answer is no.
 6 MS. FARRELL:
 7 A. I'm telling you that our focus was the
 8 zippers. It's consistent with what I told you
 9 yesterday.
 10 EARLE, Q.C.:
 11 Q. So let's go on to the June 21st minute, and
 12 you'll notice that the description of the
 13 action seems to have been expanded. It seems
 14 to be a little bit inconsistent with the way
 15 that the things are done elsewhere, but the
 16 action is now described "the Helly Hansen suit
 17 does not fit all personnel offshore. Custom
 18 sizes are required for some individuals who
 19 have unique sizing. Onshore follow up
 20 required. Please update this entry with
 21 actions to date." Then the May 31st response
 22 is there and I won't go through that. We've
 23 already been through that. And then we have
 24 the June 21st update, "committee felt this
 25 should remain open and tracked under the

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1 original number as it was an action more
 2 towards the size of the suit and having a
 3 custom suit made. Additional information
 4 provided by one of the committee members" --
 5 sorry. Yes, "additional information provided
 6 by one of the committee members was provided.
 7 One of the individuals who are requesting a
 8 custom suit has problems during the BST-R
 9 exiting the helicopter exercise. Suit came up
 10 over the individual's head during the
 11 exercise. The fit of the suit for some people
 12 is unacceptable. Is it possible to revert to
 13 the old suits for these individuals while
 14 waiting on certification for modifications?"
 15 So it seems to me now we have a new
 16 safety issue being in there, that the suit fit
 17 could be so poor as to present problems with
 18 egress. Do you agree with that?
 19 MS. FARRELL:
 20 A. There was a concern raised that an individual
 21 who was going through BST had a problem with a
 22 suit. The challenge with BST, and I think
 23 this has also come up in previous testimony,
 24 that we don't do a dedicated fit testing at
 25 Marine Institute. This specific request

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1 turned to "can I go back and use the old suit
 2 instead of using the suit that Marine
 3 Institute gave me?" to which we said "no, you
 4 can't do that."
 5 EARLE, Q.C.:
 6 Q. Why couldn't you do that?
 7 MS. FARRELL:
 8 A. If you'd like to go to the presentation that
 9 was attached to the August 2nd committee
 10 minutes, I think that'll tell you.
 11 Unfortunately, these have no page numbers, but
 12 if you turn to page four, it says suit
 13 modifications Terra Nova. It references a
 14 ProAct number and an additional question that
 15 was raised at the June OHS meeting. It says
 16 "the Mustang suits do not meet the
 17 certification standards, are no longer used in
 18 the east coast offshore environment and
 19 therefore will not be used during training."
 20 And then this goes on to talk about where we
 21 are with the issues with respect to the
 22 survey, with respect to the wrist seals, the
 23 work that we're doing in terms of suit
 24 modifications and the fact that we will
 25 continue to update people as we -

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1 EARLE, Q.C.:

2 Q. Are you saying that the Mustang suit lost its

3 certification?

4 MS. FARRELL:

5 A. The Mustang suit was not designed to the most

6 recent CGSB standard and we were looking for a

7 dual certified suit. We wanted a suit that

8 was certified to the marine and the aviation

9 standard.

10 EARLE, Q.C.:

11 Q. Yes. I realize you wanted a marine and

12 aviation standard suit. You decided to go

13 with a dual.

14 MS. FARRELL:

15 A. Yes.

16 EARLE, Q.C.:

17 Q. But -

18 MS. FARRELL:

19 A. So the Mustang suit couldn't meet that

20 standard.

21 EARLE, Q.C.:

22 Q. - the Mustang suit would still have met the

23 helicopter transportation suit standard.

24 MS. FARRELL:

25 A. It didn't meet the dual standard. That's what

Page 62

1 this was saying.

2 MR. VOKEY:

3 A. And I think it's fair to say -

4 EARLE, Q.C.:

5 Q. No, hold -- excuse me, Mr. Vokey. Ms.

6 Farrell, did the Mustang suit, at that point

7 in time, meet the helicopter transportation

8 suit -

9 MS. FARRELL:

10 A. The single standard, yes.

11 EARLE, Q.C.:

12 Q. Yes, thank you.

13 MS. FARRELL:

14 A. Not the dual standard that we had requested.

15 EARLE, Q.C.:

16 Q. Now Mr. Vokey?

17 MR. VOKEY:

18 A. No, the question is answered.

19 EARLE, Q.C.:

20 Q. Thank you. To modify Rumboldt, he who must be

21 obeyed has told me that we've reached break

22 time.

23 COMMISSIONER:

24 Q. We'll take 15 minutes.

25 (BREAK)

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1 COMMISSIONER:

2 Q. Yes, Mr. Earle.

3 EARLE, Q.C.:

4 Q. Okay. Just wondering if it was my job to turn

5 the mike on or it came on automatically. So

6 if we could go to the July 12th minutes and

7 we'll see that the July 12th update is

8 "awaiting response from onshore. Note: member

9 of this committee would prefer to have

10 certified suit and is prepared to wait" and

11 not much more added to it than that. Then we

12 go August 2nd 2008, the update, and you've

13 already referred to a presentation which was

14 not included with the minutes we received, but

15 thank you for adding it overnight. August 2nd

16 update "presentation reviewed. Background on

17 suit certification reviewed. Reviewed issues

18 raised with suit. Mustang suits will not be

19 used. Committee member raised the issue that

20 the process is taking too long for the people

21 who the suits do not fit. Issue is with the

22 certification and is being worked with the

23 applicable parties. Committee member stated

24 that there were other suits being used.

25 Follow up required. Action by ES&SR advisor."

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1 So you indicated that the position of

2 Suncor or Petro-Canada as it was, I believe at

3 that point in time, was that the suit that you

4 wanted to use had to be one with dual

5 certification?

6 MS. FARRELL:

7 A. That's correct.

8 EARLE, Q.C.:

9 Q. And if we go then to the August 23rd meeting

10 and we see that this August 23rd update

11 "Cougar confirmed that the only suit used by

12 the three operators, Hibernia, Husky and

13 Petro-Canada, for Terra Nova FPSO, Sea Rose,

14 Glomar Grand Banks, Henry Goodrich and the

15 Hibernia Platform is the HHE452." So this

16 appears to be a response to the suggestion by

17 a committee member that another suit was

18 available for use?

19 MS. FARRELL:

20 A. That's correct.

21 EARLE, Q.C.:

22 Q. And the presentation was again given to this

23 group because this is a reflection of the fact

24 that you have two parallel, if you will,

25 Occupational Health and Safety Committees

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1 meeting on basically a six-week rotation with
 2 a committee meeting every three weeks, but the
 3 individuals who will see -- be together, they
 4 get together every six weeks.
 5 MS. FARRELL:
 6 A. In our world, by virtue of our rotation
 7 schedule, we do most things twice.
 8 EARLE, Q.C.:
 9 Q. So then we go to September 12th and if we go
 10 to page two, you see the September 13th
 11 update, and I take it NTR means nothing to
 12 report?
 13 MS. FARRELL:
 14 A. That's correct.
 15 EARLE, Q.C.:
 16 Q. And October 4th, we get another NTR update.
 17 Correct?
 18 MS. FARRELL:
 19 A. That's correct.
 20 EARLE, Q.C.:
 21 Q. And then October 25th, "waiting for Transport
 22 Canada to set a meeting. No additional
 23 information at this time." I take it that the
 24 Transport Canada reference is about the issue
 25 of certification of a modified suit?

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1 MS. FARRELL:
 2 A. That's correct.
 3 EARLE, Q.C.:
 4 Q. Then if we go to November 15th, we have
 5 another NTR, correct?
 6 MS. FARRELL:
 7 A. Correct.
 8 EARLE, Q.C.:
 9 Q. And December 6th, we see that on December 6th,
 10 "presentation reviewed. Issue still being
 11 worked." We have no indication what the
 12 presentation was, unless it was that earlier
 13 presentation.
 14 MS. FARRELL:
 15 A. No, it was a separate presentation. Sorry, I
 16 just noticed that. That was the presentation
 17 where we said to individuals to bring forward
 18 your issues.
 19 EARLE, Q.C.:
 20 Q. And then it says "suits were discussed at the
 21 C-NLOPB session and they are aware of the
 22 issues with the suits and that all operators
 23 are having issues." So I take it this is an
 24 indication that this issue now has gone to the
 25 meeting that C-NLOPB has of all the

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1 Occupational Health and Safety Committees from
 2 all the offshore operations?
 3 MS. FARRELL:
 4 A. That's what I understand. I don't get to
 5 attend those meetings, and we actually don't
 6 get the minutes of them until sometime
 7 afterwards, but that's certainly what this
 8 appears to say.
 9 EARLE, Q.C.:
 10 Q. That's what you would take from this?
 11 MS. FARRELL:
 12 A. That's what I would interpret, yes.
 13 EARLE, Q.C.:
 14 Q. Then we say "if there are personnel who need
 15 modified suits because of physical attributes,
 16 names are to be forwarded to leads. Again,
 17 this is not related to comfort issues."
 18 MS. FARRELL:
 19 A. Um-hm.
 20 EARLE, Q.C.:
 21 Q. So it appears to be still on the table that
 22 suits don't fit because of the nature of the
 23 body of individual employees.
 24 MS. FARRELL:
 25 A. I think the presentation probably said it

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1 better. I'm not sure who wrote the minutes,
 2 but there's no question that we were trying to
 3 distinguish between people who had fit issues
 4 that impacted their mobility and their ability
 5 to perform in the suit from people who said "I
 6 think the wrist seals are too tight," those
 7 types of issues. So we were very clear in
 8 saying "bring forward your issues. We're not
 9 as concerned about the fact that the suits
 10 aren't comfortable. We're concerned about
 11 issues you have with the ability to don and
 12 operate in the suit."
 13 EARLE, Q.C.:
 14 Q. I think you will find that it's the EH&S
 15 advisor who sits and also acts as secretary to
 16 these meetings. So then we go to December
 17 27th. We have another NTR. And then January
 18 17th, we're now into 2009, NTR again. And
 19 February 7th doesn't appear to have been
 20 modified in any way. I don't know whether
 21 that's an indication of no discussion or -
 22 MS. FARRELL:
 23 A. There's certainly nothing in the minutes.
 24 EARLE, Q.C.:
 25 Q. And then our final minute, February 28th. "No

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1 names of people who have issues with the suit
 2 have been forwarded to onshore. One committee
 3 member stated that the lead was informed,
 4 ES&SR was informed and the committee also knew
 5 and could not understand how the name was not
 6 forwarded on." It sounds like somebody's
 7 pretty frustrated at this point and I suspect
 8 the minutes perhaps don't reflect the tone
 9 with which that statement was made. "The
 10 committee also thought that certification
 11 issues were being worked for a smaller size
 12 suit. This would allow for a greater choice
 13 in suit like the Mustang suits had. This was
 14 not the case. An e-mail will be sent out
 15 requesting those individuals that have trouble
 16 with suit sizing to forward their names to the
 17 ES&SR advisor"-- sorry, "and the ES&SR advisor
 18 will maintain and forward the list of names.
 19 The e-mail will be clear and not intended for
 20 issues such as stiff zippers and wrist seals."
 21 So clearly, at this point in time, the stiff
 22 zippers and wrist seals had been taken out of
 23 the picture, correct?
 24 MS. FARRELL:
 25 A. That's not the content of the e-mail that went

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1 out to staff. I was actually asked to draft
 2 the e-mail that was issued so that we could be
 3 clear about what it is we were asking for. So
 4 again, I don't write the minutes of the
 5 meeting, but I know that the e-mail that we
 6 sent, in terms of what we were asking people
 7 to identify for us, was clear.
 8 EARLE, Q.C.:
 9 Q. I'm not sure I understand what you're saying.
 10 Well, what did the e-mail say?
 11 MS. FARRELL:
 12 A. The e-mail essentially took the quote from the
 13 December meeting that was in the presentation
 14 about ability to don and perform in the suit.
 15 EARLE, Q.C.:
 16 Q. Well, why didn't it reflect that wrist seals
 17 and stiff zippers were not what it was about?
 18 MS. FARRELL:
 19 A. The e-mail?
 20 EARLE, Q.C.:
 21 Q. Um.
 22 MS. FARRELL:
 23 A. Because we wanted the workforce to bring
 24 forward their issues. Ultimately, if we ended
 25 up with comfort issues being part of what came

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1 forward, we were prepared to address those as
 2 well.
 3 EARLE, Q.C.:
 4 Q. Ms. Farrell, you've been associated with human
 5 resources and labour relations for a long time
 6 before moving into your current position, and
 7 in that field, you get a pretty good exposure
 8 to safety issues and behavioural issues in the
 9 workplace. Would you agree with me that even
 10 discomfort when it comes to safety care can be
 11 an issue which undermines safety?
 12 MS. FARRELL:
 13 A. I think there's a continuum. I know that I
 14 find the suit uncomfortable in the neck
 15 position. I don't believe that the discomfort
 16 that I find in the neck position compromises
 17 my safety. I actually find this suit to be a
 18 very effective suit for me.
 19 EARLE, Q.C.:
 20 Q. What I'm talking about is how people respond
 21 to discomfort when they're using safety gear.
 22 MS. FARRELL:
 23 A. And as I said, you know, if we ask people to
 24 bring forward issues, and at this stage we
 25 were prepared to listen to whatever people

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1 brought forward. We didn't suggest a
 2 template. We simply said "bring forward your
 3 issues, whatever they are."
 4 EARLE, Q.C.:
 5 Q. Now but I'm asking you to address a general
 6 principle of safety management, and I'll put
 7 it on a very simple level. If you got a
 8 person who is in the upper extremes, as I am,
 9 without much hair and you ask them to wear a
 10 hard hat and it's just got a hard plastic
 11 inside it, as opposed to one that has some
 12 sort of covering on it so it doesn't chafe, do
 13 we understand, as a safety principle, that
 14 you're going to get a better compliance if we
 15 use the one that's comfortable?
 16 MS. FARRELL:
 17 A. Again, there's degrees of discomfort. So it's
 18 a very broad question you're asking me.
 19 EARLE, Q.C.:
 20 Q. Um-hm.
 21 MS. FARRELL:
 22 A. What I can say is -
 23 EARLE, Q.C.:
 24 Q. It's a principle -- it's a question on the
 25 principle level. That's exactly it. It's

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1 intended to be broad.

2 MS. FARRELL:

3 A. And my principle with respect to the suit,

4 I've worn the suit, I've used it in my BST

5 recurrent, the suit is not comfortable, but I

6 find the suit particularly effective. So I'm

7 prepared to suffer some discomfort.

8 EARLE, Q.C.:

9 Q. Ms. Farrell, I'm sure that as a manager, you

10 don't evaluate the likely behaviour of

11 employees in the workplace on the basis solely

12 of how you react, but you work on the basis of

13 some of our knowledge about how people will

14 react generally to a situation.

15 MS. FARRELL:

16 A. Well, and on that, I can share with you, when

17 I did my BST and we're sitting there on the

18 pool deck waiting to do our HUET dunking, and

19 no one in the course knew who I was or what my

20 position was, without question, everyone said

21 "we don't like the suits because they're not

22 comfortable," but at least four individuals

23 said to me "but if I have to go in the water,

24 I'd prefer this suit." That was their direct

25 feedback, and as -- I mean, at this stage, I

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1 think it's easy to isolate the people that

2 were complaining about the comfort of the

3 suit. A large percentage of our workforce

4 actually really like these suits and as Mr.

5 Stacey said, saw them as an absolute

6 continuous improvement over where we were.

7 EARLE, Q.C.:

8 Q. But we also honour the principle in the

9 workplace that the safety of any one employee

10 is just as important as the safety of all the

11 other employees. So it's, I'm sure you will

12 agree, not a sufficient or appropriate answer

13 to say "well, the majority of people were okay

14 with these suits." We had to have everybody

15 okay with the suits.

16 MS. FARRELL:

17 A. And I think that's what we were trying to get

18 to.

19 EARLE, Q.C.:

20 Q. Yeah, okay. So looking back on it with, as

21 Mr. Stacey said, you know, the 20/20 hindsight

22 of after the fact, you know, I accept that's

23 one of the great things about being a lawyer

24 asking questions after a problem has happened,

25 you know, you have the luxury of 20/20

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1 hindsight, but the question -- I have a series

2 of questions for you, and I'll put them

3 together. Was there an issue with even

4 letting one person fly with a suit that didn't

5 fit?

6 MS. FARRELL:

7 A. I think that we did the best we could to

8 understand the issues and we've all learned

9 from this, and I think we have in place now a

10 practice that is recognized by the

11 Transportation Safety Board as a best

12 practice. So have we learned? I think we've

13 learned many things by virtue of what we've

14 been through, and I'd like to hope, frankly,

15 that through this Inquiry and this process, we

16 can continue to learn and continue to find

17 ways to improve.

18 EARLE, Q.C.:

19 Q. Okay, that's an answer to that question. Is

20 there, again with the luxury of 20/20

21 hindsight, is there something else that should

22 have been done, in terms of the

23 communication/education of people when these

24 new suits came in so that we would have had a

25 more informative response from people?

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1 MR. VOKEY:

2 A. I certainly think, on a go-forward basis,

3 based on what we've heard, based on what we've

4 learned, there can be and will be further

5 engagement. I think that's fair to say, yes.

6 MS. FARRELL:

7 A. And I actually think we have to extend that

8 into other areas, such as our basic survival

9 training, to make sure that everybody gets the

10 kind of instruction that I got, frankly, when

11 I went and did my BST, because for me, that

12 was probably the best instruction I could have

13 gotten in the most realistic circumstance. So

14 I think much more that we can do to improve.

15 EARLE, Q.C.:

16 Q. How do you people feel about the fact that C-

17 NLOPB got everyone of these minutes and had

18 the issue brought up at their joint meeting

19 and itself appears to have just let things go?

20 Again, with 20/20 hindsight -

21 MR. VOKEY:

22 A. As indicated the -

23 EARLE, Q.C.:

24 Q. - do you think they should have picked up on

25 something on this?

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1 MR. VOKEY:
 2 A. As indicated the other day, we have regularly
 3 quarterly meetings with the C-NLOPB. We also
 4 have ad hoc meetings with them to discuss
 5 issues. In each of those meetings, we would
 6 discuss issues like the flight suits, and they
 7 were brought up. I think it's fair that the
 8 Board recognized the complexity of the issue
 9 that we were dealing with. They were also
 10 satisfied with the integrity that we were
 11 putting into the evaluation, and as Ms.
 12 Farrell indicated, and hindsight is 20/20, but
 13 we did end up with a best practice, but we did
 14 continue to work the issue and I think that's
 15 reflected in the minutes here. You know,
 16 we've got hundreds and hundreds of things to
 17 talk about, but suits was always on the agenda
 18 and suits were important and they still are.
 19 EARLE, Q.C.:
 20 Q. Yeah. Now I'd like you to tell us a little
 21 bit more about the interaction with C-NLOPB on
 22 the suits, Mr. Vokey.
 23 MS. FARRELL:
 24 A. The July presentation that I think was
 25 attached to one of those sets of minutes was a

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1 specific request or in response to a specific
 2 request from the C-NLOPB to address the topic
 3 at our quarterly meeting. So when we go
 4 meet with them, we will present our
 5 environment, health and safety performance for
 6 the quarter and if they have topics that they
 7 want to talk to us about, they will simply say
 8 "and come prepared to tell us about the
 9 following topics." That's the way the
 10 meetings work. So we developed that
 11 presentation package. I do recall that there
 12 was considerable attendance by members of the
 13 Board. They understood the complexity of
 14 trying to work within a standard that is set
 15 by Transport Canada, aviation and marine, both
 16 divisions being different, and one seemingly
 17 much slower to respond than the other, and so
 18 they understood that we were working the
 19 issue, that we were continuing to engage the
 20 workforce and they expected follow up from us.
 21 EARLE, Q.C.:
 22 Q. Was there, to your knowledge, communication
 23 from C-NLOPB to your employees -
 24 MS. FARRELL:
 25 A. Certainly, I -

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1 EARLE, Q.C.:
 2 Q. - of their involvement on the issue? Because
 3 I have to tell you, in what's been made
 4 available to me, I haven't seen any evidence
 5 of it.
 6 MS. FARRELL:
 7 A. Obviously it was discussed at their annual
 8 meeting with the workforce and management reps
 9 of the OHS committees. The fact that they ask
 10 us as an operator "tell us what you're doing"
 11 I think suggests that they saw it as a
 12 significant concern and they wanted to make
 13 sure we were addressing it.
 14 EARLE, Q.C.:
 15 Q. But I find it interesting that they had you,
 16 as an operator, come in in July and the matter
 17 came up in the fall meeting of the
 18 Occupational Health and Safety Committee.
 19 Seems to me that there's not much
 20 communication of their involvement with this
 21 issue if in the fall people are coming back
 22 and raising it almost as if it's a first time
 23 of going to C-NLOPB.
 24 MS. FARRELL:
 25 A. I really think you need to ask the Board what

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1 they were hearing and doing. I know from our
 2 perspective, as the regulator of our operating
 3 license, they were certainly holding our feet
 4 to the fire saying "what are your issues and
 5 what are you doing?"
 6 EARLE, Q.C.:
 7 Q. Okay. Let's turn to another area now, and
 8 this is with respect to the number of
 9 helicopters. As I understand your evidence,
 10 you have regularly scheduled flights Monday to
 11 Friday.
 12 MR. VOKEY:
 13 A. Yes.
 14 MR. STACEY:
 15 A. Yes, that's correct.
 16 EARLE, Q.C.:
 17 Q. And the helicopter capacity with the tank in,
 18 which seems to be more the norm than the
 19 exception, is 17 persons.
 20 MR. VOKEY:
 21 A. Yes.
 22 EARLE, Q.C.:
 23 Q. So, and you have a POB of 120?
 24 MR. VOKEY:
 25 A. Maximum during operations, yes.

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1 EARLE, Q.C.:

2 Q. Maximum during operations. What's the norm

3 like, Mr. Vokey?

4 MR. VOKEY:

5 A. Probably around 115-116.

6 EARLE, Q.C.:

7 Q. 115. So that you've got a regular workforce

8 and then people tell me that on just about

9 every flight, there's one or two people who

10 are headed out as vendor representatives or

11 working for one of your contractors who are

12 out for a short visit, that might be two-three

13 days, might be a week, but not necessary a

14 full hitch. Would you agree with that?

15 MR. VOKEY:

16 A. I can't comment on what it is today, but when

17 I was an offshore installation manager, that

18 would be typical, yes.

19 EARLE, Q.C.:

20 Q. So fair statement that in a typical 21-day

21 period, we're talking about moving somewhere

22 around 125-130 people in each direction.

23 MR. VOKEY:

24 A. Say that again, please?

25 EARLE, Q.C.:

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1 Q. In a typical 21-day hitch, you have your

2 regular group who they will move once in a

3 rotation, plus when you add in these people

4 who are out for short trips, that the total

5 number of people who will fly during that 21-

6 day period in each direction and for each

7 direction is somewhere in the range of 125-130

8 people?

9 MR. VOKEY:

10 A. I think if you check, you know, with Cougar,

11 it would be higher. The exact number, I don't

12 know, but it would be higher than 125.

13 EARLE, Q.C.:

14 Q. Okay, that's fine. So five days of flights a

15 week in a 21-day period, on average, you're

16 talking 15 flights for passengers.

17 MR. VOKEY:

18 A. Okay.

19 EARLE, Q.C.:

20 Q. So doing the math in my head, which is always

21 dangerous, I make that about 255 seats each

22 way per hitch. 17 times 15.

23 MR. VOKEY:

24 A. You're close.

25 EARLE, Q.C.:

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1 Q. Yeah. So you know, with more than 130 moving

2 back and forth, it doesn't take much in the

3 way of a weather interruption to get you

4 backlogged, does it?

5 MR. VOKEY:

6 A. That's correct.

7 EARLE, Q.C.:

8 Q. And when you get fog, three days of no

9 flights, this is not unusual, is it?

10 MR. VOKEY:

11 A. Certain times of the year, that's right.

12 EARLE, Q.C.:

13 Q. Certain times of the year. I gather summer or

14 what passes for summer is the worst for fog.

15 MR. VOKEY:

16 A. Yes, from say May to August would be the

17 worst, but fog, we get fog every month.

18 EARLE, Q.C.:

19 Q. Our best time of the year is a good fishing

20 making time, September month. So surely, if

21 you had another helicopter available, when

22 you're dealing with backlogs, you have another

23 17 seats. It seems to me that you could avoid

24 night flying. I mean, it might be an extra

25 two days instead of one to get 34 extra seats.

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1 MR. VOKEY:

2 A. Is there a question there?

3 EARLE, Q.C.:

4 Q. Yeah, the question is, am I out to lunch on

5 that? Am I all wrong?

6 MR. VOKEY:

7 A. I'll answer the question. As Mr. Pritchard

8 indicated in the joint panel last week, there

9 is a potential to be backlogged as many as

10 eight-nine-ten helicopters. You know, if

11 we've got, you know, two or three flights to

12 our assets in the day, our operations, say the

13 Henry Goodrich and the FPSO, Hibernia's got

14 two or three flights, and if you don't get

15 flights in for two or three or four days like

16 you indicate, you know, the backlog that

17 you're talking about is not just one flight or

18 two flights. They can be into the double

19 digits and we take great effort to manage it

20 such that it's not, and most times like that,

21 we will transport people by vessel to ensure

22 that we don't create that type of backlog.

23 But having one additional helicopter, when

24 you've got ten flights backlogged, is not

25 going to do anything for you, and when you're

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1 talking to me, you're talking about one asset
 2 like Terra Nova. So then Hibernia's got an
 3 issue, Glomar Grand Banks, Henry Goodrich, Sea
 4 Rose, so it's not just one asset. We take a
 5 look at all the people that move to and from
 6 and having an additional helicopter, while it
 7 might quite conceivably mitigate one or two or
 8 probably three night flights, you still have
 9 that backlog that you have to mitigate and you
 10 will still be required to do night flights to
 11 mitigate.
 12 EARLE, Q.C.:
 13 Q. Do you accept that there is an issue with
 14 night flights beyond the absence of auto hover
 15 for rescue purposes, in that the visual
 16 reference for a pilot in a ditching
 17 circumstance poses some of the same problems
 18 that are posed in the rescue situation?
 19 MR. VOKEY:
 20 A. I think you'll have to ask Cougar that
 21 question. They're the specialists in that
 22 area. But we do manage our business overall
 23 and Cougar has no issues whatsoever with night
 24 flying provided the other criteria conditions
 25 that we talked about previously are met and

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1 that we do have SAR backup, weather conditions
 2 are favourable, and things of that nature.
 3 EARLE, Q.C.:
 4 Q. Are the -- from your perspective, are the
 5 weather conditions criteria the same for night
 6 flying as they are for day flying?
 7 MR. VOKEY:
 8 A. For Terra Nova, I can speak on behalf of Terra
 9 Nova, for the FPSO, the criteria is more
 10 stringent for night flying and it's not as
 11 much as the weather, it's vessel motion. All
 12 the vessel movements for motion are cut in
 13 half for night flying. So if it's three
 14 degrees pitch and roll during the day, it's
 15 one and a half at night. If it's 12 metre
 16 heave at an acceleration of one metre per
 17 second, that's cut in half during the night.
 18 EARLE, Q.C.:
 19 Q. From Terra Nova's perspective, is sea state
 20 only a vessel -- when I say vessel, I mean
 21 FPSO, a vessel movement issue?
 22 MR. VOKEY:
 23 A. No, it's also, and I think it was discussed in
 24 previous panels, it is also about recovery
 25 and, you know, we do have FRCs and we do have

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1 DACON scoops on the standby vessels.
 2 EARLE, Q.C.:
 3 Q. So do you multiply sea state for those
 4 purposes for issues of night flying? I mean,
 5 does it have an increased -
 6 MR. VOKEY:
 7 A. No.
 8 EARLE, Q.C.:
 9 Q. - lack of tolerance, if you will?
 10 MR. VOKEY:
 11 A. No, it wouldn't be six metres in the day and
 12 four metres at night. You know, it's six
 13 metres.
 14 EARLE, Q.C.:
 15 Q. Okay. Now if we could go to slide 23?
 16 REGISTRAR:
 17 Q. Of the PowerPoint presentation?
 18 EARLE, Q.C.:
 19 Q. Of the PowerPoint presentation, yes, please.
 20 REGISTRAR:
 21 Q. 23?
 22 EARLE, Q.C.:
 23 Q. 23, 2-3. You talk about the right to know.
 24 "All workers have the right to know about any
 25 potentially hazardous situation which may be

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1 encountered in the workplace and the level of
 2 risks associated with the hazards. On an
 3 ongoing basis, all hazards reported are
 4 summarized on a daily TLM report, which is
 5 reviewed at each shift handover." Do you
 6 consider that to extend to hazards related to
 7 helicopter flying?
 8 MR. VOKEY:
 9 A. Go ahead.
 10 MR. STACEY:
 11 A. I think as we said earlier that it depends on
 12 the situation where the hazard would be
 13 reported. Certainly things that our employees
 14 bring forward to us, we recognize those issues
 15 and are interested in hearing from them.
 16 EARLE, Q.C.:
 17 Q. Well, I'm thinking particularly of the items
 18 which you, now with Suncor's aviation support,
 19 if we can go to Tab 44, or sorry, slide 44 of
 20 your presentation? You'll see under aviation
 21 support, the second two items. Have you got
 22 that there?
 23 MS. FARRELL:
 24 A. Yes.
 25 EARLE, Q.C.:

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1 Q. "Tracking of all service bulletins and
 2 airworthiness directives mandated by
 3 regulatory authorities and providing a risk
 4 assessment and mitigation plans for all
 5 bulletins. Providing ongoing civil aviation
 6 defect occurrence reports, CADOR, monitoring."
 7 Would you consider these bits of information
 8 to be encompassed in the employee's right to
 9 know, as it relates to helicopter
 10 transportation?
 11 MS. FARRELL:
 12 A. I can probably help out here. Prior or post
 13 return to service, what we did within Suncor
 14 is set up a single ProAct and we've indicated
 15 to our OHS committees and in our general
 16 safety meetings any updates that we have with
 17 respect to helicopter operations, we will
 18 provide it through that ProAct. So for
 19 example, before Christmas, there was an update
 20 that went in in relation to some enhancements
 21 that Sikorsky was making to the S-92. So we
 22 summarized those, put them in that ProAct. We
 23 will generally cover them at the OHS committee
 24 minutes or meetings and our general safety
 25 meetings as well. That's part of our

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1 commitment in terms of communication.
 2 EARLE, Q.C.:
 3 Q. Let me bring you to a specific example. We
 4 all know about the cracks in the mounting of
 5 the gearbox that have been -- there's a
 6 direction now that that be -- these parts of
 7 the helicopter be checked every ten hours of
 8 flying. So under your new regime, would that
 9 information flow out to the employees?
 10 MS. FARRELL:
 11 A. It's there.
 12 EARLE, Q.C.:
 13 Q. And that, I take it, is a chance?
 14 MS. FARRELL:
 15 A. We committed in our return to service --
 16 people wanted to know more, so we said that's
 17 our commitment, and if there is a question and
 18 we haven't been on top of it in terms of
 19 getting it out quickly, it typically gets
 20 raised through ProAct, so one way or the other
 21 it's out there.
 22 EARLE, Q.C.:
 23 Q. If we could turn to the HUEBA, and back in
 24 2003, in Mr. Barnes evidence, there was a
 25 decision made by CAPP, and I'm not going to

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1 get into a semantic debate about what was
 2 meant by implementation at that point in time
 3 because I'm going to refer you to his answer.
 4 There was a decision made by CAPP to put a
 5 worker representative on an implementation
 6 committee, and indeed going back to your
 7 Occupational Health and Safety Committee
 8 Minutes for that time period demonstrates that
 9 the issue came forward to your committee and
 10 names were solicited and it even records a
 11 gentleman who was a union activist at the
 12 time, Sean Barry, put forward his name as
 13 being a volunteer for that purpose, and then
 14 HUEBA comes off the involvement until 2009
 15 when we are actually into implementation. Now
 16 the statement was made by Mr. Barnes in his
 17 evidence that the operators had decided to
 18 involve employees through their occupational
 19 health and safety committee process to HUEBA
 20 issues. Can you offer anything as to why
 21 there does not appear to have been any
 22 interaction with the occupational health and
 23 safety structure over all that period on the
 24 HUEBA?

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1 MR. VOKEY:
 2 A. I think I said during the joint testimony
 3 there reference was to have a worker rep
 4 available for implementation. We also heard
 5 testimony that it came off the rails right
 6 after that, and actually went back to the
 7 individual companies for them to assess
 8 potential medical risk, and typically for
 9 something like that, the engagement would
 10 happen after we had a solution and at that
 11 point there was no solution.
 12 EARLE, Q.C.:
 13 Q. So you don't see a role for employees in the
 14 process where, for instance, a decision would
 15 be made on a rebreather or a hybrid or a
 16 compressed gas type unit?
 17 MR. VOKEY:
 18 A. Those units are extremely technical. There's
 19 a lot of issues to be addressed, and, you
 20 know, notwithstanding the time, there were a
 21 lot of evaluations done. On a go forward
 22 basis as a continuous improvement, and I think
 23 you'll see the difference between 2003 and
 24 today, there is significant further worker
 25 engagement over the last seven years and it's

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1 a continuous improvement initiative for us.
 2 EARLE, Q.C.:
 3 Q. Pardon?
 4 MS. VOKEY:
 5 A. We continue to engage our people. It is a
 6 continuous improvement. We engage today more
 7 than we did historically in the industry, and
 8 I believe today we engage our people quite
 9 fully.
 10 MS. FARRELL:
 11 A. I think if I could just add to that, we've all
 12 acknowledged that HUEBA wasn't a very good
 13 example for a variety of reasons. I'm not
 14 sure that any of us sitting here can address
 15 why somebody was put forward in 2003, why it
 16 fell off the Minutes of the meeting or
 17 whatever. I think we've all indicated that
 18 we've got a lot to learn from this example,
 19 but I actually think that our OHS Committee on
 20 the Terra Nova FPSO is a fully engaged
 21 committee, and I've got to be honest, I think
 22 they add a huge amount of value, and we commit
 23 to that engagement, we continue that
 24 engagement. HUEBA, not a great example, let's
 25 learn what we can from it and move forward,

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1 and I think that's what we committed.
 2 EARLE, Q.C.:
 3 Q. You've answered the question I have then.
 4 What I'm hearing you saying is, again with the
 5 20/20 hindsight, you see merit in further
 6 level of worker involvement in earlier stages?
 7 MS. FARRELL:
 8 A. Two great examples; the water ingress testing
 9 of the E-452 suit, the water ingress testing
 10 on the HTS-1 suit, the OHS Committee worker
 11 reps were there, attended, monitored. I think
 12 those are great examples.
 13 EARLE, Q.C.:
 14 Q. And while comparisons are all it is, Ms.
 15 Farrell, I would have to say having gone
 16 through Minutes of both organizations, I would
 17 certainly agree that your Occupational Health
 18 and Safety Committee system is a robust one,
 19 and there are not a lot of shrinking violets
 20 on your committees.
 21 MR. VOKEY:
 22 A. And that's what we're looking for. We look
 23 for people to give us feedback as to what
 24 we're doing.
 25 EARLE, Q.C.:

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1 Q. The next area is the zero harm cards. Do you
 2 accept that there have been issues with the
 3 zero harm cards to the extent that, you know,
 4 there's actually been a push by management
 5 members of occupational health and safety
 6 committee saying to the employee members, now
 7 you fellow got to lead the way on this, and we
 8 expect to see a couple of these cards from you
 9 every hitch?
 10 MR. VOKEY:
 11 A. Yes, and we don't apologize.
 12 MR. STACEY:
 13 A. We encourage and expect participation in our
 14 exposure-based safety program, and the zero
 15 harm card is a great example of how we try to
 16 seek that out from the workforce.
 17 EARLE, Q.C.:
 18 Q. And are you satisfied that you have eliminated
 19 the snitch factor, or are you just in a
 20 position where you're saying it's something
 21 that we will have to continue to work against?
 22 MR. STACEY:
 23 A. I think any engagement we have with the
 24 workforce and with safety is something that
 25 requires constant stewardship. The only way

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1 that we improve is by paying attention to it
 2 and by listening to the workforce and
 3 encouraging, and we'll continue to do that.
 4 MR. VOKEY:
 5 A. If I can add to that, we do have internal
 6 empirical validation that the more hazards
 7 that are identified in the workplace, that the
 8 frequency of incidents is drastically reduced,
 9 so the higher reporting, the lower frequency
 10 of incidents. So if we mandate that people
 11 have to report hazards, I'm not going to
 12 apologize for that. We get the results that
 13 we're looking for.
 14 EARLE, Q.C.:
 15 Q. Those are my questions, gentlemen, and Ms.
 16 Farrell.
 17 MS. FARRELL:
 18 A. Thank you.
 19 MR. STACEY:
 20 A. Thank you.
 21 MR. VOKEY:
 22 A. Thank you.
 23 COMMISSIONER:
 24 Q. Thank you, Mr. Earle.
 25 EARLE, Q.C.:

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1 Q. I don't often pitch one right over the plate
 2 for someone to hit the centre field like that.
 3 COMMISSIONER:
 4 Q. Now counsel for the families?
 5 MR. MARTIN:
 6 Q. I have no questions, Mr. Commissioner.
 7 COMMISSIONER:
 8 Q. No questions. Counsel for the estates of the
 9 pilots?
 10 MS. O'BRIEN:
 11 Q. Yes, Commissioner.
 12 MR. GARY VOKEY, MR. BRIAN STACEY, MS. MICHELE FARRELL:
 13 EXAMINATION BY MS. KATE O'BRIEN:
 14 MS. O'BRIEN:
 15 Q. Thank you, panel. Kate O'Brien. I'm here
 16 representing the families of the deceased
 17 flight crew. In the course of your
 18 presentation yesterday, at some point one of
 19 you said that Cougar is somewhat different
 20 from the other contractors. So my first area
 21 of questioning is really to kind of flesh out
 22 some of those differences. The one that you
 23 specifically mentioned yesterday is that
 24 they're regulated by a different body, they're
 25 regulated by Transport Canada?

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1 MR. VOKEY:
 2 A. That's correct. I think they were my
 3 comments.
 4 MS. O'BRIEN:
 5 Q. Okay, and I believe at that time Mr. Roil
 6 suggested to you that one other difference was
 7 that the don't spend as much time on the FPSO.
 8 Do you consider that to be a difference in how
 9 they are - you know, from the other
 10 contractors?
 11 MS. FARRELL:
 12 A. No, we don't. We have a lot of contractors
 13 that come out for day visits or overnight. We
 14 would like to think, you know, that anybody
 15 that comes on that installation are treated
 16 the same, and that's our intent.
 17 MS. O'BRIEN:
 18 Q. Okay, and in the panel presentation, I believe
 19 it was said, not by you, Mr. Vokey, but by Mr.
 20 Sacuta, that the operators are concerned with
 21 really only two elements of safety equipment
 22 worn by the pilots, those being the flight
 23 suits and the life vests. Would you agree
 24 with that?
 25 MR. VOKEY:

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1 A. That's the two that I'm familiar with, yes.
 2 MS. O'BRIEN:
 3 Q. Okay, and Mr. Sacuta said that there was a
 4 requirement that those two pieces of equipment
 5 be certified by Transport Canada. Do you agree
 6 with that?
 7 MR. VOKEY:
 8 A. That was certainly our belief during that
 9 testimony. However, during follow-up, it has
 10 come to our attention that the life vests are
 11 certified by Transport Canada, but there is no
 12 certification body that looks at the suits,
 13 and we've been -- I've had discussions
 14 subsequent to that with Cougar, and all they
 15 indication to me is that they are working the
 16 issue and they would be more than willing to
 17 talk about it during their testimony.
 18 MS. O'BRIEN:
 19 Q. Okay, so from the operator's perspective, do
 20 you have any requirements at all with respect
 21 to the suits that the flight crew wear?
 22 MR. VOKEY:
 23 A. No.
 24 MS. O'BRIEN:
 25 Q. Okay, so really there's only one piece of

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1 safety equipment that the operators are
 2 concerned with respect to the pilots and
 3 that's the life vests?
 4 MR. VOKEY:
 5 A. No, I think we're concerned with the suits as
 6 well as the life vests. It is important for
 7 us that what they wear would meet their needs.
 8 MS. O'BRIEN:
 9 Q. Okay, but have you had -- you're saying that
 10 you know that the life vest -- I understood
 11 what you were saying was that the life vest,
 12 that you want to be satisfied that it meets
 13 Transport Canada's certification?
 14 MS. FARRELL:
 15 A. I think in Mr. Sacuta's testimony, he was
 16 saying that we, as operators, focus on Cougar
 17 meeting their regulatory requirements. The
 18 life vest is a part of their regulatory
 19 requirement. The suits themselves, though,
 20 are not, and I think that's about the
 21 clarification. So we're concerned that Cougar
 22 holds all aspects of what's required to meet
 23 their certification, whether it's for the
 24 equipment or the technology that they use.
 25 The details in terms of the suits is not

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1 something that we would address. That's
 2 between Cougar and the pilots.
 3 MS. O'BRIEN:
 4 Q. Okay.
 5 MR. FARRELL:
 6 A. So they would have been able to address that.
 7 MS. O'BRIEN:
 8 Q. Okay, so that's -- that's what I'm trying to
 9 get at.
 10 MR. VOKEY:
 11 A. Okay, my apologies.
 12 MS. O'BRIEN:
 13 Q. So the issue of flight suits and whether the
 14 flight suits that they wear are up for the
 15 job, you consider that to be an issue between
 16 Cougar and the pilots and not a concern of
 17 yours?
 18 MR. VOKEY:
 19 A. That's --
 20 MS. FARRELL:
 21 A. It's not a regulatory requirement that we can
 22 monitor.
 23 MS. O'BRIEN:
 24 Q. Okay. So because there's no regulation on it,
 25 you don't feel you can monitor it, so you

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1 leave that between Cougar and the pilots?
 2 MR. VOKEY:
 3 A. That's left in Cougar's world, that's correct.
 4 MS. O'BRIEN:
 5 Q. Okay. The life vests, because there is
 6 regulation around them, you have -- it's your
 7 concern to the extent that you want to make
 8 sure those life vests do meet that regulation?
 9 MS. FARRELL:
 10 A. All aspects of regulatory compliance.
 11 MS. O'BRIEN:
 12 Q. Right, okay. So for flight suits, no
 13 regulations, so that's not your concern. What
 14 about the personal locator beacons, do you
 15 know if the pilots wear those?
 16 MR. VOKEY:
 17 A. I'm not aware.
 18 MS. O'BRIEN:
 19 Q. Okay, would that be something that you'd say
 20 was just a concern between Cougar and the
 21 pilots?
 22 MS. FARRELL:
 23 A. I think we're probably not the best position
 24 to respond. It's something that you probably
 25 would want to pursue with Cougar. They would

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1 be closer to this than either of us would be.
 2 MS. O'BRIEN:
 3 Q. I understand that, and I certainly will be
 4 asking these questions of Cougar, but what I'm
 5 really asking you about is to what extent the
 6 operators, and in this case Suncor, sees
 7 itself as having some responsibility or some
 8 involvement in those issues. So if you're
 9 telling me we don't, that answers my question
 10 right there, but I'm just trying to clarify at
 11 this point?
 12 MR. VOKEY:
 13 A. Okay, when the pilots come on our facility,
 14 when they land at our facility, we take full
 15 accountability for everything the pilots do,
 16 and we are part and parcel of the
 17 disembarking, the refuelling, the shutting
 18 down, the starting up of helicopters, and on
 19 occasion the pilots do come into our facility
 20 and once they hit the helideck they are part
 21 and parcel of our crew. Up to that point,
 22 from our perspective, they are covered by
 23 their company, Cougar, and Transport Canada,
 24 and the other regulatory bodies.
 25 MS. O'BRIEN:

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1 Q. Okay. So do you take any involvement in
 2 whether or not or any concern in whether or
 3 not they wear personal locator beacons, or do
 4 you consider that a Cougar -- an issue between
 5 Cougar and its pilots?
 6 MR. VOKEY:
 7 A. That would be between Cougar, the
 8 certification authorities, and their pilots.
 9 We don't get involved in that.
 10 MS. O'BRIEN:
 11 Q. Similarly for the HUEBA?
 12 MR. VOKEY:
 13 A. That's correct, yes.
 14 MS. O'BRIEN:
 15 Q. And also for helmets?
 16 MR. VOKEY:
 17 A. Correct.
 18 MS. O'BRIEN:
 19 Q. Okay. Are there any other -- so we've just
 20 identified for this particular contractor
 21 there was a number of pieces of safety
 22 equipment for which you, as operators, don't
 23 see yourself as being concerned with. Are
 24 there any other of your subcontractors for
 25 whom you don't have any requirements or any

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1 say into what safety equipment that they wear?
 2 MR. VOKEY:
 3 A. No, if they're transported either by
 4 helicopter that's on contract to us or by
 5 supply vessel and they're on our installation,
 6 they adhere to our policies, procedures, and
 7 practices.
 8 MS. O'BRIEN:
 9 Q. Okay, so just to be clear, is Cougar the only
 10 subcontractor for whom you don't take control
 11 and responsibility for safety equipment?
 12 MS. FARRELL:
 13 A. We would expect to see that they're audited,
 14 we would expect to see that if there are
 15 deficiencies, they're correct. That would
 16 apply to Cougar, that would apply to the
 17 company that supplies the drilling rig to us,
 18 it would apply to any of our contractors, but
 19 our due diligence would be more from an audit
 20 perspective than it would be from a regulatory
 21 compliance. While the workers are working
 22 within their own company's work site, that
 23 company is accountable for the management of
 24 its workers.
 25 MS. O'BRIEN:

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1 Q. I don't know if you just answered yes or no to
 2 my question.
 3 MR. STACEY:
 4 A. Maybe I could add a little more. I would go
 5 down the exact same theme as Ms. Farrell, that
 6 for the drilling rig, for instance, because we
 7 were talking specifically about helicopter
 8 transportation, on the drilling rig we would
 9 certainly be interested in the personal
 10 protective equipment that would be used to
 11 execute a given work scope, but TransOcean as
 12 the contractor managing the rig and running,
 13 for instance, a mechanic working in an area
 14 doing work on an engine, it would be
 15 TransOcean's responsibility to lay out and set
 16 out the specific personal protective
 17 equipment, the gloves, the eye protection, the
 18 other things that their employees would use to
 19 execute that work.
 20 MS. O'BRIEN:
 21 Q. Okay.
 22 MR. STACEY:
 23 A. We would have an oversight view of that, but
 24 it would be that contractor's responsibility.
 25 MS. O'BRIEN:

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1 Q. Okay, that's very responsive to my question.
 2 I understood that answer. Your oversight view
 3 that you would take in that situation, is that
 4 the same as the oversight view you would take
 5 for Cougar, or is there a difference? I'm
 6 trying to --
 7 MR. VOKEY:
 8 A. I think it's fair to say in the case of Cougar
 9 being a specialty type of service that is
 10 under the certification of Transport Canada
 11 Aviation, Cougar would be viewed somewhat
 12 different.
 13 MS. O'BRIEN:
 14 Q. Okay, all right. Similarly with the -- when I
 15 looked into the training standards, there is
 16 really specific requirements for, it looked to
 17 me, just about every position on the FPSO.
 18 Would that be correct?
 19 MS. FARRELL:
 20 A. That's our intent.
 21 MR. VOKEY:
 22 A. That's our intent, yes.
 23 MS. O'BRIEN:
 24 Q. But there's nothing in there that covers pilot
 25 training requirements, correct?

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1 MS. FARRELL:
 2 A. That's correct.
 3 MS. O'BRIEN:
 4 Q. Okay, so I take it you leave what's required
 5 for training and experience of the pilots up
 6 to Cougar, is that right?
 7 MR. VOKEY:
 8 A. The technical experience, you're referencing?
 9 MS. O'BRIEN:
 10 Q. Yes.
 11 MR. VOKEY:
 12 A. Yes, that would totally be between Cougar and
 13 the certification authorities that certify the
 14 pilots to fly on our specific aircraft, that's
 15 correct.
 16 MS. O'BRIEN:
 17 Q. Okay. Would there be -- I'm going to ask,
 18 actually, maybe if we could bring up Exhibit
 19 140, which is -- that's the contract between
 20 Petro-Canada and Cougar, and if I could ask to
 21 go to page 35 out of 36. I think I should be
 22 at - sorry. I'm just going to read there on
 23 what's numbered page 10. So it's on your left
 24 hand side. It says there that, "Appendix II
 25 of Exhibit 1, scope of services, crew

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1 qualification/experience" is hereby deleted
 2 and replaced with a revised, "crew
 3 qualifications, experience, specific to the
 4 operations of the helicopter as contained in
 5 attachment "B" to the amendment". Now I can
 6 tell you that there was no attachment "B" to
 7 this contract, and I spoke to your counsel
 8 today and was supplied it, and it really just
 9 says, "will be supplied", there's no substance
 10 to what the training qualifications and
 11 experience is required. It says, "Will be
 12 provided by Cougar", and I understand it's not
 13 yet known whether Cougar ever did provide you
 14 with any detail on the qualification and
 15 experience of its pilots.
 16 MR. VOKEY:
 17 A. The first I heard of this was this morning,
 18 and I have no knowledge of it.
 19 MS. O'BRIEN:
 20 Q. Okay. I would ask if we could have an
 21 undertaking to find out whether or not Cougar
 22 ever did supply you with that information.
 23 For the record, what I'm looking for is to
 24 find out -- as part of your contract with
 25 Cougar there was a section there that referred

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1 to crew qualifications and experience, and the
 2 contract as I've seen it, indicates that that
 3 would be provided by Cougar, and I want to
 4 know was it ever provided to you by Cougar.
 5 MR. VOKEY:
 6 A. Okay.
 7 MS. O'BRIEN:
 8 Q. So in this case from what we're seeing to
 9 date, and I understand we don't have all the
 10 information before us today, but it seems that
 11 you leave what's necessary for these pilots in
 12 terms of their qualifications, in terms of
 13 their experience, up to Cougar to decide and
 14 dictate?
 15 MR. VOKEY:
 16 A. That's correct.
 17 MS. O'BRIEN:
 18 Q. Okay. Would that be the case with any of your
 19 other -- with any of the other offshore
 20 workers who are actually employed by other
 21 subcontractors? Would you leave the decision
 22 as to what level of experience, training,
 23 qualification that is necessary up to just the
 24 subcontractor do decide, or would Cougar -- or
 25 is this another example of how Cougar is

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1 unique?
 2 MS. FARRELL:
 3 A. If they're working in the offshore area, they
 4 have to comply with the training and
 5 qualification standard practice, and our
 6 regulator will audit us or our contractors to
 7 make sure that that happens. So we control
 8 the training and qualifications with respect
 9 to offshore operations. If it's an onshore
 10 operation and people work in an onshore
 11 environment, we expect the contractors to set
 12 those standards.
 13 MS. O'BRIEN:
 14 Q. Okay, but, I mean, when someone is up in an
 15 helicopter, do you consider that onshore or
 16 offshore?
 17 MS. FARRELL:
 18 A. Well, I guess what we're saying is we believe
 19 that aviation regulation sets out a series of
 20 things and we expect Cougar to comply with
 21 those, and we monitor for compliance to those.
 22 If the pilots come into our jurisdiction, then
 23 we have to take an accountability to make sure
 24 that they have what's required for them when
 25 they're in the offshore jurisdiction.

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1 MS. O'BRIEN:
 2 Q. Okay, I'm still not sure you answered my
 3 question, so I'm going to re-ask it again.
 4 What I'm wondering is -- I take from this that
 5 for Cougar -- with your contract with Cougar
 6 in terms of the level of qualifications and
 7 experience, and I understand they have to be
 8 licensed pilots, you know, they're not handing
 9 over the helicopter to anyone, and I'm not
 10 taking any issue with the level of their
 11 qualifications, that's something we can
 12 explore with Cougar, but I'm just wondering --
 13 what I'm hearing is that you leave the
 14 decision as to what is required perhaps over
 15 and above -- maybe Cougar has much more
 16 rigorous standards than just having a pilots
 17 licence, they're probably looking for pilots
 18 with experience and other things that we all
 19 look for on resumes over the bare educational
 20 requirements. So in terms of what standard
 21 Cougar is requiring, you leave that decision
 22 to them?
 23 MS. FARRELL:
 24 A. That's correct.
 25 MS. O'BRIEN:

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1 Q. So my question is are they unique amongst your
 2 subcontractors in that regard, are there any
 3 other subcontractors for whom you leave the
 4 decisions about qualifications and trainings
 5 exclusively up to the subcontractor?
 6 MR. VOKEY:
 7 A. I think as Ms. Farrell said, you know, the
 8 subcontractor is working on our facility.
 9 They are also required to follow the CAPP
 10 training qualification standards and
 11 guidelines. So we audit our subcontractors,
 12 the Board also audits, but the expectation is
 13 they do meet a certain standard, and the same
 14 applies to the helicopter pilots as it relates
 15 to Transport Canada certification, and any
 16 requirements Cougar may have. I just want to
 17 note here the aviation safety review team that
 18 did the review of Cougar, one of their very
 19 strong points on Cougar is that they found,
 20 and it was identified in the HOTF Report, that
 21 they did find the pilots to be well trained
 22 and qualified.
 23 MS. O'BRIEN:
 24 Q. Sure, and like I say, that's --
 25 MR. VOKEY:

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1 A. But it -- from our perspective, it's between
 2 Cougar and the certification authorities.
 3 MS. FARRELL:
 4 A. Perhaps I can give an example. We would not
 5 expect to set the qualifications for the
 6 instructors at Marine Institute. We would
 7 expect Marine Institute to determine the level
 8 of expertise and experience of the instructors
 9 that they put into our training programs. We
 10 will audit Marine Institute, and we will look
 11 at the training of their instructors. If we
 12 find that there's some gap or concern, we
 13 would raise that through an audit, but we
 14 don't set the requirements for instructors.
 15 MS. O'BRIEN:
 16 Q. I think that's a good example. So what you're
 17 saying, I think, is Cougar is not unique, that
 18 there is other of your subcontractors, such as
 19 Marine Institute, for whom you leave it up to.
 20 Okay. Looking at the Occupational Health and
 21 Safety Committees that we had a lot of
 22 discussion on, I take it no Cougar employee
 23 sits on those, is that correct?
 24 MS. FARRELL:
 25 A. No.

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1 MS. O'BRIEN:
 2 Q. Okay. So in terms of your -- Cougar would
 3 have its own occupational health and safety
 4 committees operating with Cougar. Is there
 5 any communication between the two?
 6 MS. FARRELL:
 7 A. No, not that I'm aware of.
 8 MR. VOKEY:
 9 A. Not that I'm aware of.
 10 MS. O'BRIEN:
 11 Q. And the occupational health and safety
 12 committees that you have, the representatives
 13 there aren't just from your own employees, is
 14 that correct, they're also from subcontractors
 15 or anyone who's working offshore?
 16 MR. VOKEY:
 17 Q. They would be representatives of our employees
 18 and contractors working on that facility,
 19 that's correct.
 20 MS. O'BRIEN:
 21 Q. Okay, all right. So in terms of the people
 22 who are operating, and let's just take for a
 23 moment that pilots are really -- they are
 24 offshore workers. I mean, they are, even
 25 though they're not working on the Platform,

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1 they are operating -- you know, they're doing
 2 their job offshore in terms of they're facing
 3 that same environment, that offshore
 4 environment. Would they be the only -- would
 5 they be the only sort of offshore workers who
 6 wouldn't be -- wouldn't have a voice on your
 7 occupational health and safety committees?
 8 MS. FARRELL:
 9 A. We're really looking for the community of
 10 interests that work on the FPSO.
 11 MS. O'BRIEN:
 12 Q. Okay.
 13 MS. FARRELL:
 14 A. And this is the focus of the occupational
 15 health and safety committees.
 16 MS. O'BRIEN:
 17 Q. Okay.
 18 MR. STACEY:
 19 A. I could offer another good example of that
 20 would be the supply vessels. They would have
 21 their own occupational health and safety
 22 committees, and they work offshore.
 23 MS. O'BRIEN:
 24 Q. And no communication between these different
 25 occupational health and safety committees?

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1 MR. STACEY:
 2 Q. Not directly, to my knowledge, unless there
 3 was some interaction that they would have on
 4 an issue. I couldn't pull one up now.
 5 MS. O'BRIEN:
 6 Q. Okay, and as part of your audits of your
 7 subcontractors, say, your supply vessels or
 8 Cougar, is that something that you'd be
 9 looking at, what's going on with their
 10 occupational health and safety committees?
 11 MS. FARRELL:
 12 A. We would look at the extent to which they are
 13 following all the aspects of their safety
 14 management system, including the regular
 15 meetings of OHS committees, follow up on
 16 actions from OHS committees, yes, that would
 17 be included in the scope of an audit.
 18 MS. O'BRIEN:
 19 Q. Okay, great. So I take it you go in there and
 20 you actually look at the Minutes?
 21 MS. FARRELL:
 22 A. Yes.
 23 MS. O'BRIEN:
 24 Q. All right, and the other question I had, we
 25 discussed the zero harm reporting cards that

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1 you use and you said that these are actually
 2 placed on site with some of your
 3 subcontractors. Do I understand that part
 4 correctly?
 5 MR. VOKEY:
 6 A. They are on our facility for anyone to take
 7 advantage of if they want to.
 8 MS. O'BRIEN:
 9 Q. Okay, I thought I had heard you say, and I
 10 think it was you, Mr. Vokey, that if one of
 11 your workers saw a hazard, even when they were
 12 off site at the premises of one of your
 13 subcontractors --
 14 MR. STACEY:
 15 A. That was me.
 16 MS. O'BRIEN:
 17 Q. Oh, it was you, I'm sorry, Mr. Stacey, that
 18 they could fill out a card either when they
 19 got back or there would be a card there at the
 20 subcontractor's site? Is that -- did I
 21 understand that?
 22 MR. STACEY:
 23 A. That's correct, many of our subcontractors
 24 have programs similar to zero harm, and have
 25 cards at their facilities.

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1 MS. O'BRIEN:
 2 Q. Okay, would Cougar have cards?
 3 MR. STACEY:
 4 A. I understand that they do have a program
 5 called HEEBO, I think, is the -- HEEBO is the
 6 acronym for it.
 7 MS. O'BRIEN:
 8 Q. So they have a similar --
 9 MR. STACEY:
 10 A. They have a similar card.
 11 MS. O'BRIEN:
 12 Q. So do those cards flow back to you or are they
 13 just dealt with internally by Cougar?
 14 MR. STACEY:
 15 A. They're dealt with through Cougar.
 16 MS. O'BRIEN:
 17 Q. All right. In terms of your -- are you aware
 18 when you -- whether you've had sort of these
 19 zero harm reporting cards come back because --
 20 specifically because of helicopter related
 21 incidents?
 22 MS. FARRELL:
 23 A. Yes, they do.
 24 MS. O'BRIEN:
 25 Q. Okay, and has that been even before March

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1 12th? I know everyone is at a heightened
 2 sensitivity since --
 3 MS. FARRELL:
 4 A. I think the first -- the first occurrence that
 5 I saw on the OHS Committee Minutes was 2002.
 6 It's a normal part of our business. People
 7 consider that to be a part of their workplace,
 8 so if they see a hazard, they'll raise it.
 9 MR. VOKEY:
 10 A. Just to be clear on that, if an employee or a
 11 contractor raises an issue that has to do with
 12 helicopters, for the most part, in terms of
 13 the response, it goes directly back to Cougar
 14 and we do engage Cougar in the response. We
 15 don't just answer it as an operator. We have
 16 our logistics and commercial people that are
 17 in continuous liaison with Cougar to respond
 18 to issues that would be raised to us.
 19 MS. O'BRIEN:
 20 Q. Okay, thank you. All right, my last area of
 21 questioning really has to do with your
 22 emergency response organization, slide 63.
 23 Maybe if we could go to that just to help us,
 24 and I understand, Ms. Farrell, from what you
 25 were saying, a big piece of your ERO involves

1 communications?
 2 MS. FARRELL:
 3 A. Yes.
 4 MS. O'BRIEN:
 5 Q. And so I specifically -- I'll wait until they
 6 get it up. Oh, Exhibit 138 is the PowerPoint
 7 presentation. So it's slide 63. Thank you.
 8 I think slide 63, if I understood the
 9 presentation correctly, is your overall
 10 emergency response organization, how it works,
 11 and you had two follow-up slides that address
 12 very specific protocols. One was for a
 13 helicopter return, I think, and one was for
 14 medevac. So they're very specific. So would
 15 you have another protocol, say, that deals
 16 with if a helicopter ditches or crashes?
 17 MS. FARRELL:
 18 A. This is the protocol.
 19 MS. O'BRIEN:
 20 Q. It's this emergency --
 21 MS. FARRELL:
 22 A. It's this protocol.
 23 MS. O'BRIEN:
 24 Q. This one that's up on the screen.
 25 MS. FARRELL:

1 A. We have a formal notification process. Our
 2 ICC, or Incident Command Centre team leader is
 3 on call, would be paged, and I think Mr. Vokey
 4 described --
 5 (RECORDING STOPPED DUE TO POWER OUTAGE)

1 CERTIFICATE
 2 We, the undersigned, do hereby certify that
 3 the foregoing is a true and correct transcript of a
 4 hearing heard on the 21st day of January, 2010 at
 5 Tara Place, 31 Peet Street, Suite 213, St. John's
 6 Newfoundland and Labrador and was transcribed by us
 7 to the best of our ability by means of a sound
 8 apparatus.
 9 Dated at St. John's, NL this
 10 21st day of January, 2010
 11 Cindy Sooley
 12 Discoveries Unlimited Inc.
 13 Judy Moss
 14 Discoveries Unlimited Inc.

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