



National Transportation Safety Board

Washington, D.C. 20594

August 15, 2017

CAPT Jason Neubauer
U.S. Coast Guard Headquarters
Chief, Office of Investigations and
Casualty Analysis (CG-INV)
2703 Martin Luther King Jr Ave SE
Washington, DC 20593-7501

Re: Tech review of the Human Factors Group Factual Report

CAPT Neubauer:

The NTSB investigative team has reviewed all factual comments submitted by the parties as part of the technical review and has decided on a disposition for each one, as reflected below.

All editorial suggestions have been considered and will be incorporated as appropriate. As a reminder, the deadline for providing party submissions pursuant to 49 CFR 831.14 is August 31, 2017.

Sincerely,

Brian Young
Investigator in Charge
National Transportation Safety Board
490 L'Enfant Plaza, S.W.
Washington, DC 20594

Page/Line	NAME OF PARTY COMMENTS [USCG]	NTSB – Disposition of Party Comments
General Comment	There commentary from the Polish Riding Gang which the Parties did not have an opportunity to participate in. 7?10	Statements from the spouses of the Polish riding gang were translated by Department of State to ensure the original translations provided by the Polish investigator were accurate. Those statements have been added to Accellion (5/30/17).
2/1	Are the postions and the time of sinking consistent throughout. The time of sinking is undetermined at this point.	The summary section of the HP factual report replicates the summary section in each of the factual reports for this accident.
7/10	Work hours for the accident voyage were not available to the investigation.	<p>Concur. This sentence has been added to the referenced paragraph. See revisions based on TOTE party comments and additional overtime calculations done by NTSB.</p> <p><i>El Faro's</i> officers had employment contracts with TOTE through AMO. They were expected to work 12 hours a day while on the vessel under their contract. The typical work schedule on <i>El Faro</i> was a rotation of 10 weeks on duty, 10 weeks off. Actual work hours for the accident voyage were not available to investigators. However, during the 2-week period from August 24 to September 6, 2015, the average workday for <i>El Faro's</i> officers was approximately 13 hours per day and approximately 10.9 hours per day for SIU crewmembers. For the next 2-week period leading up to the accident voyage, from September 7 through September 20, the work hours were similar for officers. The average workday during the period was approximately 12.5 hours per day for officers, and about 13 hours per day for SIU crewmembers.</p>

8/5	Were not always should read were no	Some of the evaluations prior to 2015 were completed on schedule (example, Chief Mate). Therefore, “not always” is more accurate.
22/5	30 vessels believe it was over 25 but not thirty	Discussed this with commenter and agreed to leave as is.
22/8	Owner of the two new ships believe it is TOTE Shipholding	Concur. This has been corrected. See modifications to referenced paragraph: TOTE managed <i>El Faro</i> and <i>El Yunque</i> and provided ship management services, including crewing. TOTE Shipholdings was also the owner of two new LNG vessels under construction, the <i>Isla Bella</i> and the <i>Perla Del Caribe</i> .
22/11	TOTE Inc President located in New Jersey main office	TOTE Inc. President was located in New Jersey. However, the intent was to describe TOTE Services president/vice president physical locations. Those have been added as follows: At the time of the accident, the vice president of TOTE Maritime Operations, Puerto Rico and Alaska, worked out of the Tacoma, Washington office though he supervised technical personnel in Jacksonville, Tacoma, and San Diego, California. He reported to the president, who was based in Jacksonville (see figure 1 for an organizational chart).
24/4	The company expected another downsizing in the JAX office and did not want to take aboard any new personnel. DPA interview.	See modifications to referenced paragraph: TOTE had considered hiring an additional employee to assist the manager of safety and operations/DPA with his extensive duties, but the company ultimately determined that a reallocation of duties was the best alternative at the time. The DPA stated in an interview in October 2015 that TOTE had not hired an assistant and that he continued to fill both roles with no additional assistance. He stated at the third MBI hearing

		that the related tasks had been distributed across the company's safety department. TOTE management later provided additional detail about the task re-allocation, stating that some of the manager's duties had been distributed and reassigned to other TOTE office staff, negating the need to bring on another person. The director of safety and services assisted in the DPA role.
28/11	Tacoma office?	Concur. Changed from Seattle to Tacoma, Washington.
40/11	DPA stated that he took calls when not available and there was no schedule where his alternate took the DPA duties. The alternate bring the director of safety and marine service.	See job description for the director of marine safety and services: It includes a section on the alternate DPA role. A new sentence was added for clarification and the term 'assistant' was changed to 'alternate' to avoid confusion with the Assistant Manager of Marine Safety and Services. Though not listed in the position description, the director of marine safety and services stated that he was also the alternate designated person when the DPA was not available. (According to the DPA, there was no schedule for when the alternate DPA took over DPA duties.)
43/15	Before "each individual" you might insert "For the accident voyage each"	Concur, sentence modified as suggested: "For the accident voyage, each individual worker's ability to speak English could not be determined.
46/17	I am not sure there was a Safety Alert specifically for Erika.	Concur. This was removed.
22/12	There was also a verbal warning issued in regards to CM Torres repeated misconduct of sleeping on watch at sea. Originally this was intended to be a written warning as was the incident with the steel repairs earlier in 2015. Both were downgraded from written to verbal and both based on the circumstances of delivering the actual warning.	Believe this comment is in reference to page 77, line 12. Regarding the written warnings being downgraded to verbal, TOTE did produce a written warning for sleeping on watch and ultimately demoted the chief mate. The following is the modification to this paragraph:

		An internal company investigation followed (by the director of labor relations), according to testimony by the TOTE managers. No evidence of the investigation was found in personnel files or any of the documentation initially provided to investigators. At MBI 3, TOTE produced a letter of warning, dated July 21, 2015 stating that the chief mate was put on notice after it had come to their attention that he was found to be asleep on watch. The chief mate was later demoted to second mate on a different TOTE vessel. An interview with a Coast Guard observer who had been aboard <i>El Faro</i> in May 2015 confirmed that the officer fell asleep on his watch. A medical evaluation was not completed at the time of the officer's demotion.
57/18	Signed non disclosure agreements NDA's	Added parenthetical: (NDAs) following nondisclosure agreements.
75/8	Port mates were not available in JAX after September 1, 2015	Concur. The following sentence was added to the referenced paragraph. Port mates were sometimes employed to facilitate cargo loading in Jacksonville when the vessel was in port. In the weeks leading to the accident, port mates were not always available. Based on the <i>El Faro</i> personnel spreadsheet provided by TOTE, the last port mate scheduled to work in Jacksonville was on September 1, 2015.
77/12	May 2015	Concur. Corrected date from 2014 to 2015.
77/10	There is no evidence of any investigation into the mate sleeping on watch. When confronted the CM simply acknowledged the serious misconduct. There is no record of any investigation.	As mentioned in a previous response, a letter of warning was produced by TOTE at MBI 3. The following was added to the referenced paragraph: An internal company investigation followed (by the

		director of labor relations), according to testimony by the TOTE managers. No evidence of the investigation was found in personnel files or any of the documentation initially provided to investigators. At MBI 3, TOTE produced a letter of warning, dated July 21, 2015 stating that the chief mate was put on notice after it had come to their attention that he was found to be asleep on watch. The chief mate was later demoted to second mate on a different TOTE vessel. An interview with a Coast Guard observer who had been aboard <i>El Faro</i> in May 2015 confirmed that the officer fell asleep on his watch. A medical evaluation was not completed at the time of the officer’s demotion.
77/18	“Are you awake?” might be attributed to closing eyes due to the glare of the sun. (VDR Transcript)	Added the following after the referenced sentence: About three minutes later she mentioned having put up a flag to block the sun, indicating that the sun was in her eyes.
Section 4.4.5	FOR YOUR INFORMATION: Under Section 4.4.5 Hiring and Position Assignment-new information has been added.	Investigators requested from the captain’s previous employer, a copy of his performance evaluations (and related material) for the last two years of employment, any disciplinary reports, and his letter of resignation. Although the company provided no performance evaluations , investigators found documentation related to his performance, including two letters of warning and a letter describing a meeting between the captain and management in which they discussed the following four areas: overtime for cargo operations; concern of unprofessional or disparaging remarks to nonvessel personnel by vessel officers; perception of master disassociating himself from daily activities; and perception of disharmony between master and senior officers. During this meeting, management advised the captain that he was to be conscious of his “interactions with his senior officers and to exert efforts to dispel any

		<p>perceptions of disharmony—this is not to say that the master is to be everybody’s best friend, but to manage a safe and healthy working environment.”</p> <p>In one letter of warning, two violations were listed in relation to the reporting of an accident. The company warned that “any further incidents of policy infractions or poor job performance would cause us to have a loss of confidence in you as master within our fleet of vessels”, resulting in further disciplinary action, up to and including termination. A second letter of warning indicated a failure to notify management of actual or suspected damage to cargo. The letter stated: “Previously you have been warned that any further incidents of policy infractions or poor job performance would cause us to have a loss of confidence in you as master within our fleet of vessels, and more severe disciplinary action, up to and including, your termination would occur”. The captain submitted his resignation letter during the month of the second warning letter.</p>
<p>Section 4.5.2, subheading Situation Awareness, 4th paragraph</p>	<p>FOR YOUR INFORMATION: An additional quote from the 2nd mate has been added from the VDR transcript to supplement this section. The captain was making statements that indicated the storm wasn’t that bad. This additional statement shows perspective from another crew member regarding his statements.</p>	<p>See added statement by second mate (Last sentence): The captain made statements indicating that he did not think the storm was going to be very bad. When discussing various route options and waypoints with the chief mate, the captain said, “<i>it’s a good little diversion are you feelin’ comfortable with that chief mate</i>” to which the chief mate said, “<i>better. yes sir...the other option is drastic.</i>” The captain responded, “<i>ya. It doesn’t warrant it...you can’t run...every single weather pattern...now that would be the action for some guy that’s never been anywhere else...(for now) we’ll just sit on the bank and fish for trout.</i>”¹ The second mate told the third mate, “*** he's tellin' everybody down there— "ohhh it's not a bad storm. it's not so bad. * * it's not even that windy out * * seen worse.”²</p>

¹ VDR transcript, 07:02:22.8-07:02:52

