

*Under 46 U.S. Code §6308, no part of a report of a marine casualty investigation shall be admissible as evidence in any civil or administrative proceeding, other than an administrative proceeding initiated by the United States.*

1 U.S. Coast Guard Marine Board Investigation ICO the sinking of SS El Faro held in

2 Jacksonville, Florida held

3 26 February 2016

4 Volume 10

5 **CAPT Neubauer:** Good morning. This hearing will come to order. Today is February  
6 26<sup>th</sup>, 2016 and the time is 9 a.m. We're continuing at the Prime F. Osborn Convention  
7 Center in Jacksonville, Florida. I am Captain Jason Neubauer, of the United States  
8 Coast Guard, Chief of the Coast Guard Office Investigations and analysis, Washington  
9 D.C. I'm the Chairman of the Coast Guard Marine Board of Investigation and the  
10 presiding officer over these proceedings. The Commandant of the Coast Guard has  
11 convened this board under the authority of Title 46, United States Code, Section 6301  
12 and Title 46 Code of Federal Regulations Part IV to investigate the circumstances  
13 surrounding the sinking of the SS El Faro with the loss of 33 lives on October 1<sup>st</sup>, 2015  
14 while transiting East of the Bahamas. I am conducting the investigation under the rules  
15 in 46 C.F.R. Part IV. The investigation will determine as closely as possible the factors  
16 that contributed to the incident so that proper recommendations for the prevention of  
17 similar casualties may be made. Whether there is evidence that any act of misconduct,  
18 inattention to duty, negligence or willful violation of the law on the part of any licensed or  
19 certificated personnel contributed to the casualty, and whether there is evidence that  
20 any Coast Guard personnel or any representative or employee of any other  
21 Government agency or any other person cause or contributed to the casualty. I have  
22 previously determined that the following organizations or individuals are parties in  
23 interest to the investigation. Tote Incorporated, ABS, Herbert Engineering Corporation

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1 (HEC) and Mrs. Teresa Davidson as next of kin for Captain Michael Davidson, Master  
2 of the SS El Faro. These parties have a direct interest in the investigation and have  
3 demonstrated the potential for contributing significantly to the completeness of the  
4 investigation or otherwise enhancing the safety of life and property at sea through  
5 participation as party in interest. All parties in interest have a statutory right to employ  
6 counsel to represent them, to cross-examine witnesses and have witnesses called on  
7 their behalf.

8 I will examine all witnesses at this formal hearing under oath or affirmation and  
9 witnesses will be subject to Federal laws and penalties governing false official  
10 statements. Witnesses who are not parties in interest may be advised by their counsel  
11 concerning their rights. However, such counsel may not examine or cross-examine  
12 other witnesses or otherwise participate.

13 These proceedings are open to the public and to the media. I ask for the  
14 cooperation of all persons present to minimize any disruptive influence on the  
15 proceedings in general and on the witnesses in particular. Please turn your cell phones  
16 or other electronic devices off or to silent or vibrate mode. Please attempt to minimize  
17 entry and departure during testimony. Flash photography will only be permitted during  
18 this opening statement and during recess periods. The members of the press are  
19 welcome and an area has been set aside for your use during the proceedings. The  
20 news media may question witnesses concerning the testimony that they have given  
21 after I have released them from these proceedings. I ask that such interviews be  
22 conducted outside of this room. Since the date of the casualty the National  
23 Transportation Safety Board and Coast Guard have conducted substantial evidence

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1 collection activities and some of that previously collected evidence will be considered  
2 during these hearings. Should any person have or believe that he or she has  
3 information not brought forward, but which might be of direct significance, that person is  
4 urged to bring that information to my attention by emailing [elfaro@uscg.mil](mailto:elfaro@uscg.mil). The Coast  
5 Guard relies on strong partnerships to execute its missions. And this Marine Board of  
6 Investigation is no exception. The NTSB, provided a representative for this hearing.  
7 Mr. Tomas Roth-Roffy, seated to my left is the Investigator in Charge for the NTSB  
8 investigation. Mr. Roth-Roffy, would you like to make a brief statement?

9 **Mr. Roth-Roffy:** Good morning Captain. Good Morning, I am Thomas Roth-Roffy,  
10 Investigator in Charge for the National Transportation Safety Board's investigation of  
11 this accident. The NTSB has joined this hearing to avoid duplicating the development of  
12 facts. Nevertheless, I do wish to point out that this does not preclude the NTSB from  
13 developing additional information separately from this proceeding if that becomes  
14 necessary. At the conclusion of these hearings the NTSB will analyze the facts of this  
15 accident and determine the probable cause independently of the Coast Guard. Issue a  
16 report of the NTSB's findings and if appropriate issue recommendations to correct  
17 safety problems discovered during the investigation. Thank you.

18 **CAPT Neubauer:** Thank you. We will now call our first witness of the day. Mr. Louis  
19 O'Donnell, ABS Assistant Chief Surveyor of the Americas Division. Mr. O'Donnell,  
20 Lieutenant Commander Yemma will administer your oath and ask you some preliminary  
21 questions.

22 **LCDR Yemma:** Raise your right hand. A false statement given to an agency of the  
23 United States is punishable by a fine and or imprisonment under 18 United States Code

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1 section 1001, knowing this do you solemnly swear that the testimony you're about to  
2 give will be the truth, the whole truth and nothing but the truth, so help you God?

3 **WIT:** I do.

4 **LCDR Yemma:** Thank you, sir. Please be seated. Sir, I would like to start by asking  
5 you to state and spell your name please.

6 **WIT:** Louis Charles O'Donnell, first name L-O-U-I-S, last name O-'-D-O-N-N-E-L-L.

7 **LCDR Yemma:** Thank you. Counsel?

8 **Counsel:** Good morning, Jerry White, last name spelled -W-H-I-T-E.

9 **LCDR Yemma:** Thank you, sir. And Mr. O'Donnell can you please state your  
10 employment and position please?

11 **WIT:** I'm Assistant Chief Surveyor of the Americas Division for ABS.

12 **LCDR Yemma:** And what are some of your general responsibilities in that position?

13 **WIT:** I'm responsible for survey activity and determinations in our Americas Division. I  
14 liaise with several flag states in our division. I work with our engineering and other  
15 departments in the division in survey related matters. I work with all the surveyors in  
16 our division on survey related matters, our customers survey related matters. Survey  
17 activity monitoring. I work on, when we have internal audits, external audits from flags  
18 other RO's, that's one of my duties. Umm day to day determinations for requests,  
19 special request, survey extensions. I'm also our main point of contact for the U.S.  
20 Coast Guard, main liaison for survey related matters and other matters.

21 **LCDR Yemma:** Thank you. Describe to the board some of your prior work experience  
22 relevant to your current position.

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1     **WIT:** I graduated from Maine Maritime Academy in the spring of 1991. I sailed for  
2     approximately 4 ½ years in various capacities on tankers, bulk carriers, ro-ro, ro-ro  
3     vessel. I also worked at the Academy as a junior training officer and senior training  
4     officer on the training ship on a few cruises. I started with ABS in late 1995 as a  
5     surveyor in Newport News, Virginia. I was there approximately 3 ½ years. From there I  
6     went to New Orleans. I was there approximately 18 months doing surveys after  
7     construction, new construction on a lot of deep sea ocean going vessels, smaller  
8     vessels. From New Orleans I transferred overseas to Korea for approximately just shy  
9     of 5 years. I worked in three large shipyards over there doing new construction on  
10    tankers, mostly but assisted on ro-pax vessels, LNG, off shore structures, various other  
11    projects. From Korea I transferred back to the United States to Vicksburg, Mississippi  
12    where I worked on new construction of jack up oil rigs and did a lot of inland vessels. I  
13    also assisted our New Orleans office several times when I was at that office with deep  
14    sea ocean going vessel and surveys. From New Orleans I transferred, as principal  
15    surveyor out to San Diego, California. I was responsible for our San Diego office and all  
16    of the new construction going on there, Naval Auxiliaries and commercial vessels for  
17    approximately 6 years. While I was in San Diego I joined our divisional survey team  
18    which works directly for the Assistant Chief Surveyor in the division. We were  
19    responsible for going out doing mentoring, training, assessments of our surveyors,  
20    vessels, performing any duties at the request of the Assistant Chief Surveyor. I did that  
21    for 2 years. I was then promoted to Assistant Chief Surveyor in early 2014. And I've  
22    been in that capacity since.

23    **LCDR Yemma:** And what's your highest level of education completed?

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1       **WIT:** I have a bachelor's in marine engineering operations.

2       **LCDR Yemma:** And do you hold any licenses or professional certifications?

3       **WIT:** I have a lapsed Second Engineer, unlimited Second Engineer's license steam,  
4       motor.

5       **LCDR Yemma:** Thank you, sir. The board will have questions.

6       **WIT:** Thank you.

7       **CAPT Neubauer:** Good Morning Mr. O'Donnell.

8       **WIT:** Good morning Captain.

9       **CAPT Neubauer:** Before we begin I wanted to make a note on the record that you  
10       have served as a primary ABS representative to the NTSB and Coast Guard  
11       investigations since the casualty occurred and you played a key role in the gathering of  
12       evidence to be. Thank you for those efforts, sir.

13       **WIT:** Thank you Captain.

14       **CAPT Neubauer:** Commander Odom.

15       **WIT:** Excuse me. Captain.

16       **CDR Odom:** Mr. O'Donnell.

17       **ABS:** Excuse me, Captain – Mr. O'Donnell has one comment.

18       **CAPT Neubauer:** Yes, sir.

19       **WIT:** I would just like to make a quick statement that all of us at ABS would like to give  
20       our condolences to the families in this matter.

21       **CAPT Neubauer:** Yes, sir. Commander Odom.

22       **CDR Odom:** Good morning Mr. O'Donnell. Just to lay a few ground rules let's try the  
23       best we can to refrain from using acronyms when we can. And with that being said, for

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1 the record American Bureau of Shipping is a name that no longer exists, your  
2 organization is ABS, is that correct?

3 **WIT:** Yes.

4 **CDR Odom:** Thank you. And all the questions and comments and most of the things  
5 we're asking you about today are at the time the El Faro was in operation up to the  
6 accident. So if we can just frame things out as far as programs and where we were at  
7 and what we were doing in that time frame. There's a broad topic and a lot of questions  
8 so at any time you decide you need a break or a recess to research something or just  
9 take a break just let us know and we'll accommodate that. So the first line of questions I  
10 would like to ask is specific to ABS and their oversight, ACP oversight and kind of how  
11 you're structured as an organization and what your role is in the organization. For the  
12 purpose of the survey program are you responsible for U.S. flagged ships only or U.S.  
13 flagged and foreign ships?

14 **WIT:** Both.

15 **CDR Odom:** Both. In a worldwide or just Americas?

16 **WIT:** My responsibilities I'm the Assistant Chief Surveyor in our Americas division  
17 which covers all of North and South America. I can deal with both U.S. flag and foreign  
18 flagged vessels. We have a few ways we break up the work between the – excuse me  
19 between the other Assistant Chief Surveyors within ABS. Normally we break it up by  
20 where the operating company is located or where the owner is domiciled.

21 **CAPT Neubauer:** Mr. O'Donnell could you put the microphone just a little closer?

22 Thank you, sir.

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1 **CDR Odom:** Can you expand on that just a little bit as far as how you have it broke up?  
2 How the company domiciles, I didn't quite understand what you were saying.

3 **WIT:** Where the owning company is domiciled, so for example, if the owning company  
4 of the vessels were New York, I would be responsible for the – to provide survey  
5 determinations and service to that customer.

6 **CDR Odom:** So in the case of the El Faro that would be Puerto Rico, would that?

7 **WIT:** Yes.

8 **CDR Odom:** Okay. Thank you. And did your responsibility include management of the  
9 U.S. flagged fleet that is surveyed under the alternate compliance program on behalf of  
10 the Coast Guard?

11 **WIT:** Yes, sir. Survey management.

12 **CAPT Neubauer:** I would like to make just like a clarification for the record. You said  
13 the survey side. And the other side is the technical side, would that be correct?

14 **ABS:** I believe he said survey management.

15 **CAPT Neubauer:** Okay, thank you. Survey management. What would be the other  
16 side, sir, that you're not responsible for?

17 **WIT:** I'm not an auditor. I do not control all the auditing within ABS or I'm not the head  
18 for our auditing. We have the management system certification office and we have a  
19 lead there. I'm not responsible for engineering activities which would be design review,  
20 stability review, load line review, things like that, the technical aspects of plan review.

21 **CAPT Neubauer:** Thank you, sir. I just want – that's an important clarification,  
22 appreciate that.



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1 **CDR Odom:** What role do you play in the training aspect of surveyors and can you talk  
2 about surveyor training and qualification and how ABS surveyors obtain qualifications?

3 **WIT:** Yes I can. Our office, that's one of our other duties we oversee some of the  
4 training aspect of surveyors. Every surveyor within ABS is required to meet, has  
5 minimum requirement they have to meet before they can even be employed based on  
6 their past education or qualifications. ABS has a very stringent required training regime  
7 that each surveyor has to go through, there's several courses they have to take that are  
8 mandatory. And then they would go also out during that time while they're taking those  
9 courses and perform on the job training and they have a process qualification for every  
10 survey task that they do before they can become qualified for that survey, they have to  
11 perform at least a minimum of two times and then they can possibly be qualified for the  
12 survey task if the trainer agrees the surveyor has a full understanding of the scope of  
13 the survey.

14 **CDR Odom:** Once they're completed with their training process is there a continuing  
15 education or a continuing training process for the life of that surveyor?

16 **WIT:** Yes, yes we have a course that we call experienced surveyor validation. Excuse  
17 me, let me back up. When a surveyor is hired they go through a new hire suite of  
18 courses which is an introduction to ABS, basics of survey, they get nondestructive  
19 examination, welding, confined space entry, the basics of the company. And then  
20 approximately 12 to 18 months after that course and with some on the job training they  
21 go to another suite of training, which is very – more detailed survey related training  
22 covering class side, IMO and other duties of the surveyor. And then about 18 to 24  
23 months after that they go to their first experienced surveyor validation training. And

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1 right now it's, it's I think it's every, yeah it is, every three years after that course they  
2 have to take another experienced surveyor validation training again. And during,  
3 between those periods we provide continuing education on a continual basis, latest  
4 codes, rules, standards, IMO updates. We have an internal training system we call  
5 iAchieve and we're always putting out additional training and things for our surveyors  
6 through that system. And that's required for all surveyors.

7 **CDR Odom:** Thank you. You were talking about, in your additional comments about  
8 being an auditor for the International Maritime Organization, or the quality organization.  
9 Can you expand on that a little bit? What are your responsibilities for the ISO 9000  
10 certification of ABS? Do you do internal audits for that?

11 **WIT:** I'm not an internal auditor. But I will participate in audits when we have RO's,  
12 flags, IACS, BSI auditing us, I will absolutely participate on the survey side of those  
13 audits.

14 **CDR Odom:** So the participation is you're being audited?

15 **WIT:** Yes, sir.

16 **CDR Odom:** Okay. You're not in any way participating in conducting internal audits on  
17 ABS?

18 **WIT:** I am not a qualified auditor.

19 **CDR Odom:** So has your office been audited?

20 **WIT:** Yes, multiple times.

21 **CDR Odom:** Is there any non-conformities or have you received any non-conformities  
22 as a result of those audits?

23 **WIT:** Yes.

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1 **CDR Odom:** Can you expand on that a little bit?

2 **WIT:** Umm ----

3 **CAPT Neubauer:** Would this time frame be before October 1<sup>st</sup>, 2015, are you referring  
4 to that Commander?

5 **CDR Odom:** Yes. In all of my questions I'm referring to before the El Faro incident.

6 **CAPT Neubauer:** I just wanted to make sure that clarification was on the record.

7 **WIT:** One example I can think of was an IACS audit and it was a reporting error for  
8 UWILD and how it gets reported in our new construction report. And we dealt with that  
9 non-conformance.

10 **CDR Odom:** During these audits is it common to see a Coast Guard observer present  
11 during these audits?

12 **WIT:** Absolutely.

13 **CDR Odom:** Exhibit 111, you don't have to turn to it, but just for your reference, it's the  
14 memorandum of understanding between the U.S. Coast Guard and ABS. I'm going to  
15 ask a couple lines of questions specific to the MOU, so if you need it for reference, it's  
16 Exhibit 111.

17 **CAPT Neubauer:** Commander can you give a date on the memorandum to make sure  
18 it's current?

19 **CDR Odom:** Yes, sir. January 12<sup>th</sup>, 1995.

20 **CAPT Neubauer:** Mr. O'Donnell is that current ABS, Coast Guard MOU to your  
21 knowledge, sir?

22 **WIT:** To my knowledge, yes, sir.

23 **CAPT Neubauer:** Thank you.

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1 **CDR Odom:** So in the memorandum of understanding it requires the designation of a  
2 point of contact by ABS to discuss with appropriate Coast Guard personnel on matters  
3 of interpretation, policy, working relations, as stipulated by the memorandum of  
4 understanding. Are you one of those people?

5 **WIT:** Yes, my office is the main point of contact with the Coast Guard.

6 **CDR Odom:** And at the time of the accident, can you tell us the scope of the surveys  
7 and the status of those surveys on the El Faro?

8 **WIT:** In particular to the El Faro our survey status---

9 **CDR Odom:** Yes, sir, in particular to the El Faro. What was the status of the survey  
10 and statutory documents, were they all in good standing?

11 **WIT:** Yes, everything her class and statutory certificates were all valid at the time of the  
12 incident.

13 **CDR Odom:** Thank you.

14 **Ms. Davidson:** Excuse me Captain. What was the exhibit number?

15 **CDR Odom:** 111.

16 **CAPT Neubauer:** You do not have that exhibit?

17 **Ms. Davidson:** Not Exhibit 111.

18 **Tote Inc:** Our 111 is a survey report.

19 **CAPT Neubauer:** Okay. The hearing will recess and reconvene at 9:26.

20 *The hearing recessed at 0921, 26 February 2016*

21 *The hearing was called to order at 0926, 26 February 2016*

22 **CAPT Neubauer:** The hearing is now in session. Command Odom please continue  
23 with the line of questioning.

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1 **CDR Odom:** Thank you Captain. Mr. O'Donnell.

2 **WIT:** Commander.

3 **CDR Odom:** I'm going to talk – ask a couple of questions about the International  
4 Maritime Organization harmonized system of surveys and certification. Are you familiar  
5 with that?

6 **WIT:** Yes, sir.

7 **CDR Odom:** Can you explain how annual intermediate and periodic surveys are  
8 carried out in the six month window under that program? Kind of frame it out for us.

9 **WIT:** Frame out the survey time line?

10 **CDR Odom:** Yes, sir.

11 **WIT:** Well starting from, let's say renewal surveys, special survey, surveys are required  
12 on an annual basis, so for example if today was the due date or the date of completion  
13 of a previous special survey for class and statutory surveys, whichever statutory  
14 surveys the vessel may have will be its anniversary date today. So approximately one  
15 year from today would be the anniversary for the first annual surveys. On that due date  
16 a year later there's a six month window, three months prior or three months after that  
17 anniversary date and the vessel can do those surveys anytime within that survey  
18 window. This continues into the second annuals, then the third annuals. Between the  
19 second and third annuals is what we call intermediate surveys. Intermediate surveys  
20 have an 18 month window. So from the beginning of second annual survey window,  
21 which is 3 months prior to the due date for the second annual survey to the far side of  
22 the third annual survey window is the survey window for intermediate surveys. Those  
23 surveys can be done anytime within that window. Then we would go to the fourth

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1 annual survey and then in five years we would be back at special survey and statutory  
2 renewal surveys.

3 **CDR Odom:** So if I understand you right, can a survey start early in the time window  
4 and then be completed on the other end of the window?

5 **WIT:** Yes. Surveys can be commenced anytime in the beginning. Once you become –  
6 once, excuse me, strike that. Once you get at the beginning of the survey window for  
7 annuals or intermediates you can commence the survey anytime within that window,  
8 however, the surveys need to be completed within that survey window.

9 **CDR Odom:** At the time of the accident when the El Faro sank, as far as the time  
10 window, was there any statutory surveys that had not yet been completed that had  
11 begun in the beginning of the window or ongoing?

12 **WIT:** No, sir.

13 **CAPT Neubauer:** Sir, can you clarify where the El Faro was in its survey window, like  
14 what stage?

15 **WIT:** She had completed her annuals earlier in 2015. If I recall correctly I think it was  
16 early, end of February or early March. I would have to look at the vessel survey status  
17 to be exact. So she was not in the window for her next set of annuals at the time of the  
18 incident.

19 **CAPT Neubauer:** So was that next set of annuals going to be the second set?

20 **WIT:** I would have to look at the survey status Captain.

21 **CAPT Neubauer:** Yes, sir. Could we get that for the record later? What cycle she was  
22 on in the five year cycle.

23 **WIT:** It's in as an exhibit.

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1       **CAPT Neubauer:** Okay. Thank you.

2       **CDR Odom:** Exhibit 112 is a survey status report, page 17. There's an open condition  
3       class, are you familiar with that?

4       **WIT:** Yes, sir.

5       **CDR Odom:** Can you explain the details on that open condition and report?

6       **ABS:** Is there particular page that you are referring to Commander?

7       **CDR Odom:** Page 17. It's item 901.

8       **WIT:** Excuse me, the Exhibit number again?

9       **CDR Odom:** 112.

10      **WIT:** Just a moment please.

11      **CDR Odom:** And what the exhibit is, it's the ABS survey manager status report for the  
12      El Faro dated October 1<sup>st</sup>, 2015.

13      **WIT:** Okay, I'm on page 17.

14      **CDR Odom:** Item 901 is an open condition of class. Can you talk – speak to that  
15      please?

16      **WIT:** First off to correct the record, this is a statutory additional requirement.

17      **CDR Odom:** Okay.

18      **WIT:** So it's not an open class recommendation.

19      **CDR Odom:** Thank you. Can you explain that to us, what that is and what this open  
20      statutory requirement is?

21      **WIT:** The open statutory requirement is for an open engineering comment in relation to  
22      the loading manual. What was found the vessel has an open engineering comment as  
23      002 for the loading manual which could not be closed at this time. Information

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1 regarding the same has been provided to the vessel's superintendent. The surveyor's  
2 recommendation was please update the loading manual to reflect the following revised  
3 maximum allowable still water bending moments as proposed in your submitted  
4 calculation. And as for the hog and still water bending moment to be 500,000 long ton  
5 feet and sagging water, still water bending moment to 388,088. That was – the  
6 recommendation was please submit revised loading manual. A previously approved  
7 loading program utilizes an allowable value of 500,000 long ton feet for both hogging  
8 and sagging maximal still, excuse me, maximum still water bending moment. ABS  
9 engineering was contacted on how to proceed with the open technical comment.

10 **CDR Odom:** Thank you. And is there any other open comments or any open  
11 conditions of class that you're aware of on the El Faro?

12 **WIT:** On this status?

13 **CDR Odom:** At the time of the accident?

14 **WIT:** Yes, sir.

15 **CDR Odom:** Have you reviewed all of them, are you familiar with ----

16 **WIT:** Yes.

17 **CDR Odom:** Thank you.

18 **WIT:** For clarification. This open statutory additional requirement 901 is more  
19 administrative for a correction in the manual.

20 **CDR Odom:** Which manual?

21 **WIT:** That -- the loading manual.

22 **CDR Odom:** Thank you.



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1     **CAPT Neubauer:** And Mr. O'Donnell, that would fall under a different department than  
2     your department?

3     **WIT:** Yes.

4     **CAPT Neubauer:** Who would be the best person to talk to in regards to those  
5     engineering comments?

6     **WIT:** That would be our load line engineering department.

7     **CAPT Neubauer:** Is there a specific manager?

8     **WIT:** Uh yes, I would say Thomas Gruber.

9     **CAPT Neubauer:** Thank you, sir.

10    **CDR Odom:** We're going to change directions a little bit and talk about the ACP  
11    supplement, are you familiar with that document?

12    **WIT:** Yes.

13    **CDR Odom:** Can you explain the supplement and what your responsibilities are for  
14    managing it?

15    **WIT:** My responsibilities for managing the supplement?

16    **CDR Odom:** Do you have any responsibilities for updating, revising, providing  
17    comments, or is there anything to that nature to the supplement?

18    **ABS:** Does Mr. O'Donnell have any supervisor ----

19    **CDR Odom:** Yes, sir.

20    **ABS:** Supervision over that, or does ABS?

21    **CDR Odom:** Does Mr. O'Donnell have any direct responsibilities for managing the  
22    supplement?

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1 **WIT:** I don't have any direct responsibilities for managing the supplement, however, I  
2 can provide input and recommendations for updates to the supplement. Excuse me,  
3 our engineering department in conjunction with the Marine Safety Center would be the  
4 parties to update the supplement. But I think input would come from both sides, the  
5 survey side and probably the inspection side at Coast Guard for updating the  
6 supplement.

7 **CAPT Neubauer:** And for the record this is Exhibit 113, the supplement.

8 **CDR Odom:** Thank you. So can you just generally speak to which supplement the El  
9 Faro would manage under it, there's 4 total supplements, and how that – how ABS  
10 surveys the El Faro with a supplement international regulations, class rules, and  
11 regulations? Can you speak about the whole scheme?

12 **ABS:** Are you, just to clarify, you're asking what documents would govern class rules,  
13 international regulations and what role the supplement plays in connection with those?

14 **CDR Odom:** Yes, sir.

15 **ABS:** Class requirements and international regulations?

16 **CDR Odom:** Yes, sir.

17 **WIT:** For simplicity I think the easiest way to explain the supplement is like a three  
18 legged stool. We have the ABS rules and the IMO requirements and then you have the  
19 supplements, whichever supplement you would be using on whatever type of vessel  
20 you would be surveying that's in ACP. The supplement brings in the additional  
21 requirements, U.S. flag requirements not covered by the ABS rules or the IMO  
22 conventions, and also we would bring in items that the U.S. Coast Guard and ABS had  
23 agreed to from the C.F.R. into play for a survey. Or design and engineering review. It's

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1 a – the supplement acts sort of a like a bridge or it's that third leg in the stool between  
2 the IMO conventions and the ABS rules, kind of crossing over the C.F.R. and then  
3 bringing in the additional requirements for survey that the Coast Guard would like and  
4 for design reviews.

5 **CDR Odom:** So the supplement from Exhibit 113, is the latest supplement that we  
6 have and it's the current one that's being used and it's dated April 2011. So how –  
7 obviously rule class rules have probably changed and regulations, IMO regulations and  
8 stuff have changed since 2011. How – what triggers a review of the supplement or  
9 what triggers an update request? How does that process work in ABS? Can you  
10 explain that to us? For a revision, or an update, who's continuously review the  
11 supplement to see it's – if a revision is needed or amendment to it?

12 **CAPT Neubauer:** And Mr. O'Donnell I think you mentioned that the engineering  
13 department is responsible for the updates. If it would be better for us to address this  
14 with Mr. Gruber please let us know.

15 **ABS:** Mr. Gruber is in the stability department. There would be a separate for the  
16 engineering department.

17 **CAPT Neubauer:** Okay. Is there another contact though overall that we could address  
18 the supplement updates with?

19 **WIT:** That would be our Vice President of Engineering.

20 **CAPT Neubauer:** Can you generally give us an idea of how you would provide input to  
21 update the supplement for new IMO regulations?

22 **WIT:** If there were new IMO regulations or class rules that affect the supplement that  
23 are covered in the supplement, or items covered in the supplement we would

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1 recommend updates to the supplement. It's usually driven on a 50/50, I'm trying to think  
2 of the right word, input probably also from the Coast Guard. The Coast Guard may  
3 recommend based on changes to IMO conventions and ABS rules for the supplement to  
4 be updated. I know the one that's been updated most recently was the supplement for  
5 off shore support vessels because there was a lot of changes to our rules and a lot IMO  
6 conventions that affected these type vessels.

7 **CAPT Neubauer:** So, sir, the Coast Guard and ABS both have a balanced duty to  
8 keep the supplement updated?

9 **WIT:** Yes, it's a dual responsibility.

10 **CAPT Neubauer:** In your opinion, has that been done on a timely basis?

11 **WIT:** For the supplement for certificated vessels on international voyages, it hasn't  
12 been updated since 2011.

13 **CAPT Neubauer:** So how about a vessel like the El Faro?

14 **WIT:** There could be some minor updates to this supplement.

15 **CAPT Neubauer:** Thank you, sir.

16 **CDR Odom:** With regards to the supplement, when a surveyor is on board the El Faro,  
17 how do they know what items in your checklist, is it specifically identified in the  
18 supplement for them to refer to the supplement for inspecting specific items? Or how  
19 do they know when they're conducting a survey that an item is covered under the  
20 supplement?

21 **WIT:** For which survey task?

22 **CDR Odom:** For any survey task. If they're doing any survey and they're surveying  
23 that's specifically addressed in the supplement, how do they know that?

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1 **WIT:** We have, as I say we have a process for every survey we do. And then for each  
2 specific flag we have a specific process with special instructions. With ACP vessels,  
3 what we have also done is the additional survey requirements that are covered in the  
4 supplement, we have brought these into our standard checklist for the survey tasks so  
5 that the additional items the surveyor needs to confirm for a vessel in ACP, depending  
6 which supplement it's driven by, we have – they have a checklist to go by to make sure  
7 that they survey those additional requirements. And further also, surveyors that are  
8 doing surveys on ACP vessels, have made themselves familiar with a supplement NVIC  
9 2-95 change 2 which governs surveys for – it's the policy governing ACP.

10 **CDR Odom:** For an item like a voyage data recorder, how does the supplement cover  
11 a voyage date recorder?

12 **WIT:** Can I have a moment to double check the supplement?

13 **CDR Odom:** Absolutely.

14 **WIT:** I'm sorry I don't know it word for word, cover to cover.

15 **CAPT Neubauer:** Yes, sir, take your time.

16 **CDR Odom:** Yeah, take your time.

17 **WIT:** The only place I see where the voyage data recorder is noted in the supplement  
18 is that it required to be tech approved by the U.S. Coast Guard. I'm sorry, that was in  
19 section 2 of the supplement.

20 **CDR Odom:** Okay, thank you. So how does a surveyor, if you go to Exhibit 110, which  
21 is the U.S. Coast Guard navigation of vessel inspection circular 01 – 08-01? That  
22 exhibit should be enclosures 4 and 5 and specifically on page 11 of that enclosure. It  
23 requires that service providers performing the annual performance testing for voyage

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1 date recorders or SVDR's, have been approved by the U.S. Coast Guard. So how  
2 would a surveyor verify that a service provider working on a voyage data recorder in a  
3 vessel like, on the El Faro, how would they verify that?

4 **ABS:** Commander if we could just back up for a moment. On the specific exhibit you  
5 referenced, could you give us what you're reading from? Mr. O'Donnell hasn't reviewed  
6 this NVIC in advance of his testimony today.

7 **CDR Odom:** It's enclosure 4, page 11.

8 **ABS:** Thank you.

9 **CDR Odom:** Which requires service providers to be verified. Just from a process  
10 perspective how does a surveyor know about this NVIC, how do they know to verify  
11 during their surveys that it's ----

12 **WIT:** We have a process internally where we recognize external specialists, subject  
13 matter experts to do – to provide servicing for fire fighting systems, servicing an annual  
14 performance testing of VDRs, AIS, GMDSS, several things. As part of the surveyor  
15 doing the safety equipment annual survey, the VDR is an item that needs to be  
16 examined. The surveyor would also be looking for a satisfactory annual performance  
17 test and COC as part of that survey. I think it was clarified earlier this week on  
18 commercial flag, uh commercial U.S. flagged vessels ABS is not authorized to issue the  
19 SOLAS safety radio certificate in the United States, so we have a very limited role when  
20 it comes to the communication equipment. However, I note that many of the radio  
21 specialists here or the, excuse me, the VDR specialists in the United States they use  
22 the ABS checklist, internal checklist we have for that service provider in doing the  
23 survey on the VDR and they provide it to the Master which is a document the surveyor

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1 can review in the course of completing their annual survey to assure it has been  
2 serviced by a qualified individual.

3 **CDR Odom:** You use that in a COC, could you explain that?

4 **WIT:** I'm sorry, for with acronyms, certificate of conformity is a COC.

5 **CDR Odom:** That's for the service provider?

6 **WIT:** Yes. And the APT would the annual performance test.

7 **CDR Odom:** I'm going to shift gears, same topic. The supplement, but a different  
8 regulation, Chapter 5, SOLAS 34, which is voyage plans, are you familiar with the  
9 voyage plan requirements?

10 **WIT:** I'm familiar what a voyage plan is, yes.

11 **CDR Odom:** So in that regulation it also requires weather routing services be provided  
12 under Marine Safety Circular 10-63.

13 **WIT:** This is in the supplement?

14 **CDR Odom:** In the same context of what we're talking about, through the supplement  
15 or through ABS rules, how do you verify, how do your surveyors note that the weather  
16 routing services are being provided to the Master of the vessel?

17 **CAPT Neubauer:** And Mr. O'Donnell before you confirm how it's verified, do you agree  
18 with Commander Odom's assessment that it is required?

19 **WIT:** I would have to investigate it further.

20 **CAPT Neubauer:** Thank you. I think – why don't we take a 5 minute recess,  
21 reconvene at 9:55 and research that issue, sir.

22 *The hearing recessed at 0949, 26 February 2016*

23 *The hearing was called to order at 0956, 26 February 2016*

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1     **CAPT Neubauer:** The hearing is now back in session. Commander Odom can you  
2     continue with your line of questioning please?

3     **CDR Odom:** Thank you. Going back to the question before recess. SOLAS Chapter  
4     5, regulation 34 for voyage planning. Can you speak to how surveyors, in that  
5     regulation it requires weather routing services?

6     **WIT:** In reviewing the IMO resolution explaining routing, it discusses routing, but what  
7     our surveyors would look at in the course of a safety equipment survey would be the  
8     vessel has the proper tools to be able to perform the routing. Routing would come more  
9     under ISM and operations. I'm not aware of requirement for weather routing in SOLAS.

10    **CDR Odom:** Weather routing service is required by SOLAS. So are you saying that  
11    under an audit of the safety management system is where that would be verified?

12    **WIT:** I think the context of ship's routing, not weather routing.

13    **CDR Odom:** Weather routing services?

14    **ABS:** Commander we've used two reference materials based on the question that you  
15    proffered, that includes Exhibit 76, safety of navigation SOLAS Chapter 5, and Exhibit  
16    87, which is the IMO resolution that you refer to. The specific section of the resolution  
17    in Exhibit 87 on page 4, item 7 discusses or mentions the use of ship's routing and  
18    reporting system in vessel traffic services. So I think that the distinction that Mr.  
19    O'Donnell is looking to make is that specific wording does not require weather routing  
20    from the service.

21    **CAPT Neubauer:** Commander Odom, can you cite the law that you're referring to?

22    **CDR Odom:** Yes, standby. I'm looking at, in the regulation 34 it cites Marine Safety  
23    Committee Circular 10-63. I'm looking to see if that's in the exhibits.



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1     **ABS:** I don't believe it is.

2     **CDR Odom:** It doesn't look like it is.

3     **ABS:** The other clarification, if you refer to Exhibit 87 and the section that I just referred  
4     to on page 4 of that document. That falls under the heading of factors which should be  
5     taken into account when executing the plan or deciding on any departures there from  
6     including, and it mentions those particular items. But that's all in connection with a  
7     voyage plan.

8     **CDR Odom:** Correct, I understand that. We need to get 10-63 entered into evidence.  
9     And it's specific to weather routing services. Understanding it's not an exhibit, weather  
10    routing service are required under SOLAS. Does ABS do anything to verify the use of  
11    weather routing services? Do you have anything that the surveyor does to verify that  
12    the vessel is provided weather routing services?

13    **CAPT Neubauer:** And Mr. O'Donnell if it's ABS's position that it is not required, that is  
14    an acceptable answer.

15    **WIT:** It would be my position right now that it is not required, the way I'm reading it in  
16    SOLAS.

17    **CAPT Neubauer:** Thank you, sir. Let's go to the next question please.

18    **CDR Odom:** Thank you. In the memorandum of understanding it talks about plan  
19    review. And that plans approved by ABS are the same – taken in the same context as  
20    being approved by the Coast Guard. Further in navigate – U.S. Coast Guard  
21    Navigation vessel circular 2-95 change 2 it refers to Marine Safety Center Technical  
22    Note 04-03 change 2 which requires once plans are approved by the ABS that they be

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1 provided to the Marine Safety Center for random selection and spot checking. Are you  
2 familiar with this?

3 **WIT:** I'm familiar with the process, yes.

4 **CDR Odom:** Okay, thank you. And earlier in the week Captain Mauger, the  
5 Commanding Officer of the U.S. Coast Guard Marine Safety Center testified before the  
6 board and stated that they had not received any El Faro plans since 2007. If you would  
7 look at Exhibit 100. This exhibit is a plan that was approved by ABS for the installation  
8 of the fructose tanks on board the El Faro, I was stamped approved on behalf of the  
9 U.S. Coast Guard, it was an ABS approval stamp. Were you familiar with this system  
10 on the El Faro?

11 **WIT:** After the incident, yes.

12 **CDR Odom:** So my question is, can you explain the quality process in place to ensure  
13 that plans like these are provided to the Marine Safety Center for review and  
14 recordkeeping? Do you have any responsibilities or any knowledge of how that process  
15 works?

16 **WIT:** I would defer that to our engineering department. I'm aware of the process, but I  
17 would not want to speak to specifics.

18 **CDR Odom:** Who would they turn, department ----

19 **WIT:** That would be our Vice President of Engineering.

20 **CDR Odom:** What's his name?

21 **WIT:** Currently Roy Bleiberg.

22 **CDR Odom:** Thank you.

23 **CAPT Neubauer:** Was that the individual who was in charge during the incident?

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1 **WIT:** No, sir.

2 **CAPT Neubauer:** Who was the individual during the incident?

3 **WIT:** Dan Cronin [sic].

4 **CAPT Neubauer:** And can you speak to whether these plans were submitted, or  
5 should we just save that question for another individual?

6 **WIT:** Yes they were submitted, but I see that they're stamped reviewed and examined,  
7 not approved.

8 **CAPT Neubauer:** And when it says submitted, submitted to the Coast Guard?

9 **WIT:** I would have to confirm that.

10 **CAPT Neubauer:** Thank you.

11 **WIT:** I would state that, I do know the process is, is once we've completed a plan  
12 review, I know that within 5 days we have a way that, I think it's a requirement within 5  
13 days, it gets uploaded and we continually feed to U.S. Coast Guard Marine Safety  
14 Center plans that our engineers have completed reviews on.

15 **CAPT Neubauer:** Yes, sir. Thank you.

16 **CDR Odom:** And for the record that plan is dated 21 April 2014. So when a surveyor  
17 at the field level has a plan like this that's stamped, like it's stamped, how do they move  
18 forward with the installation of a system like this? I mean they're obviously installing it,  
19 it's not an approved plan as you stated, how does a surveyor that's watching them  
20 install this equipment how do they know it's okay to move forward with the installation  
21 on it?

22 **WIT:** Well it would be the obligation of the owner, or the operator of the vessel to  
23 provide the review letter and the approved plans, examined plans or reviewed plans by

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1 ABS to the surveyor. Our surveyor, if they were going to look at a modification on the  
2 vessel would also have access to our system to get the review letter and plans. And it's  
3 two part. They would look at the review letter and any comments that need to be  
4 addressed by the surveyor that would come from our engineering department and the  
5 design review and then their portion of work would be to take the plans and survey the  
6 installation in accordance with those plans to make sure that rules, regulations, any of  
7 our guides that they conform to the plans.

8 **CDR Odom:** Is it common for them to start this work before they have those approved  
9 plans? Understanding it's up to the owner, but is it common for a surveyor to allow that  
10 work to begin before those plans are approved?

11 **WIT:** Common in some cases, yes work may commence. However, before the  
12 surveyor can sign off on that work or complete that work as meeting the rules of the  
13 applicable regulations and requirements, the plans have to be approved and all of the  
14 comments have to be dealt with.

15 **CDR Odom:** So when they're installing a system that's not approved, how do they take  
16 into account the stability of the vessel for an installation like this that obviously has an  
17 effect on? What would be the means that that surveyor would limit or ensure the  
18 stability of the vessel has not been effected the installation before the approval?

19 **CAPT Neubauer:** Can you confirm that's a surveyor duty, or another department?

20 **WIT:** That would be part of our load line stability department.

21 **CDR Odom:** And that's not something the surveyor would do?

22 **WIT:** If the surveyor had a concern related to the load line and stability they would defer  
23 for advice to our load line stability department to deal with it. They have the – our

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1 surveyors have the basics to see possible issues like that and they would confer with  
2 our load line stability department on how to proceed.

3 **CAPT Neubauer:** Is that Mr. Gruber?

4 **WIT:** Yes, sir.

5 **CAPT Neubauer:** Thank you.

6 **CDR Odom:** Sir, if I could stop here Captain for right now and just open the  
7 questioning to the board for questions on the topics we've covered so far.

8 **CAPT Neubauer:** I'm going to pass the questioning to the NTSB. Mr. Roth-Roffy do  
9 you have anything at this time?

10 **Mr. Roth-Roffy:** Nothing at this time.

11 **CAPT Neubauer:** Now we'll go to the parties in interest. Tote, do you have any  
12 questions?

13 **Tote Inc:** No questions, sir. But we would like to state on the record that the IMO  
14 resolution that's been cited with respect to weather routing is a standards that was  
15 produced by the IMO in 2002 which sets standards for the services that are being  
16 provided if the owner elects them. These are not required by the IMO resolution, they're  
17 not required by SOLAS.

18 **CAPT Neubauer:** Thank you for that clarification. Does ABS have any questions?

19 **ABS:** No questions Captain.

20 **CAPT Neubauer:** Does Mrs. Davidson have any questions?

21 **Ms. Davidson:** No questions.

22 **CAPT Neubauer:** Mr. O'Donnell we're going to go to a new line of questioning. Would  
23 you like to take a break or keep going?

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1 **WIT:** I'm okay for right now.

2 **CAPT Neubauer:** Sir. Lieutenant Commander Venturella.

3 **LCDR Venturella:** Good morning Mr. O'Donnell.

4 **WIT:** Good morning.

5 **LCDR Venturella:** Sir, if we could start out with Exhibit 111. Exhibit 111 is the  
6 memorandum of understanding between the United States Coast Guard and ABS  
7 concerning delegation of vessel inspections and examinations and tonnage  
8 measurement. And acceptance of plan review and approval. If you could go to page 5  
9 of that memorandum, sir.

10 **WIT:** Okay.

11 **LCDR Venturella:** If you can look at 3i, paragraph 3i.

12 **WIT:** Paragraph iii, is that what you're referring to? Oh, excuse me, yes, okay, 3i.

13 **LCDR Venturella:** In carrying out the delegated functions and services outlined in  
14 paragraph 3a(1), which is the paragraph delegating inspection to American Bureau of  
15 Shipping, or ABS, will also ensure that it's employees will engage in the performance of  
16 functions delegated under this MOU are familiar with and required compliance with  
17 applicable laws and regulations and Coast Guard policies, interpretations, and  
18 instructions provided to the ABS by the Coast Guard. Interpreting and applying those  
19 applicable laws and regulations including international convention, statutes, Federal  
20 regulations, ABS and the supplement. The highlight that I wanted to place in that  
21 particular context is the focus on policies and interpretations of the Coast Guard. Sir,  
22 we spoke earlier about the ABS surveyor training program, both for new surveyors and  
23 for the surveyors that had been around for a few years. Can you comment on whether

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1 this training includes training specific to the supplement, the Marine Safety Manual,  
2 Coast Guard policy, Coast Guard NVIC's, Marine Technical Notes, and various other  
3 Coast Guard policies and interpretations that get incorporated into your training  
4 program. Are those incorporated?

5 **ABS:** Commander, just as a point of clarification, is there a specific Coast Guard policy  
6 that you're referring to with regard to the ACP program that you're looking for ensure  
7 that ABS's surveyors were trained on? Because the question as worded is rather  
8 broad.

9 **LCDR Venturella:** I – it's a broad question on purpose. It's intended to cover the  
10 totality of all Coast Guard policies, interpretations and instructions provided to ABS by  
11 the Coast Guard. As I said in the MOU.

12 **ABS:** Can you identify any specific Coast Guard policies regarding ACP that would  
13 even relevant to the training of ABS surveyor?

14 **LCDR Venturella:** Yes, sir. As an example, have you been provided with Marine  
15 Technical Note 4-95 from the Marine Safety Center's list of technical notes that  
16 indicates the weight changes and when you properly evaluate them to require a dead  
17 weight survey or an incline or just simple weight moment calculations to determine the  
18 change in light ship?

19 **ABS:** I don't believe that's been included as an exhibit in the MBI's exhibit folder. But  
20 in any event I think Mr. O'Donnell has already stated that the stability questions would  
21 be addressed by another specialist within ABS.

22 **CAPT Neubauer:** I would like to rephrase the question then, sir. Because this could be  
23 a surveyor issue. And Mr. O'Donnell if you feel comfortable answering this. Do your

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1 surveyors track the overall weight changes over time on vessels during their surveys, or  
2 at least attempt to take that into account during surveys? Or can you answer that?

3 **WIT:** Surveyors tracking weight on a continual basis?

4 **CAPT Neubauer:** Yes, sir. To ensure it does not exceed the 2 percent.

5 **WIT:** That would be the owner's obligation. And the obligation of the owner to report  
6 weight changes at annual and occasional surveys to our surveyors so they could make  
7 a determination, if there is enough of a weight change to require possibly a dead weight  
8 survey or an incline of that nature.

9 **CAPT Neubauer:** Thank you.

10 **LCDR Venturella:** Sir, just to follow up on that. Understanding that it is a company  
11 responsibility to track weight changes which I concur with, could you answer what your  
12 surveyors are trained on so that when the company does tell them that there's been a  
13 weight change, how would they educate the operator or the owner on when this needs  
14 to be submitted to your technical offices?

15 **ABS:** When you refer to the company, you're referring to the owner notifying the  
16 surveyor that there's been a weight change?

17 **LCDR Venturella:** Yes, sir.

18 **WIT:** Yes. We have, as I stated earlier, we have processes for all the surveys that we  
19 perform. And we would consider this a modification survey and I know within that  
20 process there's specific guidance in there available to the surveyor on how to make a  
21 determination if the owner advised them of a weight change of what to do and the steps  
22 to take and the people to notify within ABS and what to tell the owner that he may have  
23 to submit for review to possibly, as I stated earlier the need for maybe a dead weight



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1 survey or incline survey. We have specific guidance in our procedures for that. Further  
2 I would like to clarify that under ACP and what you stated earlier in the MOU we guide  
3 our surveyors and they have access through your system Homeport and by other  
4 means to access all the applicable items you mentioned earlier for reference. And  
5 much of this is covered in our flag specific PI for the United States and then we guide  
6 them accordingly where to go or who they need to contact should the situation arise for  
7 one of the situations you brought up earlier.

8 **LCDR Venturella:** Thank you. And with just a more general answer on the topic, could  
9 you say whether you believe that the ABS surveyors through the process developed in  
10 the alternate compliance program are informed on all current policy for the Coast  
11 Guard?

12 **CAPT Neubauer:** Can you clarify current policy?

13 **LCDR Venturella:** Policies applicable to the delegation of inspection authority as  
14 indicated in the MOU. So that would include navigation of vessel inspection circulars.

15 **WIT:** To clarify, yes. Since I've taken tenure in my office, I burst out worldwide  
16 anything that I think is relevant to changes for ACP or updates to Coast Guard policies,  
17 regulations, that would affect our surveyors worldwide performing surveys on ACP  
18 vessels. Going back using another example, I know the MSP NVIC was updated  
19 recently, change 1 and we burst that out worldwide to all of our system Chiefs to ask  
20 them to pass on to their surveyors. We would do the same for anything that we would  
21 find applicable for other, you know other updates to U.S. flagged policies. Not just U.S.  
22 flag, that's one of the responsibilities as an Assistant Chief in your division, if you liaise  
23 or were responsible for a flag state and there are new requirements that come out, if

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1 you're the contact office, it's your responsibility to update the applicable process to that  
2 flag and to get the information out to our surveyors. And our engineering staff as  
3 applicable.

4 **LCDR Venturella:** Do your surveys to your – do your surveyors and to your awareness  
5 get monthly policy updates from commercial vessel compliance office for the Coast  
6 Guard as our Chief inspections do?

7 **WIT:** I myself do not recall receiving monthly policy updates from CVC, but however, or  
8 the commercial vessel compliance office, but I do receive some information from  
9 commercial vessel compliance. I don't recall receiving specific policy updates.

10 **LCDR Venturella:** With that in mind, for your awareness the Chief inspections in the  
11 ports typically get a monthly email from commercial vessel compliance providing us  
12 updated policy and guidance that has come in to fruition recently. Do you think it would  
13 be advisable or helpful for guidance like that to go directly to yourself or someone higher  
14 up at the American Bureau of Shipping to ensure clarity?

15 **WIT:** Myself as the contact office for the U.S. flagged and U.S. Coast Guard, I would  
16 gladly receive the information and disseminate it as I deemed necessary to the  
17 appropriate parties.

18 **LCDR Venturella:** And do you think that would be more effective to yourself then from  
19 the Chief Inspections to the Principals?

20 **WIT:** I would see no issue for Chiefs, CID's or Chief of Inspection to share at the local  
21 level. But I would appreciate it coming to my office as the contact office so I could  
22 assure that it's properly distributed throughout ABS.

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1     **LCDR Venturella:** Thank you. Based on your experience issuing loadline certificates  
2     as a surveyor, do you recall the statement that's typically on the ABS load line certificate  
3     in regards to which stability document is the primary and which one is the supplement if  
4     you're using a loading software program?

5     **WIT:** I don't issue the load line certificates, that would be the attendant surveyor.

6     **LCDR Venturella:** What do you train your surveyors in terms of issuance of load line  
7     certificates on whether a program like CargoMax used on El Faro is the primary or if it  
8     would be trim and stability booklet?

9     **CAPT Neubauer:** Would that question be better referred to another representative?

10    **WIT:** It would be both ways, both ways. We do mark on the vessel survey status what  
11    the primary and secondary means would be. It is contained on the vessel survey  
12    status. Specific details might be addressed by Tom Gruber.

13    **LCDR Venturella:** Based on your experience as a surveyor and a trainer of surveyors,  
14    would you say that the maritime deck officers are typically using the trim and stability  
15    booklet as a primary source or is CargoMax now become the primary source for loading  
16    of vessels?

17    **WIT:** That's more of an operational question. Could you repeat the question please?

18    **LCDR Venturella:** Yes, sir. I'm trying to just get your opinion on this based on  
19    experience, not necessarily what's required, but just your opinion in terms of operation  
20    of deep draft cargo vessels that your surveyors have visited, have you noticed whether  
21    the deck officers are primarily using the trim and stability booklet or CargoMax? And  
22    whether the introduction of a software program like CargoMax has reduced their use  
23    and knowledge of the trim and stability booklet?

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1       **WIT:** That's – that's not a function of my duties at ABS and I would rather not comment  
2       on that.

3       **CAPT Neubauer:** Can you say if that's a function of ABS surveyors in general or not?

4       **WIT:** Seeing it's a vessel operational aspect, you know I wouldn't say that we would  
5       have data to answer your question one way or the other. I wouldn't be prepared to  
6       answer a question like that today.

7       **CAPT Neubauer:** Yes, sir. Can you say if you, not related to the data, but do ABS  
8       surveyors look at the CargoMax and trim and stability books as part of their surveys?

9       **WIT:** Yes as part of the surveys. You know depending on the type of vessel and what  
10      it's required to have either stability, loading, you know, whether its manuals or software  
11      or instruments, yes, that's part of their survey. It's covered under class and the load line  
12      convention.

13      **CAPT Neubauer:** Would a surveyor be concerned if a company was primarily using  
14      CargoMax and not abiding by their trim and stability book?

15      **WIT:** If they were not abiding by their trim and stability booklet?

16      **CAPT Neubauer:** Yes, sir.

17      **WIT:** If they found that during survey, possibly, yes.

18      **CAPT Neubauer:** And just as an example, if a vessel was not filling their tanks to – not  
19      pressing up their tanks and sailing with slack fuel tanks and that was required by the  
20      trim and stability book, but the CargoMax program allowed for the GM margin, it was  
21      calculated, would that be an issue for an ABS surveyor?

22      **WIT:** If the surveyor recognized that in the course of their surveys, yes. But you have  
23      to understand that a surveyor gets a snapshot in time much like an inspector, they may

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1 not see that happening when they're on board the vessel. And those day to day or hour  
2 to hour or minute or minute operations, the surveyor may not have the ability to see that  
3 or know that's going on. But I'm sure if the surveyor recognized an issue it would be  
4 brought forth as a concern in the course of their survey.

5 **CAPT Neubauer:** Sir. So if it was happening every voyage it would probably be  
6 noticed by a surveyor?

7 **WIT:** Possibly.

8 **CAPT Neubauer:** Thank you.

9 **LCDR Venturella:** Sir, can you comment on whether the ABS surveyors have specific  
10 training on loading software like CargoMax?

11 **WIT:** Our surveyors, before they can look at a new installation of loading software  
12 would have the basic training to verify that the system is installed as approved and  
13 verify specific loading conditions and be approved. They're not trained in detail how to  
14 input information into CargoMax and use CargoMax. That would be more of an  
15 engineering related aspect at ABS.

16 **LCDR Venturella:** Can you discuss as much as you can in the details with how they  
17 check CargoMax versus operating conditions as you mentioned?

18 **WIT:** What normally happens is when CargoMax is put on a vessel there would be  
19 several, you could have 1 to several approved conditions. And what the surveyor would  
20 do and I think it was explained earlier in testimony, is based on one of those conditions  
21 they would go on board, they would ask the mate, or whoever the responsible person  
22 would be to input the conditions for that approved condition and to see that what we

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1 have approved on paper would match what's on the actual loading instrument or  
2 CargoMax.

3 **LCDR Venturella:** Did El Faro have a loading manual or a loading program in some  
4 regard with regard to its strength properties and bending moments?

5 **WIT:** No.

6 **LCDR Venturella:** How could the crew of the El Faro evaluate bending moments  
7 versus the allowable limits?

8 **WIT:** That would be an operational aspect. And they would have to work with the tools  
9 that they have on board to make those evaluations.

10 **LCDR Venturella:** Are you aware that CargoMax on the El Faro had the ability to  
11 evaluate bending moments versus allowable limits?

12 **WIT:** I'm not personally aware.

13 **LCDR Venturella:** If you as a surveyor saw that CargoMax had that capability on  
14 board, but it was not necessarily required to have a loading manual or a loading  
15 program would you review that aspect of the software or recommend it at least?

16 **WIT:** Could you ask your question again please?

17 **CAPT Neubauer:** Can I rephrase the question? All right, do you expect your surveyors  
18 to be checking for maximal allowable bending moments as part of their surveys?

19 **WIT:** Checking?

20 **CAPT Neubauer:** Checking to see if compliance with loading and not exceeding max?

21 **WIT:** Possibly at the time of their survey they might look at something like that, but  
22 that's a very operational aspect from voyage to voyage, cargo to cargo. And again as I

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1 stated before our surveyors are on and they get a snapshot in time when they're on  
2 board the vessel. They may not be on board to be surveying something such as that.

3 **CAPT Neubauer:** So if the ABS surveyor doesn't verify that who would be responsible  
4 for checking the operations?

5 **WIT:** Operations is the responsible of the Master of the vessel.

6 **CAPT Neubauer:** So there would be no ABS or Coast Guard oversight of that  
7 operation from a regulatory compliance standpoint?

8 **WIT:** To a very small degree some of the operation is what we look at under ACP, but  
9 the day to day, minute to minute operation of the vessel we would not look at.

10 **CAPT Neubauer:** But would you look at historical records for operations like a  
11 CargoMax program summary?

12 **WIT:** Yes, possibly they would be reviewed in the course of surveys, yes.

13 **CAPT Neubauer:** But it's not required to look at any former Coast Guard – correction,  
14 is it required to at least look at any loading diagrams as part of a survey, is that – or is it  
15 optional?

16 **WIT:** That would be optional.

17 **CAPT Neubauer:** Thank you.

18 **LCDR Venturella:** Based on that discussion, sir, you mentioned that operations are the  
19 responsibility of the Master. In the case of the El Faro, their CargoMax software,  
20 besides the allowable bending also had the ability to evaluate flooding, post damage, or  
21 they had the ability to evaluate container stack weights, those things were not reviewed  
22 by the American Bureau of Shipping or ABS. Can you comment whether a surveyor

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1 would be concerned with the knowledge that they're using that daily despite lack of  
2 review?

3 **WIT:** Could you ask your question again please?

4 **LCDR Venturella:** Would you agree that the trim and stability booklet that was  
5 reviewed by ABS included container stack weights?

6 **CAPT Neubauer:** Are you familiar with the trim and stability?

7 **WIT:** I'm not familiar enough with the details of vessel's trim and stability booklet.

8 **LCDR Venturella:** If a surveyor noticed components of a software that was reviewed  
9 by ABS and some of those components, individual components were outside of that  
10 review and you noticed reliance on it, would that be something that you would flag as  
11 you advise your surveyors to do so?

12 **ABS:** Can you just clarify, when you use the term outside the review, what review are  
13 you talking about and what do you mean by outside? Not compliant?

14 **CAPT Neubauer:** Can you give an example of what you're talking about for a  
15 deficiency in the CargoMax program?

16 **LCDR Venturella:** Yes. I think in this case the best thing to do would be to refer to  
17 Exhibit 16. Exhibit 16 is a CargoMax review letter. And this was the ABS review for the  
18 El Faro. On page 2 of that document dated 8 February 2008, it indicates on line item 6,  
19 we note that the submittal item 1 was reviewed for the stability aspect only. As we've  
20 since discovered in the course of our investigation this software had a lot more  
21 components than what was reviewed. It included allowable bending, the ability to  
22 evaluate damage scenarios versus flooding and changing the [in audible]. Container



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1 stack weights, all of these were items that were available to the crew through this  
2 software package that were not reviewed and were used frequently in many cases.

3 **CAPT Neubauer:** Lieutenant Commander Venturella, for the record can you better  
4 describe the purpose of this letter and what it was used for?

5 **LCDR Venturella:** Yes, sir. The purpose of this letter as I understand it is to approve a  
6 software supplement to the approved trim and stability booklet, which is reference C to  
7 the letter. The trim and stability booklet is the regulatory requirement for loading the  
8 vessel in accordance with 46 C.F.R. subchapter s which is our governing subchapter for  
9 stability. The American Bureau of Shipping or ABS frequently reviews loading software  
10 as a supplement to assist and aid with compliance with that trim and stability booklet, is  
11 that correct?

12 **ABS:** Just as a point of clarification, the specific approval for the CargoMax software is  
13 contained in Exhibit 16. And I think your question is whether or not an ABS surveyor  
14 has an obligation to examine the Herbert software to see what else it does that might  
15 not have been approved by ABS, is that your question?

16 **LCDR Venturella:** That's the question with the additional aspect that if they notice it.  
17 I'm not saying an obligation to always look that deep. But if they happened to notice it  
18 and because maybe they sampled it that time.

19 **ABS:** Okay. Let's deal with the first part of your question. To the extent that Mr.  
20 O'Donnell knows, the first question you have is whether or not the ABS surveyor has an  
21 obligation to review the Herbert software for things that class did not review, correct?

22 **LCDR Venturella:** That would be a good start to the question.

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1 **WIT:** That would be no. If it's not required based on the date of build or the type of  
2 vessel, whatever, if it has those additional functions that were not reviewed by ABS, no  
3 our surveyor would not be obligated to review them.

4 **ABS:** I think the second part of your question was whether or not if the ABS surveyor  
5 noted something that was not reviewed by ABS or approve – whether they had an  
6 obligation to point something out to whom?

7 **CAPT Neubauer:** That's the question Mr. White.

8 **ABS:** Okay.

9 **CAPT Neubauer:** Can you answer that Mr. O'Donnell?

10 **WIT:** It may be if the surveyor saw these additional functions they would maybe consult  
11 someone within our engineering department to make sure that the software or the  
12 instrument is approved properly for that type of vessel, whatever vessel it may be and  
13 based on age, year built and things like that.

14 **CAPT Neubauer:** But would they have an obligation to raise it to the Master of the  
15 vessel or the company?

16 **WIT:** If they had additional approvals outside the scope of what was required, no.

17 **LCDR Venturella:** And would you say that it would be a rare surveyor that would  
18 actually look that deep into it?

19 **WIT:** That would be very hard for me to speak to, because you know I don't know what  
20 every surveyor does on a day to day basis.

21 **LCDR Venturella:** Sir, if ISO tanks, meaning the containerized tanks are installed on a  
22 cargo vessel such as the El Faro, when would an ABS surveyor typically require them to  
23 be included as part of the vessels light ship or allow treatment as a cargo loading item?

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1     **CAPT Neubauer:** And I think we can use the fructose tanks as an example here, sir.

2     That were installed on the El Faro. Are you familiar with that installation?

3     **WIT:** In a survey aspect I think if our surveyors saw a modification such as that going  
4     on, they would seek details from the owner which you can see were submitted to ABS  
5     from looking at previous exhibits. And then they would seek the advice from our  
6     engineering department, how we would be proceeding with such a modification.

7     **CAPT Neubauer:** So we should speak to Mr. Gruber on whether that should include as  
8     light ship?

9     **WIT:** That would probably be Mr. Gruber and our engineering department.

10    **CAPT Neubauer:** Okay, thank you.

11    **LCDR Venturella:** Do you know if it would change your surveyor's perspective on a  
12    modification of that sort if the ISO tanks were welded to the deck or installed with fixed  
13    piping and cargo pumps?

14    **WIT:** I'm sure it would raise the surveyor's curiosity that there's a modification going on  
15    and they would be looking for approved plans for that modification. And then they  
16    discuss in conjunction with the owner and our engineering department the necessary  
17    steps that need to be taken as part of that modification.

18    **LCDR Venturella:** In the case of the fructose tanks aboard El Faro they did have some  
19    plan review, as you saw. You mentioned it would be the company's responsibility to  
20    manage the plans that are submitted and that the surveyor would just be responsible for  
21    surveying in accordance with those plans. Can you comment on who manages for ABS  
22    ensuring that the totality of plans are submitted by the operator for the company so – to  
23    ensure that the entire installation is covered? In other words in the case of a fructose

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1 tank installation, you agree there would be more than just structural plans, there would  
2 also be perhaps some piping plans, electrical plans, there would be the stability aspect.

3 Who at ABS would ensure that all of the aspects are met if the operator does not?

4 **WIT:** That would fall, you asked several things in one question. I would like to break it  
5 up. Based on the modification you may make to a vessel or machinery structure or  
6 whatever it may be, there could various parts of the rules that may apply and then falling  
7 under those various parts of the rules, depending whether one of those items affects  
8 class or not or the relevant statutory certificates we may issue on behalf of an RO, there  
9 may be items that are required to be submitted and reviewed and items that are not. So  
10 my easiest answer right now would be the dual role between the surveyor and  
11 engineering. But it's ultimately, if you read the rules if an owner is making a  
12 modification they, it's ultimately the owner's responsibility to gather the information, the  
13 necessary information required by the rules or the applicable regulations and ensure it's  
14 submitted to ABS and reviewed.

15 **LCDR Venturella:** So based on that have you noticed whether it's common to have  
16 plans that are missed similar to this fructose tank installation on the El Faro where some  
17 plans were not reviewed?

18 **WIT:** I personally have not seen that as a common occurrence. I would like to say our  
19 surveyors are very good. That's one of the things that I deal with on a daily basis. I get  
20 a lot of calls about surveyors find, you know examples of things such as that. And they  
21 say you know I've been on a vessel, I found this. You know and they seek guidance  
22 from my office and the Engineering Officer, what steps do I need to take here based on  
23 what I found. And we get inquiries about that all the time from our surveyors.

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1 **LCDR Venturella:** Thank you, sir.

2 **CAPT Neubauer:** Sir, in regards to the El Faro.

3 **WIT:** Yes, sir.

4 **CAPT Neubauer:** Have you reviewed the Tote submissions over time for plan and  
5 review like the fructose tanks?

6 **WIT:** I've generally reviewed a lot of data since October, but specifically, no, sir, I have  
7 not.

8 **CAPT Neubauer:** In your overall opinion was Tote forthcoming with providing plans for  
9 like the tanks and the conversion project that was ongoing?

10 **WIT:** On my high level overview of the information that's been presented to me, yes.

11 **CAPT Neubauer:** Yes, sir. Thank you.

12 **LCDR Venturella:** Sir, we spoke earlier about the obligation of the owner/operator to  
13 inform ABS of modifications and weight changes. Can you discuss the amount of  
14 weight change that the American Bureau Shipping would consider required to send it to  
15 the technical officer for evaluation of light ship change and need for a revision to the trim  
16 and stability booklet?

17 **WIT:** I would have to look to refresh my memory, I would have to look specifically at the  
18 numbers. But if I recall we have a sort of 1 percent and 2 percent rule. And I think, if I  
19 recall 1 percent for dead weight and 2 percent for possible incline.

20 **LCDR Venturella:** Okay. The reference should be based on the Marine Technical note  
21 4-95 I mentioned earlier. But I know agree to that.

22 **WIT:** If our surveyor had seen a modification going on and there was a weight change,  
23 if we're getting close to those number and it's something they're very, usually very

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1 cognizant of, is gathering weights, seeing that, then we would have to make the  
2 determination based on the total amount of weight that's being added and subtracted as  
3 to what type of process they would have to follow.

4 **LCDR Venturella:** To your awareness is there an ABS process, perhaps using the  
5 term errata that allows you to take some weight changes and write them off as minor or  
6 negligible?

7 **WIT:** I would rather have our stability and weights experts discuss that. We do – like I  
8 say, I've said it several times this morning, we do have a basic process as it relates to  
9 modifications, guidance to our surveyors and in our process instructions. When they  
10 get into situations like that and then the steps they need to take and the individuals  
11 within ABS that they need to contact to make sure the right decisions are made.

12 **LCDR Venturella:** So what is your opinion then with regard to the additional fructose  
13 tanks on the El Faro and the removal of tanks recently on the El Yunque and why those  
14 weight changes were not evaluated?

15 **CAPT Neubauer:** Do you have knowledge of that, sir?

16 **WIT:** I have knowledge on that so it would difficult for me to comment, I do not have  
17 knowledge of that. It would be difficult for me to comment on that.

18 **CAPT Neubauer:** Yes, sir, I understand.

19 **LCDR Venturella:** So is it a fair summary to say that the surveyor shot is not to look at  
20 the totality of an installation, but just of a specific project that they're called out to  
21 survey?

22 **CAPT Neubauer:** And that would be totality of installations over time to reach the 2  
23 percent level.

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1 **WIT:** You have to understand that we have 400 surveyors within this division and  
2 sometimes we have the, I guess the word, the – we’re lucky to get the same surveyor to  
3 attend the same vessel all of the time. So they would be more cognizant to catch, you  
4 know changes on that vessel. However, we can have multiple surveyors attending a  
5 vessel that goes all around the world and they may not be cognizant to these little  
6 onesies, two changes that happen. Therefore, that’s why I stated earlier that it’s the  
7 ultimate responsibility of the operator of the vessel to keep track of additions,  
8 subtractions of weights, changes going on, on the vessel and they’re obligated under  
9 the rules to advise ABS and the flag or whoever else they need to of these things.

10 **CAPT Neubauer:** Sir, do your surveyors submit those changes to your technical side  
11 also?

12 **WIT:** Yes if it’s significant enough they would, yes.

13 **CAPT Neubauer:** If it was significant enough? Or do they submit every change?

14 **WIT:** If they were aware and it would be a significant enough weight change like a large  
15 modification it would absolutely be discussed with our technical office.

16 **CAPT Neubauer:** So it’s possible for a series of small weight changes to be written off  
17 and not submitted to technical, is that a fair statement?

18 **WIT:** If not brought to the attention of ABS it could be possible.

19 **CAPT Neubauer:** Well I’m saying if a small weight change was brought to the attention  
20 of ABS but not considered significant, that may not be reported to ABS technical, is that  
21 fair?

22 **WIT:** May not, yes, I agree.

23 **CAPT Neubauer:** So there would be no way ----

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1     **WIT:** Excuse me, sir. How small are we talking here? I think we could go back and  
2     forth all day.

3     **CAPT Neubauer:** Sir, okay.

4     **WIT:** But what I think – what I think, excuse me, sir, I apologize.

5     **CAPT Neubauer:** Yes, sir.

6     **WIT:** But I think if a surveyor was advised of a weight change it may trigger them to ask  
7     the question well, how much weight change may have been made here in the last 6  
8     months, year or two years. And then driving the owner or the operator of the vessel to  
9     say let's review what's possibly changed from the original configuration of this vessel  
10    since construction or since your previous, you know special survey. And then it would  
11    get the wheels turning to see if there is a possible problem with an addition or  
12    subtractions of weights that would drive either another dead weight survey, revisions to  
13    a trim and stability booklet, possibly an incline. But I mean that's the surveyor's job.

14    **CAPT Neubauer:** And there are many scenarios?

15    **WIT:** Yes, sir.

16    **CAPT Neubauer:** So I would like to look at a specific scenario. The conversion of the  
17    El Faro from lo-lo back to ro-ro that was ongoing when the vessel – on the accident  
18    voyage. The – have you seen the scope of work for that conversion, sir? Are you  
19    familiar with the installation of the winches and piping for the heating systems under the  
20    ramps?

21    **WIT:** Vaguely what I've seen is the exhibits that were presented this week.



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1     **CAPT Neubauer:** Can you make an opinion on whether that level of additional weight  
2     would be something that an ABS surveyor would consider significant or not significant?  
3     In your professional opinion over time?

4     **WIT:** I would say that those modifications ongoing would be of significance and the -- it  
5     would drive the surveyor to investigate possibilities for you know updates to, you know  
6     weight changes, trim and stability and things like that, yes.

7     **CAPT Neubauer:** Because it would be additional weight from what the vessel's  
8     designed to carry?

9     **WIT:** The weight being added, yes. But we would also have to consider possible  
10    weight being subtracted.

11    **CAPT Neubauer:** In this case there was no weight being subtracted, is that correct?

12    **WIT:** Not that I'm aware of.

13    **CAPT Neubauer:** So would you expect that surveyor to pass that to ABS technical in  
14    this circumstance?

15    **WIT:** If modification were being made that affected class, yes.

16    **CAPT Neubauer:** So if they knew the modifications were being made underway or to  
17    the vessel they should have sent that to ABS technical for review?

18    **WIT:** Yes. From what I – the little knowledge I have that was in process.

19    **CAPT Neubauer:** That was – so ABS technical was aware of that modification during  
20    the voyage? And if that's a better question that are asked for ABS technical you can  
21    just say that we can ----

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1 **WIT:** It would be a better question to ask for ABS technical. But I am aware that there  
2 were some plans in house that were starting to get reviewed for modifications that were  
3 ongoing.

4 **CAPT Neubauer:** And those were passed by the surveyors? ABS surveyors to  
5 technical.

6 **WIT:** No those were submitted by the owners.

7 **CAPT Neubauer:** Directly to ABS technical?

8 **WIT:** It would be the owners or the owner's representative who did the engineering  
9 work, but yes it was sent in to our technical office.

10 **CAPT Neubauer:** Would it be required to also inform the field surveyors of that? Or  
11 would they be included in the information?

12 **WIT:** Yes, when the plans were reviewed, approved, yes.

13 **CAPT Neubauer:** So the ABS surveyors who were conducting surveys on the El Faro  
14 would have had knowledge of that conversion project, is that a fair statement? That the  
15 plans were submitted, not that it was ongoing.

16 **ABS:** Just a point of clarification. I think there's a difference in between what ABS was  
17 advised about, what specific drawings were submitted and the characterization in your  
18 question of the conversion project.

19 **CAPT Neubauer:** I will acknowledge that it was not submitted as a conversion project  
20 potentially by Tote. Is that the concern, sir?

21 **WIT:** From the knowledge I have the plans were submitted as modifications being  
22 made to the vessel. That's what we call it. They may call it a conversion, we would call  
23 it a modification.

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1       **CAPT Neubauer:** I think that's an important clarification that's noted. Lieutenant  
2       Commander Venturella.

3       **LCDR Venturella:** One last just summary question on this issue. Would you agree that  
4       as the first line that the surveyor should be aware of Coast Guard policy on evaluation  
5       of weight changes or be told if they don't have awareness of that to call ABS technical  
6       with every modification?

7       **WIT:** With every modification is very vast. A modification could be as simple as  
8       changing on valve. Or a modification could be as extensive, you know taking your ship  
9       from one configuration to another. So that's ----

10      **LCDR Venturella:** Let me clarify.

11      **WIT:** That's a very general question, sir.

12      **LCDR Venturella:** I'll clarify. What I mean is actual weight additions or weight  
13      removals from the vessel of any kind. If they do not have awareness of the Coast  
14      Guard policy on evaluation of weight changes, would you expect them to call the  
15      technical office with every one of those changes?

16      **WIT:** I'm still considering it a very general question, but if the weight changes were ----

17      **LCDR Venturella:** A change to the light ship ----

18      **WIT:** Vast.

19      **LCDR Venturella:** Change to light ship of any kind.

20      **CAPT Neubauer:** Please be careful not to talk over the witness. We want to make  
21      sure we get the record straight. Mr. O'Donnell.

22      **WIT:** Any change in light ship?

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1 **LCDR Venturella:** Yes, that's the question. If you're aware there is a change in light  
2 ship, however small or big, how are your surveyors trained to deal with that?

3 **WIT:** Any change in light ship. Consult with our load line stability department.

4 **LCDR Venturella:** Okay, thank you. That's the end of my line of questioning.

5 **CAPT Neubauer:** Mr. Fawcett.

6 **Mr. Fawcett:** Good morning Mr. O'Donnell.

7 **WIT:** Good morning, sir.

8 **Mr. Fawcett:** We've talked very highly complex during this portion of the testimony, but  
9 I want to boil it down to a simple question. If I'm the Master of the EI Faro and ABS  
10 inspectors or auditors aboard the vessel and they find critical structure to the vessel or  
11 critical equipment has deficiencies or causable concern, is part of the ABS process that  
12 the auditor or inspector would come to me as part of the process and explain the  
13 condition of the vessel for the situations that have been discovered during the course of  
14 the audit or an inspection?

15 **WIT:** Yes, and just one clarification, our staff aren't inspectors, they're surveyors.

16 **Mr. Fawcett:** Okay. So as part of the process when they come to the Master of the  
17 vessel and explain the condition of the vessel, before they depart the vessel so that the  
18 Master has knowledge of any deficiencies uncovered.

19 **WIT:** Yes, absolutely. Our surveyors would clearly advise the Master and all the  
20 relevant parties if they found a deficiency that required documenting, yes, absolutely.

21 **Mr. Fawcett:** And can you take a minute to think about where I can find that in your  
22 policies or procedures? We can find it later, but I just would like to have ----

23 **WIT:** It's clearly in our procedures.

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1 **Mr. Fawcett:** Okay. Thank you, sir.

2 **CAPT Neubauer:** Mr. O'Donnell we've been going for a while would you like to take a  
3 break?

4 **WIT:** Yeah, sure.

5 **CAPT Neubauer:** The hearing will recess and reconvene at 1105.

6 *The hearing recessed at 1053, 26 February 2016*

7 *The hearing was called to order at 1104, 26 February 2016*

8 **CAPT Neubauer:** The hearing is now back in session. Commander Denning will  
9 continue with a line of questioning.

10 **CDR Denning:** Mr. O'Donnell, when Lieutenant Venturella asked you how your  
11 surveyors are training with handle weight changes, your answer was they consult with  
12 the load line and stability department. My question is at what point do they involve the  
13 load line and stability department? Is it for every weight change, small weight changes?  
14 Is there a certain threshold? At what point do they notify that department?

15 **WIT:** I think I clearly testified earlier based on the guidance we provide in our process  
16 instructions, when they see significant weight changes, that would drive them to flag  
17 that and further investigate it.

18 **CDR Denning:** So it would drive them to that. Is that specified in a specific policy or  
19 procedure or is that just a best practice?

20 **WIT:** We have it in one of our survey process instructions.

21 **CDR Denning:** And those weight changes, and I apologize I know these questions  
22 were sort of asked, but I want to really fully understand it. Do you ever – do your  
23 surveyors ever go back to the last inclining, the last revision of the stability, the trim and

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1 stability booklet, are the aggregate weight changes tracked from that point, or is it – are  
2 they actually tracked and do you every ask the owner/operator for a specific – a list of  
3 all weight changes from that point?

4 **CAPT Neubauer:** I think that was a long question. Do your surveyors consider the  
5 totality of the weight changes over time or is it more specific to the project they may be  
6 looking at on board?

7 **WIT:** It would be more specific to current surveys and projects.

8 **CAPT Neubauer:** Yes, sir.

9 **CDR Denning:** Thank you. And then my last question is at what point do the surveyors  
10 involve the local OCMI, or Marine Inspectors in those discussions?

11 **WIT:** Under ACP or in general?

12 **CDR Denning:** Let's stay with ACP since that applicable to El Faro.

13 **WIT:** Our surveyors are obligated to advise the local Coast Guard, Chief of Inspections  
14 or the Prevention Department of any survey attendance that we'll make on an ACP  
15 vessel.

16 **CDR Denning:** And do they – and what about specific notifications of weight changes?  
17 So they notify them prior to attendance, is that correct?

18 **WIT:** Our surveyor may not know prior to attendance.

19 **CDR Denning:** Right. So I'm saying the surveyor notifies the local OCMI prior to  
20 attendance or after?

21 **WIT:** Yes, for every attendance we're required to notify the Coast Guard.

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1 **CDR Denning:** Correct. And then when your surveyor becomes aware of certain  
2 weight changes, at what point and how are those communicated with the OCMI [in  
3 audible]?

4 **ABS:** With the local OCMI?

5 **CDR Denning:** Local OCMI or Marine Inspector.

6 **WIT:** If there was a significant change in weight or another issue, survey related issue,  
7 our surveyor would absolutely consult with either the inspector they're working with or  
8 local Chief of Inspections, possible local OCMI depending on the severity or whatever  
9 the situation may be. You know if there was something that would drive issuance of a  
10 short term certificate or a deficiency or a recommendation, we're obligated to advise the  
11 local inspectors.

12 **CDR Denning:** So you would notify only if a significant weight change occurred on a  
13 short term basis, but there's no mechanism to track the aggregate long term changes, is  
14 that what I understand?

15 **WIT:** I think I testified earlier it's the responsibility of the operator of the vessel to track  
16 those aggregate weight changes.

17 **CAPT Neubauer:** I think that's been ---

18 **CDR Denning:** Understand, thank you.

19 **CAPT Neubauer:** Mr. O'Donnell, are you certain that your ABS surveyors for the EI  
20 Faro informed the local OCMI in the year previous to the accident voyage every time  
21 they visited the vessel?

22 **WIT:** I would have to review the records.

23 **CAPT Neubauer:** Are you aware of any ----

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1 **WIT:** From ----

2 **CAPT Neubauer:** Go ahead, sir.

3 **WIT:** From the majority of the records I've reviewed, yes I see there was notification to  
4 the Coast Guard for survey attendances.

5 **CAPT Neubauer:** At this time I'll pass the questioning to the NTSB. Mr. Roth-Roffy.

6 **Mr. Roth-Roffy:** Thank you Captain. Good morning Mr. O'Donnell, Tom Roth-Roffy,  
7 NTSB.

8 **WIT:** Good morning, sir.

9 **Mr. Roth-Roffy:** I would like to revisit a couple of issues and perhaps a couple of just  
10 extension of the previous discussion. First just for the record, could you tell us your,  
11 kind of your reporting arrangement so we get a better understanding of where you fit  
12 into this organization? For example, your reporting senior and your subordinates.

13 **WIT:** My reporting senior, report directly to our Senior Vice President of Operations in  
14 this division. And subordinates I, also report to the Chief Surveyor of ABS.

15 **Mr. Roth-Roffy:** So you have, those are two reporting seniors, right?

16 **WIT:** Yes. Subordinate I would trickle down to all surveyors within the division. We  
17 have structure where we have surveyors in charge of Principals and I would report  
18 down to them and they would report down to the surveyors under their charge. And I'm  
19 also obligated to report to our Operations Management and Division which would be  
20 District Managers and Regional Vice Presidents.

21 **Mr. Roth-Roffy:** Is it possible to get kind of an organizational chart showing where you  
22 fit in the organization?

23 **WIT:** Absolutely, we could provide that.



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1 **Mr. Roth-Roffy:** Thank you. And just for my own understanding, this important I think  
2 to the public that might be watching, can you describe what the differences is between a  
3 surveyor and an inspection? We've been using these terms, not interchangeably, but  
4 what the process is and describe, at the worst describe those the processes.

5 **WIT:** Could you clarify the question please?

6 **Mr. Roth-Roffy:** Yes, sir. What's the difference between a survey and an inspection,  
7 or a surveyor and an inspector?

8 **WIT:** Umm, that's a good question. Sir, a survey, a surveyor is getting an overall  
9 picture of everything. An inspection is to a specific item. We train our surveyors to  
10 have a – to take a broad look at the thing instead of having tunnel vision. Because  
11 when they're on board a vessel performing surveys, you may be on for a specific  
12 occasional survey, but one of the things we train them to do is to have their eye out to  
13 look for the overall picture what's going on board. Where inspectors may get down to  
14 itty bitty nitty gritty details, our surveyor is making an overall view, or in a survey you're  
15 making overall view to verify compliance with the rule, guide, regulation by sampling,  
16 performing operational tests, visual inspections and things like that. They're similar but  
17 there are minute differences. Inspectors may get down to specific little details where we  
18 may not do that if not necessary on a survey.

19 **Mr. Roth-Roffy:** And generally could the work of an ABS person be described as a  
20 surveyor and he does surveys and conversely a Coast Guard person is an inspector  
21 who does inspections?

22 **WIT:** Yes, sir.

1 **Mr. Roth-Roffy:** And there's been several comments about sampling and I believe you  
2 called it a snapshot in time. Could you describe the, the best you can, the ABS's survey  
3 process with regard to sampling requirements? Perhaps in terms of percentages, or  
4 however you guy require your surveyors to do the surveys.

5 **WIT:** We have very specific requirements in our rules for each type of survey. Things  
6 that have to be carried out. And if the surveyor sees in the course of his survey  
7 anything of concern they always reserve the right to expand the scope of that survey  
8 depending on what they're looking at, whether its hull, machinery, safety equipment.  
9 I'm not quite sure on detail they would be looking for them.

10 **Mr. Roth-Roffy:** No, just trying to get a better understanding of the term of sampling or  
11 survey sampling. And what the surveyors are actually required to do, what percentage  
12 of something that they need to look at closely and what percent perhaps they need to  
13 look at.

14 **WIT:** Well for example in the course of an annual survey we can say, let's say a vessel  
15 that may have had automation. In the course of an annual survey there's specific items  
16 we would look at. However we wouldn't go down to the detail of doing, say a DPT  
17 FMEA type testing or going and testing every alarm on the vessel. Specifically we could  
18 get down to say alarms for shutdowns. If a vessel had 20 shutdowns the surveyor may  
19 randomly pick 4 or 5 of those to verify that they're working. Sometimes vessels are set  
20 up where if you hit one shut down it shuts down everything. But our rules do have  
21 specific requirements whether it be, what's required to be done for every type of survey  
22 we do.

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1 **Mr. Roth-Roffy:** So you mentioned for example the automation test procedures. If the  
2 surveyor if there's, as in your words 20 items he could sample 4 or 5. Could he just also  
3 sample one?

4 **WIT:** I wouldn't say they would sample one, they would sample more than that. They  
5 may sample 25 percent in the course of an annual, but in a renewal type survey they'll  
6 most likely go through the whole procedure. For clarification my other responsibility,  
7 excuse me, strike that. One of the responsibilities would be if there's procedures such  
8 as that on board under a vessel's SMS or their preventative maintenance, the operator  
9 of the vessel would be required if they had a procedure for things they're supposed to  
10 test on a regular basis, that would also be a part of the surveyor, the surveyor would  
11 look for those records to see that the owners, you now fulfilling their obligation to the  
12 operator, is fulfilling their obligation that they're testing and reviewing these on regular  
13 basis. That would definitely be part of the survey.

14 **Mr. Roth-Roffy:** Yesterday we questioned a boiler repair technician who performed a,  
15 call it an inspection on one of the boilers it involved the fire stack inspection. Does ABS  
16 have a process for their surveyors in how to conduct a boiler survey?

17 **WIT:** For required boiler surveys yes we do. We have rules and instructions on how to  
18 do that.

19 **Mr. Roth-Roffy:** And would that include both the fire sides and the water sides?

20 **WIT:** Yes, sir.

21 **Mr. Roth-Roffy:** I would like to request a copy of that procedure. Do you have a  
22 number for it?

23 **WIT:** It would be the ABS rules in our procedure for boiler surveys, I can provide that.

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1 **Mr. Roth-Roffy:** Not the class rules, but a specific process.

2 **WIT:** The requirements are in the class rules. We have some guidance in our process  
3 instructions and procedures.

4 **Mr. Roth-Roffy:** Yes, sir, that's what I'm looking for.

5 **WIT:** Okay.

6 **CAPT Neubauer:** One clarification on that, would those be required for an optional  
7 boiler survey that was initiated by the company?

8 **WIT:** No, sir.

9 **Mr. Roth-Roffy:** And there was some discussion previously about requirements that's I  
10 believe in the MOU or the supplement that ABS was required to consider or to use  
11 Coast Guard interpretations and NVIC's and other such policy documents. And you  
12 said that you received notification of that and you would push it out into the – to your  
13 surveyors at your regional levels. How are these policy changes, interpretations, how  
14 are they actually implemented into the supplement and how are they implemented into  
15 the checklist used by your surveyors in performing an ACP survey?

16 **WIT:** There is a specific requirement for a survey that came from a notice such as that,  
17 we would have the process where we would go through to make a change to our survey  
18 checklist or we would have to – if we had to make a change to our rules there's a  
19 process we have to follow and we have a specific procedure we go through for updates  
20 to our rules, changes to our rules. We do a proposed rule change notice, it would have  
21 to go through a committee, be reviewed and then it would be implemented within the  
22 rules. If it's something that had to be implemented immediately we could send that  
23 guidance out to our surveyors and have them be aware. And we have a few other tools,

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1 we could put it on the survey status on the applicable vessels as an additional  
2 requirement that they would have to do in the course of their surveys with a specific due  
3 date. We have multiple ways we can do that.

4 **Mr. Roth-Roffy:** So you do have a process that would ensure that any such NAVIC's  
5 and other policy guidance would be periodically added to the checklist? Is it an  
6 annually, quarterly?

7 **WIT:** We can. Depending on when they would come out. They could be annually,  
8 quarterly. Changes take time and there's process – specific process we have to follow  
9 for changes. But if it was something that would have to be immediate we have a way  
10 where we can capture that as well.

11 **Mr. Roth-Roffy:** And what about changes to the ABS supplement too, the U.S.  
12 Regulations?

13 **WIT:** Changes to the supplement would have to be discussed between the different  
14 parties and then the supplement – the new supplement would have to be drafted,  
15 reviewed by both sides and then get implemented. That would take some time. That  
16 wouldn't be such an easy change.

17 **Mr. Roth-Roffy:** Thank you, sir. That's all I have. Captain.

18 **WIT:** Thank you, sir.

19 **CAPT Neubauer:** Sir, I would like to explore the relationship between ABS and the  
20 Coast Guard and ask for your opinion in some situations, sir. Under ACP the Coast  
21 Guard has the option to conduct concurrent inspections along with your surveys, is that  
22 correct, sir?

23 **WIT:** Yes anytime.

1       **CAPT Neubauer:** Do you think it's valuable for the Coast Guard and ABS to align  
2 surveys and inspections at times?

3       **WIT:** Yes for training I think it can help both sides and also for two sets of eyes is  
4 always better than one.

5       **CAPT Neubauer:** In your opinion is the Coast Guard and ABS interactions sufficient at  
6 this time overall? And when I say that I mean concurrently doing inspections that we  
7 just mentioned and surveys.

8       **WIT:** At all levels from the local level all the way up to my level?

9       **CAPT Neubauer:** I mean in the field levels. Or can you make an assessment of that?

10       **WIT:** Yes I can make an assessment. I see in some areas at the local level the  
11 relationship between the surveyor in charge and his staff and the local inspectors or  
12 OCMI and his staff are excellent. In some areas not so much. I think as Captain  
13 McAvoy testified earlier this week, since I've taken tenure in this office it's been  
14 something that he and I have been driving and from his boss Admiral Thomas to advise  
15 on the Coast Guard side and the ABS side the importance of this relationship and the  
16 cooperation and be able to work together. To the point where we've asked surveyors in  
17 charge and OCMI that they should know each other by their first names.

18       **CAPT Neubauer:** Now looking closely at the El Faro for the several years leading up to  
19 the incident, do you consider the amount of ABS and Coast Guard interaction to be  
20 sufficient in your opinion? For the three years of surveys leading up to the accident?

21       **WIT:** That would be difficult for me to assess because I think it would be better  
22 answered by someone at the local level.

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1     **CAPT Neubauer:** Are you aware of the Coast Guard and ABS working together, have  
2     you heard if they were attending together?

3     **WIT:** In some instances, yes, sir.

4     **CAPT Neubauer:** Are you aware of instances where the Coast Guard and ABS were  
5     not attending the vessel together?

6     **WIT:** Several, yes.

7     **CAPT Neubauer:** Can you give me a percentage of when the Coast Guard would  
8     actually attend and when they would just do their own oversight exam?

9     **ABS:** For the El Faro Captain?

10    **CAPT Neubauer:** Yes, sir, and this would just be for the El Faro for maybe a three year  
11    period before.

12    **WIT:** That would be very difficult for me to give you that percentage.

13    **CAPT Neubauer:** Would you say that the Coast Guard attended along ABS more often  
14    or less often? 50 percent of the time or less?

15    **WIT:** I would have to say less than 50 percent.

16    **CAPT Neubauer:** At this time I would like to go to the parties in interest. Tote do you  
17    have any questions?

18    **Tote Inc:** No questions, sir.

19    **CAPT Neubauer:** ABS do you have questions?

20    **ABS:** No questions, sir.

21    **CAPT Neubauer:** Mrs. Davidson?

22    **Ms. Davidson:** No questions.

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1     **CAPT Neubauer:** We have one final round of questioning. Would you like to keep  
2     going, sir?

3     **WIT:** Sure.

4     **CAPT Neubauer:** At this time Commander Odom will start the new line.

5     **CDR Odom:** Mr. O'Donnell. This is a question that's more for clarification. We've  
6     heard a lot of testimony this week about the bilge monitoring system on the El Faro.  
7     Exhibit 98, item 15 is a layup plan, survey report where a bilge monitoring system was  
8     required to be installed, or was installed on board the El Faro.

9     **WIT:** Give me just a moment it's coming up.

10    **CDR Odom:** I understand.

11    **WIT:** Which page specifically, sir?

12    **CDR Odom:** So Exhibit 98.

13    **WIT:** Would that be question 15 on Exhibit 98?

14    **CDR Odom:** Correct. Thank you. So that question is checked yes in the bilge monitor  
15    system, is that correct?

16    **WIT:** Yes, as part as the layup which is an additional service, or survey that we can  
17    offer to the owner when they layup the vessel.

18    **CDR Odom:** Yes, sir.

19    **WIT:** They're not required to perform ----

20    **CDR Odom:** Understand. So this was the reason that the bilge monitoring system on  
21    board the El Faro, is that correct?

22    **WIT:** Yes, sir.

23    **CDR Odom:** It was not required to be there?



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1 **WIT:** For the rules.

2 **CDR Odom:** For the rules.

3 **WIT:** The IMO requirements, no, sir.

4 **CDR Odom:** And why would a vessel like the El Faro not be required to have a bilge  
5 monitoring system? Can you clarify that for us please?

6 **WIT:** Would that be during operations?

7 **CDR Odom:** Yes, sir.

8 **WIT:** Okay. Based on their date of build.

9 **CDR Odom:** So in Exhibit 101, it's another survey report, item 13 when the block is  
10 checked N/A on that report.

11 **WIT:** Just a moment please. It was item 13, sir?

12 **CDR Odom:** Yes, sir.

13 **CAPT Neubauer:** Commander Odom can you provide some details on these  
14 documents, the dates?

15 **CDR Odom:** These are survey reports from checklist from surveyors that were  
16 conducted on the El Faro. One was for the layup in 2011. The second exhibit is for the  
17 2013 exam.

18 **CAPT Neubauer:** And I note the date for the second exhibit is 11 October 2013.

19 **CDR Odom:** Thank you.

20 **WIT:** Your question again?

21 **CDR Odom:** So the block is checked N/A on that one.

22 **WIT:** Yes, sir.

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1 **CDR Odom:** So does that mean that after the vessel is back in service, ABS would not  
2 have been checking that system to make sure it was properly functioning?

3 **WIT:** That would be correct, sir. The surveyor checked the non-applicable box.

4 **CDR Odom:** Yes.

5 **WIT:** Because it's not required, it wouldn't have been surveyed.

6 **CDR Odom:** Thank you. For more for clarification than anything. Thank you very  
7 much for that.

8 **WIT:** You're welcome.

9 **CAPT Neubauer:** I think you should read that section into the record, the box that's  
10 checked not applicable. At least the first paragraph. Or Commander Odom you can  
11 read that.

12 **CDR Odom:** Yeah. For single hold cargo ships have water level detectors been  
13 installed where they are assessable for serving, maintenance and repair, testing. And  
14 are there manuals provided on board. And it's checked N/A. The number 2 note is  
15 ships having a length of less than 80 meters or 100 meters if constructed before 1 July  
16 1998, a single hold cargo ship, a freeboard deck with a cargo holds below the freeboard  
17 deck, which are not separately – separated by at least 1 bulkhead made of watertight up  
18 to that deck shall be fitted with such space or spaces with water level detectors. Single  
19 hold cargo ships other than bulk carriers constructed before 1 January 2007, shall  
20 comply with the requirements of this regulation not later than January 2007, whichever  
21 first if not later 31 December 2009. The water level detectors required by this  
22 paragraph need not be fit in ships compliant with regulation 12-12 or in ships having

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1 watertight inside compartment, each side of the cargo hold length extending vertically at  
2 least from the inner bottom to the freeboard deck. Is that correct?

3 **WIT:** Yes, sir.

4 **CAPT Neubauer:** Mr. O'Donnell I'm going to make a clarification on this. Does this  
5 mean that for the El Faro the vessel would not have to have bilge indicator, bilge level  
6 indicators?

7 **WIT:** In the cargo holds, yes, sir.

8 **CAPT Neubauer:** In the cargo holds. Does it also mean that there would be no  
9 provision for the vessel to have to meet a standard in the future? It could keep  
10 continuing?

11 **WIT:** Currently no.

12 **CAPT Neubauer:** Thank you.

13 **CDR Odom:** Thank you. Shifting gears to the surveys of the El Faro. Was the El Faro  
14 survey under the ABS continuous machinery survey, or the preventative maintenance  
15 program?

16 **WIT:** As I recall she's on the continuous machinery survey cycle.

17 **CDR Odom:** Can you explain the continuous machinery survey cycle for us and give  
18 us the details of that program?

19 **WIT:** Sure. A vessel can be either on continuous or periodic survey cycles. When  
20 you're on a periodic cycle that means everything is due every five years at the end of  
21 that cycle. So you would have to do all of those items at that renewal survey. Many  
22 owners elect to, especially with the machinery side that we're allowed under the rules to  
23 put the machinery, the periodic survey to a continuous machinery survey basis. But

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1 they still have to follow the rules that each component has to be examined within 5 year  
2 period. But it allows them to break up the period of inspections or the inspections and  
3 percentages over 5 years. So you could do 20, basically, theoretically 20 percent of the  
4 machinery can be inspected on a yearly basis to get 100 percent machinery inspected  
5 over that 5 year basis.

6 **CDR Odom:** So you do 20 percent of the machinery over a 5 year period?

7 **WIT:** No. It would be 100 percent over the 5 year period, but ----

8 **CDR Odom:** 20 percent per year.

9 **WIT:** But theoretically they try to do 20 percent annually, sir.

10 **CDR Odom:** Right.

11 **CAPT Neubauer:** As a reminder please be careful to not – to let the witness finish for  
12 we can get the record complete.

13 **CDR Odom:** Thank you, Captain. 20 percent per year over a 5 year period.

14 **WIT:** Theoretically.

15 **CDR Odom:** To equal 100 percent, theoretically, right?

16 **WIT:** Yes.

17 **CDR Odom:** So in the continuous machinery survey cycle, of the 20 percent per year  
18 that is in theory done, how much of that 20 percent can the crew do and will ABS  
19 accept? Do they accept the Chief Engineer inspecting that equipment as the inspection  
20 and not look at that particular – there's items that the crew can do under that program,  
21 is that correct?

22 **WIT:** Depending what type of other programs they're doing with ABS.

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1 **CDR Odom:** So on the El Faro was there items that were inspected by the Chief  
2 Engineer for ABS?

3 **WIT:** Not that I'm aware of.

4 **CDR Odom:** Turn to Exhibit 160.

5 **WIT:** Okay.

6 **CDR Odom:** So in Exhibit 115, 115. Can you explain this report? Does it say a class  
7 survey report?

8 **WIT:** Yes, it's a class survey report.

9 **CDR Odom:** So this is for clarification to try to understand the report. On page 2 of the  
10 report ----

11 **CAPT Neubauer:** Commander Odom, let's give it the context, this is ----

12 **CDR Odom:** Right.

13 **CAPT Neubauer:** El Faro survey report from 31 January 2014 for the first visit and the  
14 last day of the visit was 05 March 2014.

15 **CDR Odom:** Thank you. We're looking at page 2.

16 **WIT:** Excuse me Captain, could you clarify that date again? You said 1-16?

17 **CAPT Neubauer:** Sorry, 31 January 2014 was the first date of the visit and 5 March  
18 2014 was the last date. Was that the ----

19 **ABS:** Is that Exhibit 115, or Exhibit 160?

20 **CDR Odom:** 115, 115.

21 **WIT:** I apologize I had the wrong exhibit.

22 **CAPT Neubauer:** No go ahead. Do you want to take a second to?

23 **WIT:** One second please. Okay.

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1       **CDR Odom:** So on page 2 of the exhibit, so what I'm trying to understand under main  
2       propulsion, one of the lines it says inspected by stage Chief Engineering. Can you  
3       explain that?

4       **WIT:** Yes, that would mean the Chief Engineer had inspected that item.

5       **CDR Odom:** That means that ABS did not inspect that item.

6       **WIT:** No, that would not be the case. Under some programs we allow the Chief  
7       Engineer to make inspections of some parts, it's very specific in our rules. I think if we  
8       went into detail I would spend a lot of time. But, however, the Chief Engineer can do an  
9       open ended inspect on a certain items and he would have to provide the surveyor with  
10      documentation such as pictures, clearances, evidence of overhaul, or you know show  
11      that they did something to that item. Maybe vibration analysis or other data from  
12      experts and the surveyor would make a decision based on reviewing that material, plus  
13      a visual inspection of the item externally whether or not they would credit the part or not.  
14      But the designation of the Chief of Engineer would be for our reporting, because that  
15      would be an item the Chief Engineer had presented to the surveyor for continuous  
16      machinery survey credit.

17      **CAPT Neubauer:** Mr. O'Donnell, are those issues that are required by the Coast  
18      Guard or are they in addition to the regulations? The items that can be verified by the  
19      Chief Engineer?

20      **WIT:** These are strictly for the class related items. The continuous machinery surveys  
21      would be for class related items. All safety related items are required to be examined  
22      by the surveyor.

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1     **CAPT Neubauer:** So if the Coast Guard were overseeing the vessel, would these tests  
2     be part of the certificate of inspection exam?

3     **WIT:** I would assume, yes, that item would be a part of the exam.

4     **CAPT Neubauer:** Do you know if the Coast Guard allows for the Chief Engineer to  
5     conduct testing on their behalf?

6     **WIT:** Not that I know of.

7     **CAPT Neubauer:** All right. Commander Odom.

8     **CDR Odom:** Thank you. Would the Chief Engineer have to have any special  
9     certification or documentation from ABS stating that he is authorized to do these types  
10    of inspections on behalf of ABS or in lieu of the regulations? Or how do you document  
11    – how do you know which Chief Engineer can do it, which on can't?

12    **WIT:** In the past we used to do that, but we still, we do document the Chief Engineer.  
13    We take his license number and we document who the Chief Engineer that is the credit  
14    item. I mean this was back in the old days before we had the advent of having to review  
15    the reports and just real pictures and the additional information they could provide. It  
16    was a bit cumbersome, but now we do document the Chief Engineer that does do these  
17    items in the survey.

18    **CDR Odom:** Where in the class rules is it programed and where does it illustrate what  
19    can be done by the ship's crew and what can be done by ABS, if we needed – if we  
20    wanted that rule where would we get it?

21    **WIT:** Parts within the rules. Specifically 7(a)14.

22    **CDR Odom:** All right. Can you break this down into percentages for us, if we have a  
23    continuous machinery survey that's covering 100 percent of the machinery over a 5

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1 year period, what percent of the 20 percent per year is the ship's crew doing on behalf  
2 of ABS?

3 **WIT:** That would vary depending on the items that would be credited at that year.

4 **CDR Odom:** So of the 100 percent over the 5 year period, what percent would you say  
5 is done by the ship's crew?

6 **CAPT Neubauer:** Is there maximum percentage that's allowed, sir?

7 **CDR Odom:** That's what ----

8 **WIT:** Not that I recall, but there's specific items that could be multiplied on the vessel  
9 the Chief Engineer is not allowed to examine, it has to be examined by the class  
10 surveyor. And that's clearly documented in the rules. I will reiterate though, even  
11 though the Chief Engineer will propose an item for credit, it still has to be examined as  
12 we discussed earlier by the class surveyor and operationally tested.

13 **CDR Odom:** Kind of going back to what Mr. Roth-Roffy was saying earlier, the  
14 memorandum of understanding delegates authority to ABS to conduct inspections on  
15 behalf of the Coast Guard. So through this program, if I understand it correctly, you  
16 have further delegated inspection items to the ship's crew. And in your definition  
17 between a survey and an inspection, how do you come to the conclusion that this  
18 program meets the intent of the alternate compliance program of ABS conducting  
19 inspections for the purpose of certificating a vessel for inspection on behalf of the Coast  
20 Guard? Is this – has this been ever discussed with the Coast Guard or has it been  
21 solidified in any policy that the Coast Guard will accept, this continuous machinery  
22 survey program in the ship's crew is allowed to do some of the inspections?

23 **CAPT Neubauer:** That was a long question, sir.



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1 **CDR Odom:** Right.

2 **CAPT Neubauer:** Can you confirm whether the Coast Guard has allowed you to have  
3 the Chief Engineers confirm any level of testing?

4 **WIT:** I'm not aware of that right now. But I know this is a program that we've had in  
5 place for several years. And the program is happening on multiple ACP vessels and the  
6 Coast Guard's aware of it. And there's never been any concern in the past. Again I will  
7 reiterate even though the Chief Engineer may propose an item for credit, such as a  
8 pump or something like that, it's still required to be examined by the surveyor and the  
9 surveyor can choose if the Chief Engineer offers him an item and he says we opened  
10 and inspected and rebuilt this, if they're not satisfied with the condition of that machinery  
11 and the operational test of that machinery, or they don't see clear progress or clear  
12 objective evidence that the pump's been overhauled or repaired or put parts on it, we're  
13 not obligated to allow credit for that part. The surveyor can always – reserves the right  
14 to say Chief open that up, I want to see it for my own eyes. So there is still the – the  
15 surveyor is – the buck stops with the surveyor. The Chief Engineer can propose it to  
16 the surveyor, however, it's the surveyor's ultimate decision to credit that part.

17 **CAPT Neubauer:** But the surveyor does have discretion to trust the Chief Engineer if  
18 he decides?

19 **WIT:** Yes, sir.

20 **CDR Odom:** Thank you. If you would look at item, Exhibit 63 please. To give some  
21 context to our next line of questioning we're going to an economizer repair that was on  
22 board the El Faro. This specific exhibit is an email from Chief Pusatere to Mr. Tim  
23 Neeson. And in this he talks about urgent repairs needing to be made on the

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1 economizer. And a super heater line. So if you could take a second to read it and  
2 understand the context of it.

3 **WIT:** Okay.

4 **CDR Odom:** And if you would turn to Exhibit 62 please, 62. It's an ABS survey report  
5 dated the 8<sup>th</sup> of September 2015 where an ABS surveyor attended the vessel for the  
6 purpose of checking the repairs to the economizer at – or expressed in the previous  
7 email. In the email it was talking about a repair to the port economizer in this survey  
8 report, he's saying that he checked the repair on the starboard economizer. Is that just  
9 an error in your report?

10 **WIT:** Yes, that's correct. We've discussed that with the attending surveyor and to  
11 correct the record it's a she.

12 **CDR Odom:** Thank you.

13 **WIT:** And.

14 **CDR Odom:** So also on this report they did a hydro test to 800 psi approved.

15 **WIT:** That's what the report states, yes, sir.

16 **CDR Odom:** Look at Exhibit 114. This exhibit is from section 2 of the boiler manual  
17 operations manual from the El Faro. So what I'm trying to get an understanding on and  
18 clarification here is they did a hydro test on the economizer, on the port economizer to  
19 800 psi. Clearly the safeties on these systems are set for 1050 psi and the rate of  
20 pressure of 1050 psi. So what allowed them to do an 800 psi hydro on that system?  
21 Do you consider that a satisfactory test of the economizer? Based on the safety set  
22 pressure of 1050 at the bottom of the page. What would have been the correct  
23 hydrostatic pressure, psi for this test per the ABS rules?

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1 **CAPT Neubauer:** You want some time to look this document over, sir?

2 **WIT:** Yes. This is the first I've seen this. May I have a few minutes to look this over, a  
3 minute to look this over?

4 **CAPT Neubauer:** Yes, sir. The hearing will recess for 10 minutes and reconvene at  
5 1157.

6 *The hearing recessed at 1147, 26 February 2016*

7 *The hearing was called to order at 1159, 26 February 2016*

8 **CAPT Neubauer:** This hearing is now back in session. Commander Odom.

9 **CDR Odom:** Thank you. Mr. O'Donnell.

10 **WIT:** Excuse me Commander Odom. I would like to make one clarification for the  
11 record before we start.

12 **CAPT Neubauer:** Yes, sir.

13 **WIT:** We have the class rules then we have ACP. Then under ACP the roles we're  
14 delegated under ACP we do not delegate to anyone else. So for the class purposes  
15 and the ACP purposes we do not delegate any of the roles that have been delegated to  
16 ABS under ACP to anyone but the ABS surveyor or the cognizant engineer who may be  
17 doing review for under ACP.

18 **CDR Odom:** So there would never be a situation where the regulatory required piece  
19 of equipment was surveyed by the ship's crew and not by ----

20 **WIT:** For instance yes, like a piece of safety equipment or something like that, that is  
21 the role of the surveyor ----

22 **CDR Odom:** Life saving, fire fighting equipment?

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1 **WIT:** Besides, besides say the external specialist that would come in to assist the  
2 surveyor or the inspector in the course of that inspection, that equipment, the final  
3 survey and inspection is to the surveyor's satisfaction. It's not delegated to anyone  
4 else. They just accept that report as a tool to complete their survey.

5 **ABS:** As a further point of clarification, the questions with regard to the crediting of the  
6 thrust item in the annual machinery survey, that was a class survey and done in  
7 accordance with class rules.

8 **WIT:** Yes.

9 **CDR Odom:** Thank you.

10 **CAPT Neubauer:** Okay that's noted for the record, thank you.

11 **CDR Odom:** So to boiler question.

12 **WIT:** Yes, sir.

13 **CDR Odom:** That 800 psi per the class rules on a boiler that has a safety set pressure  
14 of 1050 for a component of that system, what would be the proper hydrostatic test  
15 pressure for testing the repair on that component?

16 **WIT:** Without knowing the working pressure, what the designed working pressure of  
17 that boiler would be, I could not answer that question.

18 **CDR Odom:** In this case the designed working pressure is 1050.

19 **WIT:** If it was 1050 it would have to be a least the minimum of the working pressure.

20 **CDR Odom:** So the minimum allowable hydrostatic pressure test would have been  
21 1050?

22 **WIT:** Minimum, yes.

23 **CDR Odom:** Thank you.

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1     **CAPT Neubauer:** And just for the record, you're saying if this document is correct and  
2     the pressure is actually 1050, that would be the case?

3     **WIT:** Yes, sir.

4     **CAPT Neubauer:** Thank you.

5     **CDR Odom:** What circumstances would it – would decide if you needed to go above  
6     the 1050? In the case of the Coast Guard rules it would be 1.25 for a hydrostatic test of  
7     the repair. Under ACP or through the supplement does it identify a tie between the  
8     difference between what class requires and what the Federal Regulations require?

9     **WIT:** Yes, there is a difference. The hydrostatic test pressure post repairs is to the  
10    surveyor's satisfaction depending on the situation at hand.

11    **CDR Odom:** Thank you. You were looking at Exhibit 74 please. Exhibit 74 is a  
12    Harding report for a brake drum repair that was conducted on September 29<sup>th</sup>, 2015, the  
13    day that the El Faro departed Jacksonville. In this report a Harding representative was  
14    on board the El Faro and completed a brake drum repair, or actually replaced it. My  
15    question from the surveyor, would a surveyor have to had been present to witness the  
16    testing of this equipment, or would it have required ABS notification that this work was  
17    being done on board the El Faro on this life saving davit break?

18    **WIT:** Yes.

19    **CDR Odom:** What test could have been required by ABS after this rebuild?

20    **WIT:** Operational test.

21    **CDR Odom:** Can you explain an operational test to us, what that test would be?

22    **WIT:** First off for the record I don't think ABS had any knowledge of this work being  
23    done, from the record review that I've done. And I noticed in this report, reading the

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1 report, it says, bear with me for one second. Service aboard vessel El Faro to install  
2 quantity two free wheel clutches and Masco life boat winches tested for proper function  
3 after installation. I don't see where the brakes were replaced. It's just the clutches in  
4 the brakes.

5 **CDR Odom:** Correct, so the question is from your review of this report this is  
6 something that ABS should have been notified that was going on?

7 **WIT:** Yes, sir.

8 **CDR Odom:** And they would have been present and expected to witness testing after?

9 **WIT:** Be aware of this work and perform an operational test to prove the brakes work  
10 after the maintenance was done, yes.

11 **CDR Odom:** What would have that operational test – what would that be?

12 **WIT:** Umm, lowering the boat to do a, just a boat with its weight, not loaded with any  
13 weight, to see that the brake would stop the boat. And it appears further reviewing the  
14 report was done by the technician.

15 **CDR Odom:** Thank you.

16 **CAPT Neubauer:** I want to clarify the record on this point. Is this for the starboard and  
17 port life boats on life boat davits on the El Faro?

18 **CDR Odom:** In the write up it does say port and starboard life boats. It doesn't say  
19 davit. It says port and starboard winches.

20 **ABS:** And that's on page 4 of the report.

21 **WIT:** Page 4, yeah.

22 **CDR Odom:** In the write up and also parts list, it specifies.

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1       **CAPT Neubauer:** And Mr. O'Donnell you mentioned that you would have required an  
2 operational test observed by an ABS surveyor?

3       **WIT:** Yes, sir.

4       **CAPT Neubauer:** Can you describe that operational test? Would there be any weight  
5 added to the life boats?

6       **WIT:** No, sir.

7       **CAPT Neubauer:** So it would be an empty test to the boat deck, or?

8       **WIT:** I would expect that the surveyor would have them start lowering the boat, lift the  
9 brake fully open and drop the brake, basically we kind of call that a dynamic test of the  
10 brake, however, you know not with the 1.1 times the B weight.

11       **CAPT Neubauer:** And, sir, just to clarify, was this the first time that you were aware  
12 that the davits were serviced the day of the El Faro's accident voyage departure?

13       **WIT:** Yes. As far as I know ABS had no knowledge of this.

14       **CAPT Neubauer:** Thank you.

15       **CDR Odom:** Mr. O'Donnell, are you familiar with the international association of class  
16 society's early warning system, EWS?

17       **WIT:** Yes.

18       **CDR Odom:** From my review it looks like ABS adopted that system on 1 April 2009.

19       **WIT:** I'm not 100 percent aware of the date, but I know we've adopted the system.

20       **CDR Odom:** Understand. So are you familiar with the buckling of the Lurline?

21       **WIT:** Yes, I'm aware.

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1 **CDR Odom:** And in the instruction for the EWS it talks about sister vessels and also  
2 vessels of similar design. The buckling of the Lurline was after the adoption of the EWS  
3 by ABS. Under the EWS would ABS consider the El Faro a vessel of similar design?

4 **WIT:** To the Lurline today?

5 **CDR Odom:** The Lurline, yes.

6 **WIT:** Today?

7 **CDR Odom:** Yep.

8 **WIT:** No.

9 **CDR Odom:** So there would have been no requirement under the EWS to notify the  
10 vessels that were built by Sun that were like that, they would take no action under that  
11 program?

12 **WIT:** To my knowledge, no. And for clarification a lot of the problems with Lurline was  
13 due to wastage that was known and the wastage was repaired.

14 **CAPT Neubauer:** Were the Lurline and El Faro every considered similar in your  
15 opinion?

16 **WIT:** When originally built, yes. Post modifications, they were similar, not sisters, but  
17 post modifications, no. They were two different vessels.

18 **CAPT Neubauer:** Is that due to the different lengths of the in surge?

19 **WIT:** Lengths and configuration of the vessel. They wouldn't be considered sisters.

20 **CAPT Neubauer:** Thank you. Not considered similar?

21 **WIT:** And for the record the issues with the Lurline we noted post, long after the  
22 conversion of on the Lurline.



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1       **CAPT Neubauer:** Yes, sir. So you're saying they aren't sisters and they were not  
2 similar due to these different lengths of the conversion?

3       **WIT:** Yes.

4       **CAPT Neubauer:** Thank you.

5       **CDR Odom:** Use Exhibit 97 as an example for the next line of questioning. Exhibit 97  
6 is a survey report dated the 15<sup>th</sup> of April 2011. This is a result – this is a request for a  
7 review of an electrical circuitry after a loss of power on board the El Faro. And as an  
8 example, using this as an example, the surveyor was called out to review a specific item  
9 that was identified as a cause of that casualty to ensure that it had been repaired. It  
10 was a worn out electrical part. Have you had time to review that?

11       **WIT:** Just a moment please.

12       **CDR Odom:** Okay.

13       **WIT:** Okay.

14       **CDR Odom:** So in this particular situation in this report it says at the request of the  
15 owner. And I understand that all of your surveys are at the request of the owner. In this  
16 dynamic where a surveyor is called on board to review this particular system, if they're  
17 suspicious that there are other underlying issues because this one particular part is  
18 worn out, that they've been called out to look at, how do they expand their exam beyond  
19 that system when they see other issues? How does that dynamic work between the  
20 owner and the surveyor and the customer and service provider type relationship  
21 between the owners and the ABS?

22       **WIT:** So you'd like to know the dynamic of being called out for a specific survey and  
23 finding possibly some other problem?

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1 **CDR Odom:** Yes, sir.

2 **WIT:** Okay.

3 **CDR Odom:** How do they expand their exam first, and then if they do discover other  
4 issues in the course of their exam, how do they – how does that work between them  
5 and the owners?

6 **WIT:** In this specific case it appears our surveyor was called on board due to an issue  
7 with an wiring, the exciter on the generator, which was repaired. I can't speak to, but I  
8 would assume the surveyor would have been curious to see possibly how the condition  
9 it was on the other generator. Now to answer the second part of your question, if I went  
10 on board, you called me out to look at one pump and I walk on board the vessels as  
11 surveyor and as I walk up the gangway towards the house down to the engine room and  
12 I see several other things, I'm definitely going to expand the scope of my survey that I  
13 was called on board for. And work with the owner or the Captain appropriately. If  
14 action is to be taken it would be taken. And for clarification in a case such as this, this is  
15 a repair survey request. When owners have failures much like with the Coast Guard,  
16 they're required to report that to ABS and the item can get surveyed to make sure it  
17 meets the intent of class and the rules and it's fit for its intended service.

18 **CDR Odom:** So does it ever become a challenge in the relationship if a surveyor is on  
19 board for a specific item like this and through the course of their survey they want to  
20 look at other things and the owner says I didn't call you here for that. You know, stay  
21 focused and stay in your lane on this particular item? What – how does ABS deal with  
22 that particular situation?

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1 **WIT:** Sometimes it can become a challenge, but the surveyor needs to stay focused  
2 and say okay I've found these additional items. He also has a few tools, or he or she  
3 has a few tools in their toolbox if they feel like they're being pressured by the owner,  
4 they can seek assistance and guidance from their surveyor in charge. And I've actually  
5 had surveyors call me in that respect and we've guided them accordingly to proceed as  
6 they see fit. If the owner has an issue they can call me and I'll discuss it with them.

7 **CAPT Neubauer:** Sir, have they ever called the Coast Guard in those circumstances?

8 **WIT:** If the item warrants it, yes. If it can be dealt with at a level where it was going to  
9 be repaired, of course the Coast Guard would be notified as the Coast Guard has  
10 access to all the survey reports and everything we do on board. But if there was an  
11 item of severity of something that we've been delegated by the Coast Guard under ACP  
12 we would definitely advise the Coast Guard.

13 **CAPT Neubauer:** And just to clarify this would be an expanded exam where a surveyor  
14 saw something that he wasn't called out for that was a safety concern? He would  
15 usually go to you first, is that correct?

16 **WIT:** Most likely to his surveyor in charge first. I would hope, a good surveyor would  
17 have the experience where the owner starts to get upset that, hey I find this, I find this,  
18 you know explain the situation to the owner, deal with it accordingly and hopefully it  
19 doesn't have to get raised to upper levels to the surveyor in charge or possibly to the  
20 assistant chief surveyor's office. But if it does we would deal with it accordingly.

21 **CAPT Neubauer:** But there's no mandatory requirement in place to notify the Coast  
22 Guard when a safety concern is found during an expanded exam?

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1       **WIT:** Oh if there's a major safety concern, yes, sir. I will get it – report it to the Coast  
2       Guard.

3       **CAPT Neubauer:** Yes, sir.

4       **CDR Odom:** So the circumstance whenever a surveyor is on board a vessel that's  
5       under the alternate compliance program checking a repair, do they actively, knowing  
6       that they're there on behalf of the Coast Guard, do they actively look the vessel over as  
7       they are on the deck or walking through the machinery spaces to look for items of  
8       compliance, or do they generally go there, do that item and leave the vessel what's  
9       need ----

10      **WIT:** As I stated earlier, we train our surveyors to be very observant when they're going  
11      on board a vessel. From the minute they get at the bottom of the gangway, as they go  
12      on is to have their eyes wide open, to use their surveyor senses. And if they sense  
13      there's more than just what they've been called out for, it's to deal with it accordingly.

14      **CDR Odom:** Can an owner request a specific surveyor or do they get whoever is  
15      available?

16      **WIT:** An owner can request a specific surveyor, will they always get that surveyor, no.  
17      Depending on workload in an office they would probably get, you know a qualified  
18      surveyor that would be available for the survey. If that specific surveyor they requested  
19      is unavailable.

20      **CDR Odom:** Can an owner refuse a surveyor on their vessel? If you send one, they  
21      don't want that surveyor, can they refuse that surveyor?

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1 **WIT:** They can. However, I think if that type of situation happened there would be  
2 some questions being asked by the surveyor in charge at the local level. And that  
3 would probably that would be something that would get back to my office.

4 **CDR Odom:** Under the alternate compliance program, can you surveyors attend the  
5 vessel anytime they want? Can they do unscheduled exams or are they only allowed to  
6 be on the vessel when invited?

7 **WIT:** Under our rules we can attend the vessel, there needs to be made available to us  
8 anytime we want. Under ACP they should be able to attend the vessel any time they  
9 want, yes.

10 **CAPT Neubauer:** Sir, is that the standard practice occurring in your opinion?

11 **WIT:** Normally we would not attend the vessel unless requested to by the owner, or if  
12 we were asked to by the Coast Guard or for some other reason.

13 **CAPT Neubauer:** Are you aware of any ABS initiatives to do random surveys or to do  
14 spot checks? Is that occurring at all?

15 **WIT:** Unless there's a condition to drive that, no, sir.

16 **CDR Odom:** There's other classifications besides these that are authorized to do  
17 inspections on behalf of the Coast Guard. How does it work between the other  
18 authorized class societies, do you guys compete against each other for business or for  
19 to have vessels under your control? Or can you explain that dynamic a little bit to us  
20 and how it works for an owner that's under ABS? And how easy is it for them, another  
21 class society to compete against you for that owner?

22 **CAPT Neubauer:** Can U.S. vessels have a choice of different class societies?

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1     **WIT:** Sure. They can – it’s up to the owner – it’s not up to us where they class the  
2 vessel. Excuse me, it’s up to the owner or the yard where the vessel’s being built,  
3 normally who the class society would be.

4     **CDR Odom:** So is that a competitive environment between the class societies?

5     **WIT:** It can be.

6     **CAPT Neubauer:** Is it difficult class once you’ve established a class?

7     **WIT:** There’s a specific – it’s not very easy, it’s not snap your fingers, there’s a process  
8 for, whether it’s a category A vessel, transferring class, or category B vessel which is  
9 even more intensive. There is a process and it’s a bit laborious.

10    **CDR Odom:** What authority does a surveyor have to suspend documents or  
11 certificates?

12    **WIT:** Class or statutory?

13    **CDR Odom:** Statutory or class, both.

14    **WIT:** Surveyors really do not have any authority to suspend or withdraw or pull a  
15 statutory certificate. If we were to do something like that, that’s of course something  
16 that would definitely be communicated to the local chief of inspection or OCMI that we  
17 would make the recommendation for the certificate be withdrawn or suspended based  
18 on findings we may have from the survey. But we’re not authorized to do that. We  
19 would have to make that recommendation to yourselves to have it done. But for class  
20 they can make the recommendation as well. And they can take the certificate if they  
21 see that it’s severe enough.

22    **CDR Odom:** So at the local level you’d be dealing with the local OCMI in that situation?

23    **WIT:** Yes, sir.

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1 **CDR Odom:** And recommending that a statutory document be withdrawn?

2 **WIT:** Yes, sir. And I think that would also drive the local OCMI and his staff to come  
3 down to the vessel to see what is warranting that situation.

4 **CDR Odom:** Have you been involved in a lot of those situations?

5 **WIT:** I have been involved in such situations.

6 **CDR Odom:** In dealing with the OCMI in those situations, how receptive or how does  
7 that generally work? Does it – when you make the recommendation is that generally  
8 what the OCMI does?

9 **WIT:** In the experience ----

10 **CDR Odom:** Were they supportive?

11 **WIT:** Excuse me. Are you finished?

12 **CDR Odom:** Yep.

13 **WIT:** In the experience I've had in the situations, umm where as a surveyor  
14 recommended withdrawing a statutory certificate or let's say refusing to complete a  
15 statutory survey and they're in the end of the window and not endorse a certificate, in  
16 communicating with the local inspector or the OCMI, I always received 100 percent  
17 support in my recommendation in moving forward. And the item was dealt with then. I  
18 don't ever recall having to raise to a level any higher than the local level to get it  
19 resolved. The OCMI was very supportive.

20 **CDR Odom:** Did the surveyors ever make any recommendations or get involved in  
21 crew competency issues?

22 **WIT:** The surveyor may be put in the situation in the course of their surveys, seeing  
23 what's going on where crew competency may come into play, but that's really one of the

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1 roles in some aspects that the surveyors still retain under ACP by doing drills, boat  
2 drills, fire drills, things like that and security drills. But if we do see competency issues  
3 we have a tool called a procedural requirement 17 under the IACS requirements that we  
4 can issue that will drive further investigation into those competency issues.

5 **CDR Odom:** Talk about the process for deferring maintenance or repairs on board  
6 vessels. And to give this some context you have the preventative maintenance system  
7 where routinely an item might need to go overdue on a critical piece of equipment.  
8 Then also have repairs to a critical piece of equipment where you might be waiting on a  
9 part or something along those lines. Specific to critical requirement, whenever a Chief  
10 Engineer or a company is deferring an item of maintenance, are they obligated to let  
11 ABS know that they are not completing the required maintenance or the required repair  
12 on that piece of equipment?

13 **WIT:** If rec, excuse me, strike that. If a surveyor has recommended repair on that piece  
14 of machinery equipment or that piece of machinery equipment is due for surveyor, yes  
15 they are obligated.

16 **CDR Odom:** And then who that obligation fall under, would it fall on the owner of the  
17 vessel, the operator of the vessel, or the Chief Engineer, or the Captain? Who would be  
18 obligated, who at ABS expect that notification to come from?

19 **WIT:** It could be any one of those parties.

20 **CDR Odom:** What about alterations to critical equipment? If somebody was making  
21 some type of alteration from what the manufacture provided, would that be a required  
22 notification?

23 **WIT:** Absolutely.



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1 **CDR Odom:** Going back to your surveyors real quick. Is there fatigue limits set for the  
2 surveyors and how many hours they can work in a day?

3 **WIT:** We do have a policy in place.

4 **CDR Odom:** Can you explain that policy to us?

5 **WIT:** We would not want our surveyor to work, I'd have to look at the number, but I  
6 know – I think it's no more than 16 hours without a rest period.

7 **CDR Odom:** So no more than 16 did you say, 16?

8 **WIT:** Yeah, but there would be breaks in between that. There's a – we have a specific  
9 policy for that and there's requirements. I could read from the policy or I could provide it  
10 to the board.

11 **CDR Odom:** You can provide it to the board.

12 **CAPT Neubauer:** Thank you.

13 **CDR Odom:** That would be good enough. And for an alternate compliance program  
14 vessel in dry dock, can you explain the intervals for conducting dry dock and also the  
15 UWILD program and how you manage that program?

16 **WIT:** I'm sorry, could you ask that question one more time please?

17 **CDR Odom:** Dry docks, what are the intervals for dry docks for ACP vessels. And  
18 could you speak briefly about the UWILD program and whether or not the El Faro was  
19 ever in the program or was it in the program at the time that it sank?

20 **WIT:** Dry dock intervals, per class rules and statutory requirements for the El Faro  
21 would be 2 and 5, not to exceed 36 months. Now at the intermediate dry docking  
22 survey, not in line with the special survey, the vessel can be allowed to do a UWILD  
23 with is an underwater survey in dry docking that has to be done with a qualified diver

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1 and there's specific survey requirements. I do not recall right now, I would have to look  
2 at the survey status if the El Faro was in the U.S. Coast Guard UWILD program. It's  
3 noted here in the U.S. they can be in our program, but they may not be in the Coast  
4 Guard's program. And as part of being under ACP they have to be in the U.S. Coast  
5 Guard UWILD program as well as ABS's program to do that UWILD survey.

6 **CDR Odom:** Thank you Captain.

7 **CAPT Neubauer:** Lieutenant Commander Venturella.

8 **LCDR Venturella:** Good morning Mr. O'Donnell.

9 **WIT:** Good afternoon.

10 **LCDR Venturella:** Oh yeah, afternoon now. I just want to seek some clarity on one of  
11 the items we discussed earlier. We previously spoke about two exhibits, 63 which was  
12 an email from the Chief Engineer talking about the port economizer leaks. And then  
13 Exhibit 62 which discussed the ABS survey which on the survey report said that the  
14 starboard economizer was addressed. You said in your testimony that the port  
15 economizer was actually addressed by that surveyor?

16 **WIT:** Yes, we discussed the surveyor, it's an error, it should be port boiler, not  
17 starboard.

18 **LCDR Venturella:** Can you please look at Exhibit 12.

19 **CAPT Neubauer:** Could you describe what the exhibit is? Can you describe the  
20 exhibit please?

21 **LCDR Venturella:** Yes, Exhibit 12 is the Walashek boiler survey from September 11 to  
22 14<sup>th</sup> that took place on board the El Faro. If you could turn to page 3 of the exhibit.

23 **WIT:** Just one second please.

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1       **CAPT Neubauer:** And that date is September 11<sup>th</sup> through 14<sup>th</sup>, 2015.

2       **WIT:** Excuse me, I'm sorry, what page again please?

3       **LCDR Venturella:** Page 3 at the bottom. There's a section about the port economizer.

4       This took place 3 days after the ABS survey that you said was of the port economizer.

5       It says the port economizer has had jumpers installed in 7 places showing signs that the

6       upper bank is starting to fail. It is recommended that the upper economizer bank be re-

7       tubed. So are you certain that the port economizer was addressed during the survey on

8       the 8<sup>th</sup>?

9       **WIT:** According to the surveyor's report, yes. And for the record ABS had no

10       knowledge of this report until these hearings.

11       **ABS:** The Walashek report.

12       **CAPT Neubauer:** Understand this is the first time you've seen this.

13       **WIT:** Yes, sir.

14       **LCDR Venturella:** Could you go to Exhibit 62? I apologize, Exhibit 63.

15       **WIT:** Okay.

16       **LCDR Venturella:** Okay. In Exhibit 63 this is an email as discussed a little bit earlier

17       and it looks like it to Bill Weinbecker, Jim-Fisker, Neeson and Matthews and a couple of

18       others. It's from Chief Engineer Pusatere and it's addressing some major items that

19       need immediate attention. The first of those is the super heater steam line leak. Have

20       you seen this now?

21       **WIT:** Yes, I've seen the exhibit.

22       **LCDR Venturella:** Can you go back to Exhibit 62 now that we've seen that?

23       **WIT:** Yes, sir.

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1 **LCDR Venturella:** Do you know why the super heater line was not addressed by this  
2 particular survey?

3 **WIT:** I do.

4 **LCDR Venturella:** Can you please elaborate?

5 **WIT:** Our surveyors were never notified of this. They were requested to attend for  
6 leaky economizer tubes, they were never requested to attend for anything about ½ inch  
7 drain line leak on the super heated steam.

8 **ABS:** For the sake of the record we had amended Exhibit 63 and we had included the  
9 notices that ABS received in connection with the economizer repair. And we similarly  
10 provided the ACP notice with regard to that repair that was sent to the Coast Guard.

11 **CAPT Neubauer:** Do we have that update for the board Commander Yemma?

12 **Tote Inc:** It's 62 I believe, I think its 62 not 63.

13 **ABS:** I stand corrected. It's Exhibit 62 updated and it was loaded to homeport.

14 **LCDR Venturella:** It looks like page 8 that you're referring to. Page 8 of Exhibit 62  
15 where it says "hi John, request surveyors witness repairs to port boiler economizer"?

16 **ABS:** There were two notices. Page 8 is the notice that was received by ABS from  
17 Tote, page 7 is the ACP notice that ABS Jacksonville, Mr. Tinsley sent to the Coast  
18 Guard Officer in Charge Marine Inspection in Jacksonville, Florida.

19 **CAPT Neubauer:** Do any of the parties in interest have any objections to that update to  
20 the exhibit?

21 **Tote Inc:** No, sir.

22 **CAPT Neubauer:** Lieutenant Commander Venturella please proceed.

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1 **LCDR Venturella:** Understanding that you weren't notified, going back to Exhibit 63  
2 email, had you been notified this way, can you comment on whether something like this  
3 would require a repair and whether it would require a hydro after it was repaired?

4 **WIT:** It would require a repair, are there other alternatives to a hydro to prove the  
5 repair, yes.

6 **LCDR Venturella:** Okay, thank you. Can you go to Exhibit 114? Exhibit 114 is an  
7 excerpt from the Babcock and Willcocks boiler manual. This specific page starts with  
8 section 2, specification and boiler data per boiler. The boilers were built in accordance  
9 with rules and regulations of the U.S. Coast Guard and American Bureau of Shipping,  
10 inspection was by U.S. Coast Guard and ABS. I was hoping you could scroll down to  
11 the test pressure section on the specs.

12 **WIT:** Okay.

13 **LCDR Venturella:** Now acknowledging these are the manufacture recommendations  
14 and not necessarily the regulatory standard, do you see the economizer hydrostatic test  
15 pressure?

16 **WIT:** Yes.

17 **LCDR Venturella:** Can you read that?

18 **WIT:** 1815 psi.

19 **LCDR Venturella:** And the surveyor report done to what psi?

20 **WIT:** 800.

21 **LCDR Venturella:** Okay, thank you.

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1 **WIT:** I would just like to note for the record that these test pressures you're seeing on  
2 this page would be the designed test pressures at 1 and a half for new construction of  
3 boiler.

4 **LCDR Venturella:** Are you also aware that the 1 and a half is a standard that Coast  
5 Guard marine inspectors use for major repairs?

6 **WIT:** Yes.

7 **LCDR Venturella:** Thank you.

8 **CAPT Neubauer:** But does ABS also then use our, the Coast Guard standard or do  
9 you use your standard?

10 **WIT:** We have our own rule for that, sir.

11 **CAPT Neubauer:** Is that common practice to use a lower pressure that is – strike that.  
12 Is it ABS's position that a lower test pressure can be used than the Coast Guard  
13 standard for your operation?

14 **WIT:** The Coast Guard standard isn't required by the supplement right now, so we  
15 would follow – we would follow the requirements in our ABS rules.

16 **CAPT Neubauer:** Has there ever been an effort to update the supplement in this  
17 regard?

18 **WIT:** Not that I'm aware of.

19 **CAPT Neubauer:** Thank you.

20 **LCDR Venturella:** Okay. Can you turn to Exhibit 15?

21 **WIT:** Just one second please.

22 **LCDR Venturella:** Thank you. Exhibit 15 is an evaluation involving for the Lurline done  
23 by Herbert Engineering on 03 July 2008.

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1       **CAPT Neubauer:** Now just to make sure on this line of questioning, I think we  
2       established that ABS does not consider these vessels to be similar.

3       **LCDR Venturella:** Yes.

4       **WIT:** Yes.

5       **CAPT Neubauer:** Okay. I just want to make sure you enter the questioning with that  
6       position.

7       **LCDR Venturella:** The reason I wanted to refer to this exhibit is Commander Odom  
8       mentioned earlier the possibility of a similar vessel discussion in addressing the  
9       comparison in structural failures. I wanted to just go over a small portion of this report.  
10      Please look at the 3<sup>rd</sup> paragraph under the summary where it starts with the motor  
11      vessel Lurline. It mentions the motor vessel Lurline is transversely framed in this  
12      region. Are you aware if the El Faro was transversely framed on the bottom?

13      **CAPT Neubauer:** Can you clarify when you say region? I don't think it's clear when  
14      you say transversely framed in this region. What is the definition of region?

15      **WIT:** I would have to look at the Lurline's, plans, structural plans to confirm whether it's  
16      transversely or longitude framed before I could answer this question.

17      **LCDR Venturella:** So what I was trying to ask you is whether the El Faro had  
18      transverse framing across the bottom plate, are you aware?

19      **WIT:** I would have to refer to the plans as I stated earlier.

20      **LCDR Venturella:** Are you also not aware of the panel dimensions on the bottom plate  
21      on the El Faro?

22      **WIT:** Not specifically, sir, I said I would have to refer to the plans.

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1 **LCDR Venturella:** I'll drop this line of questioning then. But for awareness I wanted to  
2 make a comparison of Lurline bottom structure including plate thickness, panel  
3 dimensions and framing direction over the buckle region to show that they're identical.

4 **CAPT Neubauer:** I recommend we move this issue to a second hearing session and  
5 go to the next line of questioning. Give you time to research that issue.

6 **WIT:** Yes, I would agree Captain, this would be more of a question for our engineers to  
7 – structural engineers to answer as well.

8 **CAPT Neubauer:** Yes, sir.

9 **LCDR Venturella:** Okay. Can you speak about what ABS surveyors surveyed with  
10 regard to the ventilation trunks and related fire dampers for vehicle holds on vessels like  
11 El Faro?

12 **WIT:** What they would survey for fire dampers?

13 **LCDR Venturella:** Do ABS surveyors survey the internals of the ventilation hold ducts  
14 as well as the dampers?

15 **WIT:** Yes.

16 **LCDR Venturella:** On what survey would they do that in, with what frequency?

17 **WIT:** That would be at the end of the hull annual load line survey.

18 **LCDR Venturella:** Are you aware of any recently noted issues with the ventilation  
19 trunks for the holds noted on either El Faro or El Yunque?

20 **WIT:** Yes, some issues with the El Yunque.

21 **LCDR Venturella:** Can you describe what those issue were?

22 **WIT:** If I recall there was an opening found at the 2<sup>nd</sup> deck in the trunk, one of the  
23 ventilation trunks.



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1 **LCDR Venturella:** Can you describe the design of the internals of those ventilation  
2 dampers to prevent down flooding directly into the holds?

3 **WIT:** Not off the top of my head, sir, no.

4 **LCDR Venturella:** Do you believe that the fire dampers aboard El Faro can and would  
5 be closed in heavy weather with vehicles in the hold despite the resulting loss of  
6 ventilation to spaces considered specially suited for vehicles?

7 **ABS:** Is the question whether or not they can be closed?

8 **LCDR Venturella:** Whether they can be closed and whether it's operationally safe to  
9 do so.

10 **WIT:** While the vessel's at sea?

11 **LCDR Venturella:** While the vessel's at sea with vehicles in the hold containing  
12 gasoline.

13 **WIT:** That would be an operational aspect. Could the dampers be closed, yes.

14 **LCDR Venturella:** Would they – would you think they would be closed for heavy  
15 weather purposes?

16 **CAPT Neubauer:** Can you answer that operational question, sir?

17 **WIT:** I would think they would be closed.

18 **LCDR Venturella:** Do you know if the El Faro had any ventilation failure alarms if the  
19 ventilation in the holds was cut off?

20 **WIT:** Not that I'm aware of specifically, sir. I would have to review her records.

21 **LCDR Venturella:** Are the cargo hold ventilation openings aboard El Faro required to  
22 have weather tight closing appliances to comply with load line?

23 **WIT:** I would have to review the vessel's records to answer that, sir.

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1       **LCDR Venturella:** I imagine your answer will be the same, but are the cargo ventilation  
2       openings aboard El Faro required to have weather tight appliances to avoid designation  
3       as a down flooding point?

4       [Court reporter asked the question be repeated].

5       **LCDR Venturella:** Are the cargo hold ventilation openings aboard El Faro required to  
6       have weather tight appliances to avoid designation as a down flooding point?

7       **WIT:** I would have to review the vessel's records to answer that question.

8       **CAPT Neubauer:** I think we should move to a new line, other than the ventilation  
9       questions.

10      **LCDR Venturella:** That's all the questions I have.

11      **CAPT Neubauer:** Mr. O'Donnell, one follow up question in regards to the davit repair,  
12      that we are now aware of that occurred on 29 September '15 for the report that you just  
13      saw today.

14      **WIT:** Okay.

15      **CAPT Neubauer:** If your surveyor in the Jacksonville area had become aware of that  
16      davit repair, it obviously occurred close to the sailing of the vessel, is it your  
17      understanding that there's a mechanism in place that your surveyor would have held the  
18      vessel in port until he was able to observe a test?

19      **WIT:** Yes, if they had been made aware of it, yes, sir.

20      **CAPT Neubauer:** How would he hold the vessel, can you explain how that would, until  
21      he had the chance to look at that repair and test?

22      **WIT:** If we'd been advised of the work underway, we would have asked the owners to  
23      have us come down to do a test to approve the repairs.

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1     **CAPT Neubauer:** Are you confident there's a process in place that they could easily  
2     hold the vessel for as long as it takes to get that done before, prior to departure? Is the  
3     mechanism strong?

4     **WIT:** There is a mechanism there strong enough we could take action if they didn't if  
5     we requested to attend the vessel to witness the testing of that. If we had known about  
6     it, there's mechanisms in place. We could suspend class, we could recommend to the  
7     OCMI to withdraw the safety equipment certificate and then if the vessel doesn't have  
8     valid certificates she can't – she can't operate.

9     **CAPT Neubauer:** I would like to go to the parties in interest at this time. Tote?

10    **Tote Inc:** Can we just take a 5 minute break, sir, before we make a decision on that?

11    **CAPT Neubauer:** Yes, the hearing will recess for 5 minutes and reconvene at 1250.

12             *The hearing recessed at 1245, 26 February 2016*

13             *The hearing was called to order at 1255, 26 February 2016*

14    **CAPT Neubauer:** The hearing is now back in session. Before we go to the parties in  
15    interest the NTSB had a few questions. So we'll come back to you Tote.

16    **Tote Inc:** Yes, sir.

17    **CAPT Neubauer:** Mr. Roth-Roffy.

18    **Mr. Roth-Roffy:** Thank you Captain. Good afternoon Mr. O'Donnell.

19    **WIT:** Good afternoon, sir.

20    **Mr. Roth-Roffy:** Just a few questions, some of them we'll probably extend to a slightly  
21    different area. Sir, we've heard in previous testimony regarding some information  
22    regarding repairs to cargo securing fixtures such as D rings and buttons and whatnot.  
23    Does ABS have any interest in surveying such repairs as under the rules?

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1     **WIT:** Under the rules, no. The only place we may be interested is the welding to ship's  
2     structure, but however we don't approve appurtenances such as that.

3     **Mr. Roth-Roffy:** So welding to ship's structure. The welding to the deck would not be  
4     considered a ship's structure?

5     **WIT:** Welding to the deck would be a ship's structure, so our concern would be  
6     whatever they're welding to the deck, we would just want to be concerned that it would  
7     not affect the structure in a way.

8     **Mr. Roth-Roffy:** So would ABS expect to be notified in such instances where as we  
9     heard collars or D rings were being ground off and re-welded to the deck, just to be  
10    clear?

11    **CAPT Neubauer:** I'm going to clarify. Would it be different if it were a watertight deck  
12    versus a non-watertight deck?

13    **WIT:** If it was something that was penetrating a watertight deck, yes. But attaching to  
14    the deck that would not be an approval. The only thing where we would be concerned  
15    if, if you're putting something like a foundation or something like that down that there  
16    would be an adequate structure in way to back up what you're putting down. And I think  
17    for the record I would have to look at the ship's plans, but probably the arrangement of  
18    where such foundations for D rings or things like that would have been something that  
19    would have been looked at. You know, when that was done to assure there was  
20    adequate structure in way to back up those items.

21    **Mr. Roth-Roffy:** So regarding the periodic surveys done by class, do they examine or  
22    survey the cargo securing fixtures like we've mentioned before, the D rings, buttons  
23    and?

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1 **WIT:** No, sir.

2 **Mr. Roth-Roffy:** That's not part of the survey?

3 **WIT:** No, sir.

4 **Mr. Roth-Roffy:** I would like to again revisit the issue of ABS's relationship with  
5 companies or individuals that conduct services on behalf of the ABS. For example the  
6 voyage data recorder performance testing was done by Sperry. Could you describe  
7 that oversight relationship that ABS has with those specialists?

8 **WIT:** Are you referring to external specialists that we approve?

9 **Mr. Roth-Roffy:** Yes, sir.

10 **WIT:** Or we recognize?

11 **Mr. Roth-Roffy:** Yes, sir. How they're approved and how they're overseen and  
12 audited.

13 **WIT:** Yes, ABS does use for class and statutory purposes what we call external  
14 specialists. We recognize external specialists and we have a specific process whether  
15 it's an individual or a conglomerate of companies. How we would audit that service  
16 provider or that recognized specialist to ensure that they're qualified to provide that  
17 service.

18 **Mr. Roth-Roffy:** And can you in more detail describe the auditing process of these  
19 external, uh, you know frequency and extent and how that all works?

20 **WIT:** Yes, sir. For an individual company they're audited on every 3<sup>rd</sup> year. When they  
21 get, well, back up a little bit. If you're a company and you want to be an external  
22 specialist you would make a request to ABS to be recognized for whatever one of the  
23 services are that you provide. We send out a letter to that individual of information they

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1 need to send to us, which would be basically their procedures, process, training  
2 records, how they do things, calibration of equipment. Our surveyor would get the  
3 responses to that request letter, review the information and then they would go out to  
4 that company, probably their home office or their office and they would audit, audit to  
5 those things and the specific requirements we have for each external specialist looking  
6 at those items. And you know find out that those items are satisfactory. Then the last  
7 part is, is that specialist actually has to go out and perform that service to complete the  
8 audit and when they perform the service to do it in a satisfactory manner.

9 **Mr. Roth-Roffy:** So this audit is performed by an ABS surveyor or a member of the  
10 separate auditing board section?

11 **WIT:** It can be an ABS surveyor or it could also be an ABS auditor.

12 **Mr. Roth-Roffy:** And would that person performing the ABS audit does he have the  
13 same level of technical expertise as the person that he's auditing?

14 **WIT:** Maybe not the same level of technical expertise, but they have the tools and the  
15 requirements of things we would need to verify for that specialist.

16 **Mr. Roth-Roffy:** So generally be in a position to evaluate technical performance of, say  
17 voltage checks and other similar technical inspections that would be done by the  
18 recognized external expert?

19 **WIT:** Yes, sir, they would. Voltage checks, you know checks of equipment, things like  
20 that. Yes, sir.

21 **Mr. Roth-Roffy:** And then as a result of that audit would they – an audit report be  
22 prepared and deficiencies tracked if there were any found?

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1     **WIT:** Yes, sir. A report would be prepared, excuse me, a report would be prepared.  
2     Also that external specialist receives a certificate that clearly describes what services  
3     they can provide. And then they're also posted on our website. If there's a deficiency  
4     or say we get complaints about that service provider that they're not providing the  
5     service they say they can, or we hear of issues, service delivery issues with that  
6     provider, we reserve the right to either re-audit or perform an unscheduled audit of that  
7     service provider up to and including pulling their recognition.

8     **Mr. Roth-Roffy:** Now turning specifically to voyage data recorders, does the ABS  
9     participate in any of the annual performance tests or the installation of voyage data  
10    recorder systems in an oversight role?

11   **WIT:** Attending, having for the surveyor having to be in attendance the same time?

12   **Mr. Roth-Roffy:** Correct. Either on a regular or periodic basis.

13   **WIT:** Umm, if a new voyage data recorder is being installed I would say yes the  
14    surveyor would probably be in attendance because there would be such things as cable  
15    penetrations and cabling that would have to be run. It would have to be determined as  
16    it was being done in accordance with the rules. For the annual performance test and  
17    sometimes the service and some of these external specialist provide, the surveyor  
18    doesn't necessarily need to be in attendance. However, they would expect to have a  
19    report from that service provider and have the checklist there required to complete for  
20    that service is completed. And if there were any deficiencies or no answers in that  
21    report, then the surveyor would be obligated to get in touch with that specialist to have  
22    him clarify those no answers or the negative answers.

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1 **Mr. Roth-Roffy:** So if I understand you correctly, the ABS surveyor would be required  
2 to view the annual performance test, checklist and identify any deficiencies in that test, it  
3 was done by an external specialist?

4 **WIT:** The company specific checklist, the surveyor may not be obligated to review that  
5 comes with the APT. What our surveyor would be looking for on the VDR and the  
6 course of the safety equipment survey is that the annual performance test has been  
7 completed and found satisfactory by that individual. Not all the time and when those  
8 records are provided to us by the, usually the ship's Captain do we see the company  
9 specific checklist from that service provider. We may only – we would normally  
10 sometimes only see the ABS specific checklist.

11 **Mr. Roth-Roffy:** And I would like to just quickly revisit the issue that was raised by  
12 Commander Odom, the relationship between ABS and each customer in terms of  
13 compensation and expansion of survey. Is ABS compensated on the basis of per  
14 survey, or for example if he wanted to expand a survey would he have to request  
15 permission to do additional surveys for a charge?

16 **WIT:** Would the customer have – if the surveyor wanted to expand the scope?

17 **Mr. Roth-Roffy:** Correct, would that involve a new survey with additional costs to the  
18 customer?

19 **WIT:** It may.

20 **Mr. Roth-Roffy:** Would the customer have to approve that additional work before it  
21 could be performed?

22 **WIT:** Umm, they would be notified. They can always - they can be notified – they  
23 would be notified that we want to do the additional scope. Possibly when we increase



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1 the additional scope of surveys it would already be covered under the survey that we're  
2 doing. The costs that is.

3 **CAPT Neubauer:** But if you found an unrelated piece of equipment that was like as  
4 safety item that wasn't included in the initial scope, they would have to get approval  
5 before doing that survey, is that correct?

6 **WIT:** Not necessarily. If we found something wrong in the course of doing another  
7 survey, we would report it whether we got paid for it or not.

8 **CAPT Neubauer:** You would report it to ABS or the Coast Guard?

9 **WIT:** We would report upon it, and if the severity warranted we would notify the Coast  
10 Guard.

11 **Mr. Roth-Roffy:** Sir, we talked briefly about the ability of ship operators and owners to  
12 change classification societies. Are there different levels or grades of classification  
13 societies in terms of the type of tonnage that they survey? For example could you  
14 address the issue of substandard tonnage?

15 **WIT:** Wow, substandard tonnage like, you mean?

16 **Mr. Roth-Roffy:** I'm sorry.

17 **WIT:** Could you rephrase your question a little bit please?

18 **Mr. Roth-Roffy:** I guess my question is are all classification societies, do they serve to  
19 the same standards?

20 **WIT:** No. And I can clarify that a little bit. There's the international association of class  
21 societies, IACS, I think the acronym was referred to earlier today. And if I recall there's  
22 11 members of IACS right now. ABS is registered, DNV GL, RINA, Indian Register,  
23 Russian Register, Korean Register, CCS, I can't remember all of them off the top of my

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1 head, but we're all bound by what's called, there's IACS procedural requirement, unified  
2 requirements, recommendations, we're bound by those as well as our rules. And what  
3 those are is they're – it's a similar playing field we work on. Is there other classification  
4 societies bodies that call themselves classification societies outside IACS, yes.  
5 Whether for me to comment whether they classify substandard tonnage or not, I cannot  
6 answer that question.

7 **Mr. Roth-Roffy:** All right, sir. I just wanted to get on the record where ABS stood in the  
8 international playing field. So you're – ABS is a member of IACS?

9 **WIT:** Yes, sir.

10 **Mr. Roth-Roffy:** Sir, thank you very much. That's all I have. Captain.

11 **CAPT Neubauer:** Thank you. Is there a certain tonnage that you would not accept at  
12 ABS? Is there a process for evaluation?

13 **WIT:** Yes, there is.

14 **CAPT Neubauer:** Would you say you have some of the highest quality standards  
15 amongst all of the classification societies for acceptance?

16 **WIT:** I would be proud to say we do, yes.

17 **CAPT Neubauer:** We'll go to the parties in interest at this time. Tote do you have any  
18 questions?

19 **Tote Inc:** At this time we don't have any questions.

20 **CAPT Neubauer:** ABS do you have any?

21 **ABS:** Yes, we have some follow up questions, Captain.

22 **CAPT Neubauer:** Yes, sir.

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1     **ABS:** Mr. O'Donnell this morning you talked about the ACP program and you indicated  
2     that ABS does not delegate it's duties or survey duties under the ACP program. Is that  
3     correct?

4     **WIT:** Yes, sir.

5     **ABS:** There was a line of questioning which sought to address any differences  
6     between a surveyor and an inspector. Can you indicate to the extent that an ABS  
7     surveyor is designated to perform a statutory surveyor – a survey under ACP, would  
8     there be any difference as to whether an ABS surveyor performed it or whether a Coast  
9     Guard inspector performed it?

10    **WIT:** No. The surveyor would perform the same duties as a Coast Guard inspector  
11    would in the case of a statutory survey such as safety equipment, MARPOL Annex 1.

12    **ABS:** And so the survey under the statutory requirements would be performed in  
13    accordance with those requirements regardless of whether it was a surveyor or a Coast  
14    Guard inspector that performed it?

15    **WIT:** Absolutely, yes, sir.

16    **ABS:** We talked a little bit this morning about notice. And with regard to notice or the  
17    owner's obligation to provide notice to ABS, can you describe what the rules provide  
18    concerning the notice of any problems with equipment that are subject to class rules  
19    and requirements?

20    **WIT:** Yes, it's very clear in Part 1 of our steel vessel rules. If there's any damage,  
21    failure or otherwise of class equipment, the owner's obligated to notify ABS.

22    **ABS:** Through the course of testimony this week we had reviewed Exhibit 12 which is  
23    the Walashek report, do you recall that report?

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1 **WIT:** Yes, sir.

2 **ABS:** In that report was a report on a – on the internals of the boilers, correct?

3 **WIT:** Yes.

4 **ABS:** Was there any obligation for Tote as the owner to provide that survey from  
5 Walashek to ABS?

6 **WIT:** No, sir.

7 **ABS:** On the same theme the notice theme, with regard to surveys or the presence of  
8 ABS surveyors aboard a particular vessel, can you tell us what notice is specifically  
9 provided to the Coast Guard?

10 **WIT:** Notice for any survey?

11 **ABS:** For an ACP survey or any survey in general.

12 **WIT:** Well under ACP we notify the Coast Guard of every survey that we're going to do  
13 whether it's a class related survey or a statutory related survey. And we have an  
14 attachment in every survey status for an ACP vessel. It's actually an old fax cover  
15 sheet. A lot of offices, sometimes they fill it out by hand and scan and send it by email.  
16 Today with the advent of email we receive a lot of our requests by the owner by email.  
17 And what our surveyor would do is forward that request along with any additional  
18 details, possibly a copy of a survey status that they may have pulled for the work order  
19 for that attendance and pass it along to the local Coast Guard office.

20 **ABS:** And how does it – and do you know what the Coast Guard decides or how it  
21 determines whether it plans on attending any particular survey? Do you know?

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1     **WIT:** I think every local office has their own procedure, but I'm not aware of any specific  
2     procedure they have or targeting or anything like that to, you know, which surveys they  
3     would like to follow ABS with their perform or sat on or which they would not.

4     **ABS:** Would it be fair to say that whether or not the Coast Guard attends is subject to  
5     the discretion or the exercise of discretion by the Coast Guard?

6     **WIT:** Yes, sir.

7     **ABS:** Turning to Exhibit 62 as amended, we had highlighted page 7 of 8 of that exhibit  
8     which is labeled American Bureau of Shipping alternate compliance program, ABS  
9     attendance, fax or email. Can you identify this notice for the sake of the record when it  
10    was – when it was sent to the Coast Guard and what the Coast Guard was told with  
11    regard to the economizer repair?

12    **WIT:** Uh, it appears, I'm sorry, it appears it was sent on the 24<sup>th</sup> of August 2015 at  
13    approximately 1615, that's military time for 5:15 – uh 4:15 in the afternoon. It's in  
14    regards to the El Faro specifically notifying the Coast Guard the vessel was going to be  
15    in port and we were going to go on and survey her economizer tube leaks to be repaired  
16    and that the vessel's scheduled departure was 2000 on the 25<sup>th</sup>. And it's signed by the  
17    surveyor in charge here in Jacksonville.

18    **ABS:** And it further indicated that leaks were to be plugged, correct?

19    **WIT:** Yes, that's what I see, they're plugged.

20    **ABS:** In a general sense we've heard the testimony of Mr. – the representative from  
21    Walashek yesterday afternoon. Can you tell us what the economizer does on a boiler  
22    and what its significance is?

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1 **WIT:** The economizer is essentially a fancy water heater in the boiler and it increases  
2 the efficiency by preheating feed water going into the boiler. So it's more of an  
3 efficiency tool. It can be bypassed, it's not absolutely necessary for the operation of the  
4 boiler.

5 **ABS:** Would its bypass be allowed under class rules?

6 **WIT:** If it had to be, yes. It would reduce the efficiency of the vessel, but it could be  
7 bypassed. The vessel could operate with the economizer bypassed.

8 **ABS:** There was some further testimony earlier this week concerning an issue of a  
9 minor repair. Earlier in the week on Exhibit 5 personnel matters at page 1, there was an  
10 email provided from Mr. Jim Fisker-Anderson dated January 30<sup>th</sup>, 2015 which was sent  
11 to Phil Morrell. It indicated in part, and I quote, "two weeks ago, when Tim Neeson was  
12 on board El Faro with ABS, some minor steel repairs were requested to be repaired.  
13 These were outside of the official survey and were not documented by ABS even  
14 though the whole steel obviously required repair." And I won't read the remaining  
15 portion of that. Turning to Exhibit 107 which was submitted by the Coast Guard as an  
16 exhibit, and this is ABS survey SJ, for San Juan, 2816446. Could you turn to the survey  
17 for compliance section of the report at item 872 for peak space?

18 **WIT:** Yes, sir.

19 **ABS:** Can you tell us when this item was opened by the attending surveyor, what date?

20 **WIT:** 9 January 2015.

21 **ABS:** And what did the surveyor report as being found?

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1 **WIT:** He reported the, found the vessel's forepeak aft transverse bulk, excuse me,  
2 strike that. Vessel's forepeak space aft transverse bulkhead in way of connection to the  
3 main deck was found wasted and holed near the starboard side drain or opening.

4 **ABS:** And what was his recommendation as far as that?

5 **WIT:** To be repaired to the satisfaction of the attending surveyor.

6 **ABS:** And what was the rectification of that item?

7 **WIT:** A temporary repair by way of epoxy patch 6 by 6 inches was put in place, tested,  
8 post-tested, excuse me and found satisfactory as a temporary repair. And for the  
9 record this item specifically I discussed with the attending surveyor and it was actually  
10 the Boatswain store bulkhead, not the forepeak space transverse bulkhead.

11 **ABS:** And when was that temporary repair, the 6 by 6 patch, when was it installed and  
12 holes tested?

13 **WIT:** 23 January 2015.

14 **ABS:** Approximately 2 weeks after it was found on January 9<sup>th</sup>, correct?

15 **WIT:** Yes, sir.

16 **ABS:** And was that in compliance with the rules?

17 **WIT:** For a temporary repair, yes, sir.

18 **CAPT Neubauer:** I have a follow up question on that, sir.

19 **WIT:** Yes, sir.

20 **CAPT Neubauer:** Was it the surveyor's understanding that that repair should have  
21 done more timely than it was completed? Let me rephrase that. Was the surveyor  
22 under the impression that the ship's force was going to repair that and then it was not  
23 repaired until a later visit?

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1       **WIT:** I think the surveyor made the recommendation for it to be repaired, but I'm not  
2       sure about the timeline he discussed with the crew on board about the repair.

3       **CAPT Neubauer:** So we should talk to the surveyor to find out the details?

4       **WIT:** Yes, sir.

5       **CAPT Neubauer:** Thank you. I'm sorry, Mr. White, are there any more questions?

6       **ABS:** Yes. Mr. O'Donnell you had the benefit of attending during the testimony of the  
7       Coast Guard Captains, Mauger and McAvoy during this week, correct?

8       **WIT:** Yes, sir.

9       **ABS:** Certain statistics were commented upon by the Coast Guard with regard to  
10      discrepancies in their review of ABS plans. Were you here for that testimony?

11      **WIT:** Yes.

12      **CAPT Neubauer:** Sir, I want to correct the record on that. Statistics for all class  
13      submitted plans.

14      **ABS:** And to the extent that the Coast Guard reported in 2013 a 16 percent  
15      discrepancy rate and a 38 percent discrepancy rate in 2014, can you tell us whether  
16      ABS was ever provided those figures prior to their testifying this week?

17      **WIT:** No.

18      **ABS:** And during the course of their testimony and today, has ABS had the benefit of  
19      reviewing their own statistics with regard to those items?

20      **WIT:** Yes, sir. In detail we've reviewed statistics between 2012 and 2015 and we  
21      would not necessarily be in agreement with the numbers that were provided earlier this  
22      week.



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1 **CAPT Neubauer:** Can you clarify, because the numbers that were provided by Captain  
2 Mauger were for that sample that they reviewed for every class society that's performing  
3 plan review.

4 **WIT:** For every ----

5 **CAPT Neubauer:** So what was your study complete of?

6 **WIT:** Our study was completed of the ABS plans that were submitted to Coast Guard  
7 on behalf of ACP.

8 **CAPT Neubauer:** And was that using the same sample size as the MSC used?

9 **WIT:** That was accounting for all plans we submitted to MSC.

10 **CAPT Neubauer:** Are you going to submit your – the error rate that you discovered?

11 **WIT:** Yes. We can, we can if you would like to have it submitted.

12 **CAPT Neubauer:** I would like to have that as, are you going to discuss it today?

13 **WIT:** Yes, if you would like me to I will.

14 **CAPT Neubauer:** Can you just give a general idea of what the percentages were?

15 **WIT:** Sorry, I'm losing my voice. We looked at an area from 1 January 2012 to the end  
16 of 2015. We submitted 40,864 work items to U.S. Coast Guard in relation to ACP. We  
17 did this as required by the process within 5 days, which we're required to do. This  
18 accounts for all reviews that we did, the total activities on behalf of – under 10-82 to 3-  
19 97 tonnage, everything. U.S. Coast Guard counts individual activities reviewed and  
20 there's often more than one activity per drawing. Total activities I think were selected by  
21 Coast Guard for oversight over those 3 years were 1286, are the numbers we have. Of  
22 that we found 923 to have no findings, which is about 71 percent. There were 220  
23 observations which counts for about 17.1 percent. And observations are meant to

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1 document area where potential improvement. There were 140 non-conformities, about  
2 11 percent. These findings are not related to non-compliance for the standard, but do  
3 not pose a serious threat to the safety of personnel or vessel environment.

4 **ABS:** And as far as major conformities?

5 **WIT:** Yeah, as far as major non-conformities we came up with 93, which is about 7.2  
6 percent, but taking into account the 1 structure fire protection issue that was noted on  
7 multiple vessels, if you counted that as 1, where the Coast Guard counted it as multiple  
8 deficiencies, our actual percentage would be less than 1 percent on major non-  
9 conformities.

10 **CAPT Neubauer:** Taking out the structural fire protection repeated non-conformity?

11 **WIT:** Yes.

12 **CAPT Neubauer:** And when was your study conducted, sir?

13 **WIT:** This is based on information we have from the quarterly meetings and continual  
14 process with the Coast Guard Marine Safety Center. This is – these are shared on a  
15 quarterly basis between ABS and the U.S. Coast Guard and that's where these  
16 numbers came from.

17 **CAPT Neubauer:** Have you been passing those numbers quarterly since 2012?

18 **WIT:** I would have to double check, but I know since my tenure started in this position,  
19 and as I attend as an observer to those meetings, this is discussed at every quarterly  
20 meeting with Marine Safety Center.

21 **CAPT Neubauer:** And do you discuss the composite numbers or just for the quarter?

22 **WIT:** They look at quarter and overall for the year.

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1     **CAPT Neubauer:** I would like to get a copy of that report for the board when you get a  
2 chance.

3     **WIT:** Yes, we can clean that up and get that to you.

4     **CAPT Neubauer:** Are there any further questions, sir?

5     **ABS:** No, Captain, no further questions, thank you.

6     **CAPT Neubauer:** Does Mrs. Davidson have any questions?

7     **Ms. Davidson:** No questions.

8     **CAPT Neubauer:** Are there any final questions for Mr. O'Donnell? Commander  
9 Denning.

10    **CDR Denning:** Mr. O'Donnell you spoke about the notification to the Coast Guard  
11 offices. Can you tell me, is there any difference between how one Coast Guard office is  
12 notified versus another? And what I'm getting at is, is it sometimes the case that an  
13 individual marine inspector is notified as opposed to say a dispatcher? Are there  
14 differences from one office to another?

15    **WIT:** There can be, yes. Usually most offices have an ACP officer and that's where the  
16 notices are usually sent. I do see from the communications that I see, our surveyors  
17 copy sometimes multiple people in that same Sector office.

18    **CDR Denning:** So there are individuals, and if that individual is out of the office there  
19 may be some delay by the Coast Guard in receiving that notification?

20    **WIT:** There could be if it's only sent to one individual.

21    **CAPT Neubauer:** Sir, I have a follow up on that. Do you think the units that have an  
22 ACP officer are more effective for the ACP program? Has that been your experience?

23    **WIT:** With a dedicated ACP officer?

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1 **CAPT Neubauer:** Yes, sir.

2 **WIT:** Yes.

3 **CAPT Neubauer:** Is it a significant difference in your opinion?

4 **WIT:** An improvement.

5 **CDR Denning:** You were asked about the fire dampers on El Yunque. When were –  
6 you spoke about some discrepancies on El Yunque. Was that before or after the El  
7 Faro incident that those were discovered?

8 **WIT:** After.

9 **CDR Denning:** And were those discovered by ABS surveyors or someone else?

10 **WIT:** I think it was discovered by ABS surveyors and Coast Guard inspectors in  
11 conjunction with being on board for other activities.

12 **CDR Denning:** Thank you for that clarification. And my last few questions. How many  
13 surveyors do you have, does ABS have in Jacksonville?

14 **WIT:** In Jacksonville? Right now currently stationed here 3 surveyors.

15 **CDR Denning:** And how many in San Juan?

16 **WIT:** Uh, 1 surveyor. However, the San Juan office has support from our Fort  
17 Lauderdale office as well.

18 **CDR Denning:** And do you feel that the number of surveyors in those 3 ports are  
19 adequate for the workload that they have?

20 **WIT:** Yes.

21 **CDR Denning:** Thank you. That's all of my questions.

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1     **CAPT Neubauer:** Sir, I just have 2 follow up questions. One on notifications. Is it  
2     ABS's – does ABS have a policy to provide advanced, a certain amount of advanced  
3     notice to the Coast Guard ahead of a survey?

4     **WIT:** We like to try to provide as much notice as possible. We know what the NVIC  
5     says for the notification requirements, however, we see – receive many notification for  
6     survey and we pass it on to Coast Guard as soon as we get it. The example that Mr.  
7     White shared earlier was passed on within an hour to the Coast Guard.

8     **CAPT Neubauer:** In your experience do the notifications get passed after the survey  
9     on occasion?

10    **WIT:** Not that I'm aware of. We try to get them there before – as soon as we're aware  
11    we have to attend.

12    **CAPT Neubauer:** And sir, do you know the reasons for the change out of VP of  
13    Engineering after the El Faro incident?

14    **ABS:** At ABS?

15    **WIT:** At ABS?

16    **CAPT Neubauer:** Yes.

17    **WIT:** I'm not 100 percent aware of the change out. But I can say it was probably not for  
18    any, what's the word I'm looking for?

19    **CAPT Neubauer:** I was going to ask, do you know if it was in any way related to the El  
20    Faro sinking?

21    **WIT:** No, sir. I think that individual is being looked at for different purposes.

22    **CAPT Neubauer:** Are there any final questions for Mr. O'Donnell?

23    **Tote Inc:** No, sir.

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1 **Ms. Davidson:** No, sir.

2 **ABS:** Captain, I have one further question.

3 **CAPT Neubauer:** Yes, sir.

4 **ABS:** With regard to the El Faro, Mr. O'Donnell, in a general sense can you identify or  
5 explain what survey requirements that ABS has in place for a vessel as it ages?

6 **WIT:** Well as a vessel ages the survey requirements become more and more detailed  
7 and restrictive up into the 4<sup>th</sup> special survey where they become somewhat static.

8 However, as we discussed, or was discussed earlier in my testimony, we can always  
9 expand the scope of the survey, especially with suspect areas on aging vessels where  
10 the surveyors have concerns with suspect areas. They can expand the scope from the  
11 survey requirements as they deem necessary.

12 **ABS:** And to the extend when the, as Assistant Chief Surveyor, can you indicate what  
13 the status of the El Faro was when she departed Jacksonville on the last voyage with  
14 regard to class requirements?

15 **WIT:** We would say she was classed in the green. All her surveys were in the green.

16 **ABS:** Thank you. Nothing further.

17 **CAPT Neubauer:** Are there any final follow up questions based on that last line?

18 **Tote Inc:** No, sir.

19 **Ms. Davidson:** No, sir.

20 **CAPT Neubauer:** Thank you Mr. O'Donnell. We are now complete with your testimony  
21 for today. However I anticipate that you may be recalled to provide additional testimony  
22 at a later date. Specifically the post incident ACP program compliance. Therefore I am  
23 not releasing you from your testimony at this time and you remain under oath. Please

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1 do not discuss your testimony or this case with anyone other than your counsel, the  
2 National Transportation Safety Board or members of this Coast Guard Marine Board  
3 Investigation. If you have any questions about this, you may contact my legal advisor,  
4 Commander Jeff Bray. Thank you very much, sir, for your testimony. Do any of the  
5 parties of interest have any concerns with the testimony provided by Mr. O'Donnell?

6 **Ms. Davidson:** No, sir.

7 **Tote Inc:** No, sir.

8 **ABS:** No, sir.

9 **CAPT Neubauer:** At this time the hearing is recessed and we will reconvene at 2:20.

10 *The hearing recessed at 1333, 26 February 2016*

11 *The hearing was called to order at 1421, 26 February 2016*

12 **CAPT Neubauer:** The hearing is now back in session. We will now hear testimony  
13 from Mr. Tim Neeson, Port Engineer, Tote Services Incorporated. Mr. Neeson,  
14 Lieutenant Commander Yemma will administer your oath and ask you some preliminary  
15 questions.

16 **LCDR Yemma:** Could you raise your right hand, sir? A false statement given to an  
17 agency of the United States is punishable by a fine and or imprisonment under 18  
18 United States Code section 1001, knowing this do you solemnly swear that the  
19 testimony you're about to give will be the truth, the whole truth and nothing but the truth,  
20 so help you God?

21 **WIT:** I do.

22 **LCDR Yemma:** Thank you, sir. Sir, can you please state your full name and spell your  
23 last name for the record?

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1 **WIT:** Timothy James Neeson, N-E-E-S-O-N.

2 **LCDR Yemma:** Thank you. Counsel?

3 **COUNSEL:** Jeff King with K&L Gates, last name, K-I-N-G.

4 **LCDR Yemma:** And Mr. Neeson can your current employment and position please?

5 **WIT:** I'm employed with Tote Services, I'm a Port Engineer in Jacksonville here.

6 **LCDR Yemma:** And what are some of your general responsibilities in that position?

7 **WIT:** I'm the interface between the vessel and the shore side. I deal with the Coast  
8 Guard, ABS, inspections, annuals, certifications. I do purchase order approvals. I call  
9 vendors for repairs, other services. I maintain the ships – I monitor the ship's safety  
10 compliance and overall I'm the, we don't have a Port Captain so I'm a combination of  
11 Port Engineer/Port Captain so I deal – the ship deals with me directly for pretty much all  
12 of their needs.

13 **LCDR Yemma:** And can you also generally describe some of your prior relevant work  
14 experience please?

15 **WIT:** I was a Port Engineer with Sea Land a long time ago for a couple – for one year.  
16 I'm a retired Chief Engineer, steam and motor. I sailed with MEBA and Sea Land was  
17 my permanent position. I sailed for 28 years. And I retired in 2005 and just two years  
18 ago I went back to work at Port Engineer.

19 **CAPT Neubauer:** Sir, could you bring the microphone just a little closer for the court  
20 reporters, thank you, sir.

21 **WIT:** Is that better.

22 **LCDR Yemma:** What's your highest level of education completed?

23 **WIT:** Bachelors of Science, Marine Engineering.



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1       **LCDR Yemma:** And do you hold any licenses or professional certifications?

2       **WIT:** I had a Chief Engineer steam and motor unlimited, any horsepower which has  
3       expired.

4       **LCDR Yemma:** Thank you, sir. The board will ask you questions.

5       **CAPT Neubauer:** Commander Odom.

6       **CDR Odom:** Good afternoon Mr. Neeson.

7       **WIT:** Good afternoon.

8       **CDR Odom:** We're going to start out with Exhibit 6, page 39 which is your position  
9       description with Tote. How long have you been employed with Tote?

10      **WIT:** Since December of 2013.

11      **CDR Odom:** So that was after the El Faro came out of layup, correct?

12      **WIT:** Before. Actually it was laid up. At that time I was working on the El Morro and  
13      then when the El Morro left, they brought the El Faro out.

14      **CDR Odom:** And in Exhibit 6, that's page 39. Would you please read your summary of  
15      your position description?

16      **WIT:** Responsible for management and supervision of every aspect of assigned  
17      commercial vessels while they're in port, at sea and in dry dock, including providing  
18      direction to all shipyard and the pertinent personnel engaged in vessel repairs, oversees  
19      installation and repair of marine power plants, propulsion systems, heating and  
20      ventilation systems, and other mechanical and electrical equipment in ships and marine  
21      facilities by performing the following duties.

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1 **CDR Odom:** Thank you. So in that, it talks about every aspect. Does that include all  
2 of the deck operations, lifesaving equipment, cargo securing and loading, mooring, and  
3 support for all the deck operations?

4 **WIT:** No, I do not do the deck operations as – only dealing with safety items providing  
5 firefighting lifesaving equipment, but I do not do the loading or lashings.

6 **CDR Odom:** What about navigation equipment?

7 **WIT:** We call vendors for checking the navigation of the equipment, but I do not  
8 personally take care of that item. We have professional vendors come aboard to check  
9 bridge equipment and communication equipment.

10 **CDR Odom:** At the time of the sinking of the El Faro, was that the only vessel you were  
11 managing?

12 **WIT:** Yes.

13 **CDR Odom:** In your time as a Port Engineer, has Tote ever provided a Port Captain or  
14 a temporary Port Captain or Port Mates to assist the vessel?

15 **WIT:** No.

16 **CDR Odom:** Do you have a staff to assist you or is it just you?

17 **WIT:** No, just myself.

18 **CDR Odom:** In your position description, it lays out well what your duties are. Is there  
19 anywhere that Tote has defined to you what your authority is?

20 **WIT:** No. This would be in the description here.

21 **CDR Odom:** Do you have what you think are authorities with regards to purchasing and  
22 making deferments?

23 **WIT:** Yes, I have a – I do approve invoices and purchase orders for the ship.

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1 **CDR Odom:** Do you have anything in writing from Tote that establishes what your  
2 thresholds are or what your limits are?

3 **WIT:** It would be in the SMS, but I don't recall seeing that at this time.

4 **CDR Odom:** Okay. Thank you. And what are your direct responsibilities with regards  
5 to implementation of the safety manage system?

6 **WIT:** My job is to oversee the Captain and the Chief Engineer to ensure that they are  
7 complying with the SMS system.

8 **CDR Odom:** What's your –since you're both shore side and on the vessel and you  
9 interact so much, is your observation that the safety management system works well  
10 between shore and the vessel?

11 **WIT:** Yes, I believe so.

12 **CDR Odom:** Is it the same safety management system that's on the vessel as on the  
13 shore side? Is it one safety management system?

14 **WIT:** It's kind of

15 *Recessed due to court reporting equipment technical problems.*

16 *The hearing recessed at 1429, 26 February 2016*

17 *The hearing was called to order at 1438, 26 February 2016*

18 **CAPT Neubauer:** The hearing is now back in session. We had a technical issue with  
19 the court reporting equipment and we lost a few questions that were asked. We have to  
20 repeat those questions and I just want to let you know the reason why. Did you have an  
21 issue that you wanted to provide to us before we do that, sir?

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1 **WIT:** Yes, I have a correction on Commander Odom's question on a Port Mate. I was  
2 thinking he said Port Captain, but it's Port Mate. We do have relief Port Mates that  
3 come aboard in port.

4 **CAPT Neubauer:** Okay, understand. Thank you, sir for that clarification. Now  
5 Commander Odom can you start the line of questioning that will be a few questions  
6 back from where you ended up.

7 **CDR Odom:** Yes, sir. Mr. Neeson. What are your direct responsibilities with regards  
8 to implementation of the safety management system?

9 **WIT:** I oversee the vessel's compliance with the system.

10 **CDR Odom:** Is the safety –

11 **WIT:** Go ahead.

12 **CDR Odom:** Go head, sorry. Is the safety management system implemented on the  
13 shore side on the safety management system implemented on the vessel the same  
14 safety management system?

15 **WIT:** No actually they are separate. The vessel has – the vessels in the fleet has their  
16 own system and the shore side had theirs.

17 **CDR Odom:** Would you say the safety management system is effectively implemented  
18 in a day to day operations of Tote?

19 **WIT:** Yes.

20 **CDR Odom:** We're going to start a line of questioning that specific to your  
21 responsibilities for officer evaluations and also your relationship with the senior officers  
22 on board the El Faro. How frequently were you on board the El Faro?

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1 **WIT:** Every Friday. Like I say, excuse me it was Monday and Tuesday, that was the  
2 schedule in Jacksonville.

3 **CDR Odom:** So only when it was in port in Jacksonville?

4 **WIT:** Yeah, on occasion I would fly to San Juan for other reasons, ABS inspections,  
5 surveys. Mostly it would be in Jacksonville.

6 **CDR Odom:** Where were you on the day that El Faro departed on September 29<sup>th</sup> on  
7 the ----

8 **WIT:** I was on board, I had dinner with everyone, the officers.

9 **CDR Odom:** So you were on board all the way up until departure?

10 **WIT:** Close, yes.

11 **CDR Odom:** One of your responsibilities is evaluating senior officers. Can you explain  
12 the process by which you do that?

13 **WIT:** Well the office has an evaluation sheet of different segments of their abilities.  
14 And I evaluate each one of those. There's like 6 or 7 different categories I evaluate  
15 them on.

16 **CDR Odom:** And how often is that required?

17 **WIT:** I believe that's annual.

18 **CDR Odom:** With your background primarily in marine engineering, can you provide us  
19 an insight with how you feel like you're qualified to evaluate a Captain?

20 **WIT:** Uh, well as a merchant marine you deal with Captains, as a Chief Engineer you  
21 deal with the Captain almost on a daily basis at sea. So you know exactly what he's  
22 doing from day to day. So you have a close relationship with the Captain. So you know  
23 what his weaknesses are, what his strengths are.

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1 **CDR Odom:** Did you spend that kind of time with Captain Davidson, did you go to sea  
2 with him?

3 **WIT:** No I did not. But I spent many hours sitting at his desk talking with him and going  
4 over paperwork and other personal items.

5 **CDR Odom:** Did you ever evaluate him with regards to navigation from maneuvering a  
6 vessel or cargo handling or stability?

7 **WIT:** No.

8 **CDR Odom:** Aspects of the vessel?

9 **WIT:** No I don't deal with that part of shipping.

10 **CDR Odom:** Did you ever observe him running drills like an abandoned ship drill, fire  
11 drills?

12 **WIT:** I live with them, during COI's, whenever they would have the Coast Guard come  
13 aboard and do life boat, fire drills, and checking of safety equipment, survival suits, life  
14 jackets, that sort of thing.

15 **CDR Odom:** Can you turn to Exhibit 5, page 14. This exhibit is an email from Jim  
16 Fisker-Andersen sent on Wednesday, July 8<sup>th</sup>, 2015 at 2:55 p.m. to Phil Morrell.  
17 The subject is confidential Master candidate. Read the email, you don't have to read it  
18 aloud, but read it under original message. And what we would like to know is earlier  
19 testimony Mr. Fisker-Andersen stated that this information came to him from a Chief  
20 Engineer on the El Faro through you. Can you tell us who he was referring to who this  
21 information came from?

22 **WIT:** Which Chief Engineer?

23 **CDR Odom:** Who the Chief Engineer was that told you the contents of this email?

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1 **WIT:** It could be either one, I don't know for sure which one.

2 **CDR Odom:** When you say either one, which one are you talking about?

3 **WIT:** Mr. Pusatere or Robinson. I think they both had the same opinion of the Captain.

4 **CDR Odom:** They both had the same opinion of the Captain?

5 **WIT:** I believe so.

6 **CDR Odom:** And it would be both of their opinions are accurately reflected by this  
7 email?

8 **WIT:** I believe so.

9 **CDR Odom:** Turn to Exhibit 52, page 1. Is that your evaluation form for ----

10 **WIT:** Yes.

11 **CDR Odom:** And would you say that's an accurate evaluation of your opinion at the  
12 time you filled it out?

13 **WIT:** Yes it is.

14 **CAPT Neubauer:** Mr. Neeson I would like to interject a few questions on this subject.  
15 Do you know why this evaluation was never finalized, sir?

16 **WIT:** No I don't. I sent it up the line and that's as far as I know.

17 **CAPT Neubauer:** After you sent it up did you ever inquire with anybody why it was not  
18 processed?

19 **WIT:** No I did not.

20 **CAPT Neubauer:** Did you ever receive any feedback that there was any company  
21 official disagreement with your evaluation as written?

22 **WIT:** No.

23 **CAPT Neubauer:** Thank you.

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1 **CDR Odom:** Can you read your comments in that?

2 **WIT:** Captain Davidson handles all aspects of the Master position with professionalism.

3 He handles a diversified and unpredictable crew quite well.

4 **CDR Odom:** What did you mean by unpredictable crew?

5 **WIT:** The unlicensed have a lot of personalities that he has to deal with.

6 **CDR Odom:** And at no time did you ever – it says that the next level of review would

7 have been the technical manager. Who would that have been that you should have

8 sent that form to?

9 **WIT:** Probably Phil Morrell.

10 **CDR Odom:** And did you ever have a discussion with him about the nature of the

11 unpredictable crew?

12 **WIT:** No, sir.

13 **CDR Odom:** Did he ever ask any questions about it? Did he ever see that evaluation?

14 **WIT:** No, sir.

15 **CDR Odom:** At any time did you do anything to address the unpredictable crew? Did

16 you discuss it with the Captain?

17 **WIT:** Uh the Captain keeps it in control. There's a high turnover in the unlicensed

18 department, so people come and go on a monthly basis, so. You get some good ones,

19 you get some bad ones, that's – or not so good.

20 **CDR Odom:** Was this your first time ever doing an evaluation for Captain Davidson?

21 **WIT:** Yes.

22 **CDR Odom:** Have you done other Captains, or is the first time you've ever done the

23 evaluations since 2013?



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1       **WIT:** I've believe I've done one more set of evaluations for Captains, Chiefs and Mates.

2       **CDR Odom:** Do you feel that form adequately captures the competency of the people  
3       you're evaluating?

4       **WIT:** Yes.

5       **CDR Odom:** Is it an adequate reflection of their abilities?

6       **WIT:** Yes, I believe so.

7       **CDR Odom:** Turn to Exhibit 52, page 2. Is that the evaluation you did on ----

8       **WIT:** Yes it is.

9       **CDR Odom:** Chief Pusatere. How would you characterize your relationship with him?

10      **WIT:** It was very good. He was very personable, honest, he's a good person.

11      **CDR Odom:** Did you have any concerns with the competency of any of the officers in  
12      the engineering department?

13      **WIT:** No.

14      **CDR Odom:** Did you get involved in any of the evaluations of the officers on board the  
15      ship, or did you just do the two senior officers?

16      **WIT:** I believe I just did the senior officers.

17      **CDR Odom:** And with either one of them did you ever have any issues with their  
18      knowledge of the vessel or their abilities to perform their duties?

19      **WIT:** No, very competent.

20      **CDR Odom:** I'm going to turn it over to the board for questions with regards to the  
21      evaluations.

22      **CAPT Neubauer:** Commander Denning.

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1 **CDR Denning:** Sir, just one quick question regarding that Exhibit 52. Block 3,  
2 cooperation with Tech Manger is left blank. Is there a reason you left that particular  
3 block blank?

4 **WIT:** I am not the technical manager.

5 **CDR Denning:** And – but the reason I ask that question is because the technical  
6 manager has their own column and it appears to me that this form is designed for you to  
7 evaluate with that score and then them have another opportunity for the same category.

8 **WIT:** Well I interpreted that differently.

9 **CDR Denning:** Understand, thank you.

10 **CAPT Neubauer:** Sir, have you always left that column blank on your evaluations that  
11 you've done?

12 **WIT:** Probably the first one I've done, so I can't recall if I did the other one. Yes, I  
13 believe so.

14 **CAPT Neubauer:** Thank you. Lieutenant Commander Venturella.

15 **Mr. Fawcett:** Captain I have a follow up on that please.

16 **CAPT Neubauer:** Okay. Mr. Fawcett.

17 **Mr. Fawcett:** Thank you, sir. Mr. Neeson, what are the requirements for forming  
18 evaluations for senior officers? How often are they done?

19 **WIT:** I believe they're done once a year.

20 **Mr. Fawcett:** Okay. Regarding the comments of the Chief Engineer that they relay to  
21 you, basically an assessment of the Master's performance. With related to – relation to  
22 deck operations. Why did you feel it was important to convey that information to Mr.  
23 Fisker-Andersen? As you told Mr. Fisker-Andersen about it, obviously, you know he

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1 captured that in an email to senior management. But why did you think was important,  
2 your assessment on Captain Davidson's leadership style.

3 **WIT:** Well the office should know who's working for them and what their performances  
4 are. And something they should know about.

5 **Mr. Fawcett:** So based on your sea going experience, there's an assessment about  
6 the performance of Captain Davidson related to his deck operations. Why is that  
7 important on a ship from your stand point as an experienced merchant mariner?

8 **WIT:** Well the Captain, it's all about safety. If he doesn't load the ship right or has his  
9 men working in an unsafe conditions, reliability of the schedule. Mostly the safety of the  
10 ship. How he performs.

11 **Mr. Fawcett:** So is that why you – was that your concern when you spoke to Mr.  
12 Fisker-Andersen about your assessment of Captain Davidson's leadership style or his  
13 performance as Master?

14 **Ms. Davidson:** Please note – please note my objection. You're saying that's his  
15 assessment. His assessment is in the evaluation. He was passing along what he  
16 heard. It's two different things.

17 **CAPT Neubauer:** Yeah, are you speaking to the evaluation or the email?

18 **Mr. Fawcett:** I'm speaking to the information that you relayed to Mr. Fisker-Andersen,  
19 your comment that you heard from the Chief Engineers. Why did you do that?

20 **WIT:** Well he's the senior Port Engineer. We communicate on all items, aspects of the  
21 ship.

22 **Mr. Fawcett:** Thank you, sir.

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1     **CAPT Neubauer:** Sir, just to follow up. Did you feel that there was a safety issue on  
2     the vessel because of Captain Davidson's style of leadership?

3     **WIT:** No, sir.

4     **CAPT Neubauer:** Was the concern based on the fact that Captain Davidson wasn't as  
5     familiar with the ship as you would expect a Captain to be?

6     **WIT:** He was familiar with it, but by the message he doesn't make rounds as like other  
7     Captains. It's different style of Captain. Some Captains make daily rounds, you know  
8     maybe twice a day. He was more of a stateroom type Captain. So it was just a  
9     different look at how he operates the ship.

10    **CAPT Neubauer:** Were there incidents that occurred that highlighted the problem, or  
11    was it more general feedback from a crewmember?

12    **WIT:** General feedback from the crew and my own observations.

13    **CAPT Neubauer:** Thank you. Lieutenant Commander Venturella.

14    **LCDR Venturella:** Good afternoon, sir. Just one follow up on that evaluation process.  
15    In Exhibit 5 when we had discussed the email, we've been discussing, which was in  
16    regard to the stateroom Captain comment, would you say, sir, that as a prior Chief  
17    Engineer that you feel more qualified to evaluate other Chief Engineers than a Captain?

18    **WIT:** I would say it would be the same.

19    **LCDR Venturella:** Were you very confident in the competency of Mr. Pusatere?

20    **WIT:** Yes.

21    **LCDR Venturella:** And the other Chief Engineer as well?

22    **WIT:** Yes.

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1 **LCDR Venturella:** So when they gave you this comment you took it very seriously,  
2 correct?

3 **WIT:** Yes.

4 **LCDR Venturella:** So given that in Exhibit 52 on page 1, you still went on to evaluate  
5 Captain Davidson's leadership, his competence and other areas as straight 5's.

6 **WIT:** Yes.

7 **LCDR Venturella:** Given your confidence in the Chief Engineers do you think they  
8 would have rated him that way?

9 **CAPT Neubauer:** I'm going to stop the questioning, because you're asking him about a  
10 Chief Engineer's evaluation of a Captain. But I will – I'm going to ask the question a  
11 different way, sir. Did Captain Davidson ever voice any displeasure with the fact that  
12 you as a Chief Engineer was doing his evaluation?

13 **WIT:** No, never did.

14 **CAPT Neubauer:** Did you feel pressure to provide a higher score on Captain  
15 Davidson's operational measures because you're not – you're an engineer?

16 **WIT:** No I did not.

17 **CAPT Neubauer:** So this was an honest assessment of what you felt his leadership  
18 ability was?

19 **WIT:** Yes.

20 **LCDR Venturella:** The other question that I had is with regard to the evaluations of the  
21 Masters. One of the categories is cargo familiarity. What is your familiarity with the  
22 cargo loading and the stability of the ships in terms of your ability to evaluate that on a  
23 Master?

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1 **WIT:** I have been – I know about the trim and stability book and CargoMax that they're  
2 there, but I don't know how to operate them and I'm not familiar with the loading of the  
3 vessel.

4 **LCDR Venturella:** So how did you go about rating that category?

5 **WIT:** Well by performance of the mates, Don Matthews who does the loading and the  
6 Captain checks that, so week after week it seemed like good loads that matched the  
7 trim and stability book and the CargoMax, so.

8 **LCDR Venturella:** Thank you.

9 **CAPT Neubauer:** Mr. Roth-Roffy.

10 **Mr. Roth-Roffy:** Good afternoon, sir, Tom Roth-Roffy, NTSB. Sir, regarding the  
11 selection of Masters for the new vessels being built in San Diego, did you have any  
12 occasion to discuss with Captain Davidson his expectations regarding being assigned to  
13 those vessels?

14 **WIT:** Not before the selection, no.

15 **Mr. Roth-Roffy:** How about after the selection?

16 **WIT:** He voiced his opinion on the selections.

17 **Mr. Roth-Roffy:** Would you be able to recall what that discussion – how that went?

18 **WIT:** He was displeased that he was passed over. He didn't get the job, he felt that he  
19 had the time and experience and qualifications for the job.

20 **Mr. Roth-Roffy:** Sir, we've already discussed the evaluation that you performed on  
21 Captain Davidson. Would you consider you were – Captain Davidson reported to you  
22 as a superior, or what was the actual arrangement between you and him in terms of  
23 supervisor and subordinate?

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1     **WIT:** I wouldn't say there was a supervisor or subordinate, we acted as a team. So I  
2     would say we would be equals as far as standing. So we worked together as a team. It  
3     was no, I was not his superior, he was not my superior.

4     **Mr. Roth-Roffy:** And sir, do you know if Captain or the Chief Engineer on the vessel  
5     had an input into your evaluation?

6     **WIT:** With the Captain?

7     **Mr. Roth-Roffy:** No, sir. Your evaluations as Port Engineer, who evaluates you?

8     **WIT:** It would be my superior, is Jim Fisker-Andersen and Phil Morrell.

9     **Mr. Roth-Roffy:** And does the Captain or the Chief Engineer have input into your  
10    evaluation?

11    **WIT:** Not that I'm aware of.

12    **Mr. Roth-Roffy:** Thank you. That's all I have for now. Captain.

13    **CAPT Neubauer:** Commander Odom.

14    **CDR Odom:** Thank you. I would like to shift gears and discuss the status of the life  
15    saving equipment on board the El Faro. So were there any life saving equipment issues  
16    on the El Faro when she departed on the 29<sup>th</sup>?

17    **WIT:** No. The davits were repaired. Harding technician came aboard, they replaced  
18    the non-follow up clutches and they tested them, they drop tested them. And everything  
19    was working beautifully.

20    **CDR Odom:** With that testing on board that Harding was doing on board did you ever  
21    contact the Coast Guard or ABS to give them the opportunity to attend?

22    **WIT:** No I did not.

23    **CAPT Neubauer:** What was the answer, sir, I'm sorry?

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1       **WIT:** No, I did not.

2       **CDR Odom:** Did anybody in the company to your knowledge, or did you ask anybody  
3       to reach out to ABS or the Coast Guard to contact them?

4       **WIT:** No.

5       **CDR Odom:** Thank you.

6       **CAPT Neubauer:** Was anybody from the Coast Guard or ABS present at the test?

7       **WIT:** No.

8       **CAPT Neubauer:** And sir, had you ever seen servicing similar to that to life saving  
9       davits or critical life saving equipment where the Coast Guard or ABS was not present?

10      **WIT:** No, we did repairs on the El Yunque where we did have ABS present to witness.

11      **CAPT Neubauer:** And why would this voyage be different than that one, sir?

12      **WIT:** Umm, the replacement of the clutches was a voluntary thing. It was not, excuse  
13      me, necessitated by any boss, so we did this voluntarily because the clutches from the  
14      previous report were being a little noisy so we voluntarily changed out the clutches and I  
15      arranged to have Harding come and repair them and test them. And they are certified  
16      by the ABS to do these things. And I just forgot to notify ABS about it. No reason to  
17      hide it.

18      **CAPT Neubauer:** Was one of the reasons potentially time constraints? Were you busy  
19      that night?

20      **WIT:** No, sir.

21      **CAPT Neubauer:** It was just an oversight?

22      **WIT:** Yes.

23      **CAPT Neubauer:** Thank you.



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1 **CDR Odom:** Was there any life saving equipment that you were aware of that was not  
2 on board or was stowed in a different location as a result of knowing that the weather  
3 was going to get bad? Did they bring anything inside the house?

4 **WIT:** No, sir.

5 **CDR Odom:** Everything was properly stowed?

6 **WIT:** In a normal sea operation, yes. The Master knew the storm was coming so he, in  
7 his noon report stated that they were aware of Joaquin, so I'm sure he took the  
8 appropriate preventative measures. As far as stowing any equipment in port, I don't  
9 know.

10 **CDR Odom:** Was there any extra life saving equipment on board, or rafts?

11 **WIT:** There was one extra raft, they had a 25 man raft on board that was not set up for  
12 the embarkation. It was just stowed on board.

13 **CDR Odom:** For what reason was it on board?

14 **WIT:** Umm, we were having issues with the davits on the El Yunque and potentially we  
15 were thinking it could be an issue on the Faro, so we had a spare raft on board in case  
16 there was problem with the davit, so. It was never used.

17 **CDR Odom:** And how was it stowed, was it tied to the rail or was it, you know was it in  
18 a cradle, was it hydrostatic release, or what was it makeup?

19 **WIT:** No, there was no, no cradle or release. It was just tied up along the railing.

20 **CDR Odom:** Turn to Exhibit 27 please, page 2. It's an email to you dated September  
21 11<sup>th</sup>, 2015, 7:20 a.m. Hydrostatic release issue.

22 **WIT:** Yes.

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1 **CDR Odom:** Speak to this email please and tell us how this was resolved or if it was  
2 resolved?

3 **WIT:** We made the, said that this release was due to expire in the near future and then  
4 get it replaced. And we set it up for life rafts at Puerto Rico to replace it. And – but it  
5 was not expired at that time. So it was going to be replaced so it was ordered.

6 **CDR Odom:** All the existing hydrostatic releases on the El Faro when she departed  
7 were good?

8 **WIT:** Yes.

9 **CDR Odom:** With regards to the survival suits, where were they normally stowed on  
10 board?

11 **WIT:** Every crew member had one in his stateroom. I believe they had a couple in the  
12 engine room. And the others should be a couple on the bridge I believe, and the spares  
13 in one of the staterooms on crew deck. I believe there's 47 survival suits.

14 **CDR Odom:** And upon departure I understand the Harding representative that was  
15 working on the life boat davits conducted a test of the davits?

16 **WIT:** Yes.

17 **CDR Odom:** Did you witness that test?

18 **WIT:** No I did not.

19 **CDR Odom:** Did anybody on board the El Faro witness the test?

20 **WIT:** Yes.

21 **CDR Odom:** Or was it something ----

22 **WIT:** No the Captain and the Mate would be there.

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1 **CDR Odom:** All right. That's it for life saving equipment if you, Captain if you want to  
2 pass it to the board for life saving equipment?

3 **CAPT Neubauer:** I'm sorry say it again please.

4 **CDR Odom:** I said that's my line of questioning for the life saving equipment  
5 compliances.

6 **CAPT Neubauer:** Thank you. All right. At this time I would like to go to the parties in  
7 interest for any questions. Does Tote have any?

8 **Tote Inc:** No questions, sir.

9 **CAPT Neubauer:** Does ABS have any questions?

10 **ABS:** No questions.

11 **CAPT Neubauer:** Mrs. Davidson?

12 **Ms. Davidson:** Yes I have one. Sir, prior to filling out the evaluation of Captain  
13 Davidson did you speak to the other officers?

14 **WIT:** As far as his evaluation or in general?

15 **Ms. Davidson:** About his evaluation, general, in general.

16 **WIT:** No, we would have casual conversations.

17 **Ms. Davidson:** But did you take those casual conversations about Captain Davidson  
18 into account when you filled out your evaluation?

19 **WIT:** Yes.

20 **Ms. Davidson:** With respect to the Boatswain, Kenny Walker, are you familiar with  
21 Kenny Walker?

22 **WIT:** I know him, yes.

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1 **Ms. Davidson:** Are you aware that he testified under oath that after 34 years of  
2 experience he testified here that he saw Captain Davidson walking on the deck? Are  
3 you aware of that testimony?

4 **WIT:** No I'm not.

5 **Ms. Davidson:** And you mentioned Engineer Robinson, are you aware that he testified  
6 here under oath that he saw the Captain occasionally in the engine room?

7 **WIT:** No I did not.

8 **Ms. Davidson:** Chief Robinson also mentioned that the Captain would come down to  
9 his office, are you aware of that?

10 **WIT:** Yes.

11 **Ms. Davidson:** It was a Lieutenant from the Coast Guard who was a part of the riding  
12 crew, are you aware that she testified that Captain spent many hours up on the bridge?

13 **WIT:** No.

14 **CAPT Neubauer:** Sir, I just want to clarify that that Lieutenant was a part ship rider  
15 program, not a riding group.

16 **Ms. Davidson:** Oh, sorry. I stand corrected. Are you aware that the Lieutenant also  
17 testified that the Captain was aware of everything going on the ship?

18 **WIT:** No, didn't.

19 **Ms. Davidson:** So with respect to the term, quote stateroom Captain end quote, isn't  
20 that a management style and not a derogatory term?

21 **WIT:** Yes. I actually didn't use that term, stateroom Captain, that was Fisker-  
22 Andersen's statement.

23 **Ms. Davidson:** Thank you very much, sir.

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1       **CAPT Neubauer:** Sir, are you good to go for the next line of questions, or would you  
2       like to take a break?

3       **WIT:** Proceed.

4       **CAPT Neubauer:** Commander Odom.

5       **CDR Odom:** Turn to Exhibit 45 please. It says safety alert 15-008 for Hurricane  
6       Danny. Are you familiar with this?

7       **WIT:** I've seen it, yes.

8       **CDR Odom:** You've seen it. Do you ever discuss voyage plans with the Captains  
9       when they put their voyage plans together?

10      **WIT:** No, sir.

11      **CDR Odom:** During this time frame Captain Davidson took the Old Bahama Channel  
12      because of Hurricane Danny. Were you ever involved in any discussions with him or  
13      with anybody in the company about his decision to do that?

14      **WIT:** Well he stated that he would possibly do that and we have no problem with that.  
15      The Captain has the ultimate responsibility, it's his decision to make, not the company's.  
16      So even though it takes a little more time, that's the way it should be done.

17      **CDR Odom:** Have you ever seen a safety alert like this for prior hurricanes or at any  
18      other time? Is this the first time you've ever seen it?

19      **WIT:** First time I've seen it. I've only been with the company a couple of years.

20      **CDR Odom:** So in it, it refers to procedures that they should ensure are implemented.  
21      Are you familiar with any specific procedures for weather related operations on board  
22      the ship?

23      **WIT:** Not specifically, no.

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1 **CDR Odom:** Was there any requirement for you to do any follow up action or contact  
2 the vessel or do anything as a result of this?

3 **WIT:** No.

4 **CDR Odom:** Thank you. I'm going to shift gears and go into the Polish riding gang that  
5 was on board and the work that was being done with the retro fit. What was your role in  
6 the retro fit that was being done for the Alaska service?

7 **WIT:** I was the project manager for the conversion for the Alaska service. So my job  
8 was to set up vendors and order supplies, whatever it would take to convert the ship for  
9 Alaska service.

10 **CDR Odom:** Was it your responsibility to notify the Coast Guard and ABS with regards  
11 to the status of the work or to seek plan approval for the work?

12 **WIT:** Yes.

13 **CDR Odom:** And can you discuss the relationship you had with ABS and what you had  
14 done up to the point of the departure to get that approval?

15 **WIT:** I had talked to John Tinsley [sic] letting him know what we were going to do, with  
16 the intent of the company was to relocate the ship for the Alaska run. And we submitted  
17 all of the drawings from Herbert Engineering as far as changing of the electrical system,  
18 or the powering of winches. Everything involved.

19 **CDR Odom:** Had you ever – had you received anything that indicated that the work  
20 was approved?

21 **WIT:** Yes we did get drawings back from the Coast Guard, I mean ABS office with the  
22 stamps on, the approval stamps.

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1       **CDR Odom:** Captain, I believe you had some questions you wanted to ask about  
2       Exhibit 95.

3       **CAPT Neubauer:** Sir, I want to go back to the pre-departure preparations on  
4       September 29<sup>th</sup>, 2015. Do you remember that night well, sir?

5       **WIT:** Fairly well.

6       **CAPT Neubauer:** Did you say that you had dinner on board the vessel with Captain  
7       Davidson?

8       **WIT:** Yes.

9       **CAPT Neubauer:** At that time did you discuss any weather related factors with the  
10      Captain?

11      **WIT:** I think we discussed a tropical storm that was brewing, but at that time that was  
12      all it was a tropical storm, so there was no concern about major weather.

13      **CAPT Neubauer:** Was it discussed that the tropical storm could generate into a  
14      hurricane?

15      **WIT:** No.

16      **CAPT Neubauer:** Do you have access to the BVS weather data on your shore side  
17      facility?

18      **WIT:** No.

19      **CAPT Neubauer:** Sir, now I want to turn your attention to Exhibit 095. The exhibit is a  
20      series of emails in regards to the scope of work and the schedule, the Polish riding gang  
21      work. Do you remember this email string, sir?

22      **WIT:** Yes, sir.

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1     **CAPT Neubauer:** On page 4, an email from D. Matthews at Sea Star Line dot com is  
2     sent to the Chief Engineer with a copy to you sir, and it reads, Don, I need to request  
3     that when we get into JAX on Monday that 5 hold be unloaded before the end of the  
4     work day on 9/28 and be left empty overnight. I need to get the large heater out of 5  
5     hold and drive it up to the 2<sup>nd</sup> deck, starboard side aft. I want to do this at night after the  
6     ro-ro gang knocks off. They will have to park their hustlers out of the way or on the  
7     dock that night as well. I will also need the starboard side alley of 2<sup>nd</sup> deck, stows  
8     number 51 and 54 left empty until the end of the day on Tuesday to allow me to rig this  
9     heater through the engine room soft patch. I do not I believe I will need any stows  
10    voided for the voyage and you can plan to load all areas when I am done. Thank you,  
11    Jeff Mathias. Do you remember getting a copy of this, sir?

12    **WIT:** Yes, sir.

13    **CAPT Neubauer:** Can you explain the work that was going to be done on this and  
14    what holds would have to be opened and then what watertight deck fittings would have  
15    to be opened to enable this operation?

16    **WIT:** He's referring to the Butterworth heater which is required for the Alaska service.  
17    And at that time the Butterworth heater was stored in the number 5 hold. And in order  
18    to get it out of number 5 all the vehicles would have had to be moved out and the 2<sup>nd</sup>  
19    deck cleared so he could take his forklift and move it to the soft patch area which he  
20    referred to as a couple stow areas. And there's a round hole, a soft patch, specifically  
21    made to lower the Butterworth heater down into the engine from that point. So he  
22    rigged the heater down through the soft patch into the engine room.



1     **CAPT Neubauer:** When you saw this email did you have any concerns that that  
2     operation may have an influence on loading operations or cause any problems at all?

3     **WIT:** No, sir. The cargo is very flexible. At that time of night they've knocked off. So  
4     there's no cargo operations at that time.

5     **CAPT Neubauer:** Do you know the last time that, the soft patch that we're discussing,  
6     was opened and used to access the engine room?

7     **WIT:** Just for that Butterworth heater.

8     **CAPT Neubauer:** I mean prior to this use, do you know the last that the soft patch had  
9     been opened?

10    **WIT:** By the condition I hadn't been opened in quite a while, so.

11    **CAPT Neubauer:** Sorry.

12    **WIT:** As far as bolts and so forth, you could see it hadn't been opened in years, so.

13    **CAPT Neubauer:** Can you describe the securing mechanisms for that soft patch?

14    **WIT:** I believe it's just bolted down with cap screws all the way around it,  
15    circumference.

16    **CAPT Neubauer:** Do you know how many?

17    **WIT:** No I don't.

18    **CAPT Neubauer:** Can you just give a rough estimate?

19    **WIT:** Maybe 18, I'm not sure.

20    **CAPT Neubauer:** Were you aware of any problems with those bolts, sir?

21    **WIT:** No, sir.

22    **CAPT Neubauer:** Do you know if Mr. Mathias did that operation?

23    **WIT:** Yes he did.

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1     **CAPT Neubauer:** Did you ever get a chance to look at the soft patch afterwards, sir?

2     **WIT:** I didn't visually inspect from the top, no.

3     **CAPT Neubauer:** Sir, if I could turn your attention to page 2 of that Exhibit 095. This  
4     was an email from the Chief Engineer on the El Faro on Sunday, September 27<sup>th</sup>, 2015  
5     at 10:34 p.m. to yourself, Bill Weinbecker and Jim Fisker-Andersen. The subject is the  
6     EF, El Faro I assume, conversion status 9/27/15. And the Chief Engineer writes,  
7     gentlemen this week we accomplished the following. Fabricated the Butterworth heater  
8     stand in the engine room starboard side void. My plan is to lower the heater through the  
9     2<sup>nd</sup> deck soft patch after cargo stops at 2100 Monday night. We will need to further  
10    assemble the stand after the heater is in place going South next week. REQ, which I  
11    assume is request submitted in AMOS for control valve for heater. In contact with TMS  
12    regarding automation control system for heater and valves. At the end of this list on  
13    number 7 he writes, working on freeing up studs on engine room soft patch for BW  
14    heater. Do you remember this email, sir?

15    **WIT:** Yes, sir.

16    **CAPT Neubauer:** Can you describe the work that was going on in the engine room  
17    during this voyage and who was doing that work?

18    **WIT:** Mr. Matthew had the Polish Intech crew targeting – steam pipping and drain  
19    pipping for the Butterworth heater and they were prepping the angle iron stand for the  
20    Butterworth heater. They were prefabricating it so when they lowered the heater it would  
21    come to rest on the heater stand.

22    **CAPT Neubauer:** Sir, are you certain that the Polish riding gang workers then were  
23    working in the engine room during that voyage?

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1       **WIT:** At some point, I think so yes.

2       **Tote Inc:** Captain could we clarify which voyage we're talking about, whether it was the

3       ----

4       **CAPT Neubauer:** Yes, sir.

5       **Tote Inc:** Yes.

6       **CAPT Neubauer:** I'll clarify this. For the record this is referring work that was done  
7       from Puerto Rico to Jacksonville and it's referring to work that was done to prep the  
8       area for the Butterworth heater. And I was asking, in your opinion, or are you certain  
9       were there Polish riding gang member working in the engine room on that voyage to  
10      Jacksonville?

11      **WIT:** Yes they were.

12      **CAPT Neubauer:** Are you certain of that, sir?

13      **WIT:** Yes. I witnessed the stand being put in place, or in place on arrival.

14      **CAPT Neubauer:** Are you certain that stand could have not been done by ship's force?

15      **WIT:** No, the ship's force did not do that.

16      **CAPT Neubauer:** Did this comment on number 7 that they were working to freeing up  
17      the studs on the engine room soft patch for the Butterworth heater, did that concern  
18      you, sir?

19      **WIT:** No, sir.

20      **CAPT Neubauer:** Now I would like to go to page 1 of that Exhibit 095. This is an email  
21      from Phil Morrell to you with a copy to the Chief Engineer, himself and then Jim Fisker-  
22      Andersen and the date is Tuesday, September 29<sup>th</sup> at 2:55. Mr. Morrell's email reads,  
23      Tim, This is good progress and it appears we achieved our goal of completing all new

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1 wire installations by the end of September. My questions are: 1) are we completely  
2 finished with all new required cable installation? 2) What remain work (conversion) is  
3 yet to be accomplished on the run prior to dry dock by Intech? 3) What are the delivery  
4 dates for all newly supplied winches? 4) What is the new critical path for conversion  
5 related work? 5) What am I missing?? Please advise, Phil. Do you remember  
6 receiving this email, sir?

7 **WIT:** Yes, sir.

8 **CAPT Neubauer:** Did you feel any pressure to get that work done during this last  
9 voyage of the El Faro?

10 **WIT:** There's pressure throughout the whole conversion.

11 **CAPT Neubauer:** What was the driving pressure, sir, to get this work done so quickly?

12 **WIT:** Time frame, delivery in Tacoma.

13 **CAPT Neubauer:** I didn't really catch, can you explain further, sir?

14 **WIT:** Well to get everything in place we have to have davits, we have to have winches,  
15 we have to have power to the winches, we have to have cables set up, we have to have  
16 – we've got to go to the shipyard have ramps opened up and steel remove, Butterworth  
17 heater in place, the glycol system for ramp deicing since you go to Alaska you need  
18 deicing systems and there was a lot to do and a limited time frame.

19 **CAPT Neubauer:** Did you feel stressed by this amount of work?

20 **WIT:** Yes.

21 **CAPT Neubauer:** Can you describe further the type of stress you were under?

22 **WIT:** Well it's just ----

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1     **CAPT Neubauer:** And I mean, were you able to do your normal job operations  
2     effectively?

3     **WIT:** Yes.

4     **CAPT Neubauer:** With the other?

5     **WIT:** Yes. I just put in more time, that's all.

6     **CAPT Neubauer:** I would like to make a note on this email from Mr. Morrell that it does  
7     not appear the Master is copied. Is that – can you confirm on the copy line what El Faro  
8     would be on this email, sir?

9     **WIT:** El Faro should cover the Master and the Mate I believe and Chief Engineer.

10    **CAPT Neubauer:** Is that a group address?

11    **WIT:** Yes, sir.

12    **CAPT Neubauer:** Okay, thank you. I stand corrected. It looks like the El Faro group  
13    address was copied on the email that was sent to you by Mr. Morrell.

14    **WIT:** And REQ is requisition, so for your information.

15    **CAPT Neubauer:** Oh, instead of request?

16    **WIT:** Yes.

17    **CAPT Neubauer:** I stand corrected on that, requisition. Thank you. I'm going to – Mr.  
18    Roth-Roffy, do you have any questions at this time?

19    **Mr. Roth-Roffy:** Thank you Captain. Good afternoon, sir.

20    **WIT:** Good afternoon.

21    **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Just a couple of questions to follow up.

22    Regarding the location of the soft patch that has been discussed, will be used to lower a

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1 Butterworth heater into the engine room, now could you please be more specific on  
2 where this soft patch is and describe its size?

3 **WIT:** It would be on the 2<sup>nd</sup> deck starboard side outboard parallel to the engine room  
4 casing. And it's a, I'd have to show you in a diagram to further the description. I do  
5 have stow numbers which is 51 and 54 in the normal cargo stow plan would be the  
6 location of that soft patch.

7 **Mr. Roth-Roffy:** Sir, if you recall the size of that soft patch, approximately?

8 **WIT:** Probably 24 to 26 inches, I don't know the exact size.

9 **Mr. Roth-Roffy:** Would that be round or square?

10 **WIT:** Round.

11 **Mr. Roth-Roffy:** We've also hear about another soft patch located on the port side, are  
12 you familiar with that one?

13 **WIT:** Not very. I've never seen that one opened.

14 **Mr. Roth-Roffy:** But you have seen it? Do you know where it is?

15 **WIT:** I'm not sure at this time.

16 **Mr. Roth-Roffy:** And going back to the discussion about the dinner you had with  
17 Captain Davidson, do you recall his demeanor at that time?

18 **WIT:** It was very good, great. Everybody was in a good mood.

19 **Mr. Roth-Roffy:** And did you have any specific discussions about the storm that was  
20 down in the area of the intended track, the normal track of the vessel?

21 **WIT:** I don't remember any discussions about that, no.

22 **Mr. Roth-Roffy:** Sir, are you familiar with the BVS system, the weather routing system  
23 with a forecast system?

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1 **WIT:** No I'm not.

2 **Mr. Roth-Roffy:** Are you involved in any contractual matters with that software and that  
3 service?

4 **WIT:** No, sir, not that I'm aware of.

5 **Mr. Roth-Roffy:** Thank you. That's all I have now. Captain.

6 **CAPT Neubauer:** Do any of the parties in interest have any questions at this time?  
7 Tote?

8 **Tote Inc:** No questions, sir.

9 **CAPT Neubauer:** ABS?

10 **ABS:** No questions, sir.

11 **CAPT Neubauer:** And Mrs. Davidson?

12 **Ms. Davidson:** No questions.

13 **CAPT Neubauer:** Sir, would you like to take a break or keep going?

14 **WIT:** Let's go.

15 **CAPT Neubauer:** Commander Odom.

16 **CDR Odom:** Thank you. So for that voyage were there any lanes left opened, or voids  
17 in the cargo area for the work that was being performed?

18 **WIT:** I don't believe so.

19 **Tote Inc:** Excuse me, could we please clarify which voyage again?

20 **CDR Odom:** The voyage departing on the 29<sup>th</sup> as the vessel sank on. Was there any  
21 lanes or anything left open on the number 2 deck for the purpose of getting work done  
22 or keeping them open?

23 **WIT:** No I don't believe so.

1 **CDR Odom:** Take a look at Exhibit 21. It's an email from Ronald Rodriguez, Jim  
2 Wagstaff, need cargo port side immediately from October 1<sup>st</sup>. Can you take a look at  
3 that email and look at the pictures on page, like 2 and 3. Were you on board whenever  
4 the vessel was listing?

5 **WIT:** Well the vessel changes list at – during the operation, so. There is ----

6 **CDR Odom:** Do you know what was causing the list?

7 **WIT:** Cargo operations.

8 **CDR Odom:** Just regular cargo operations?

9 **WIT:** Yes.

10 **CDR Odom:** In the email he states that he's never seen it that bad. Was that a result  
11 of any work that was going on?

12 **WIT:** No, sir.

13 **CDR Odom:** It was just strictly cargo operations?

14 **WIT:** Strictly cargo.

15 **CDR Odom:** Do you know if the vessel was already [in audible] list?

16 **WIT:** No more than a half a degree slightly, they always correct it before they go.

17 **CDR Odom:** So with the equipment that you guys were brining on board for the retro  
18 fit, did anybody ever take into consideration, did you ever discuss with the Captain the  
19 weight of the winches and cables and the work that you were doing?

20 **WIT:** I did not discuss that with the Captain, no.

21 **CDR Odom:** Did anybody to your knowledge discuss it with the Captain so they could  
22 account for it?

23 **WIT:** No.



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1       **CAPT Neubauer:** Sir, did Captain Davidson ever express any frustration with these  
2 type of external operations going on with the riding gangs to you?

3       **WIT:** No, not at all.

4       **CDR Odom:** Going to Exhibit 53 which is a survey report for Alaska service retro fit.  
5 Go to page 20.

6       **CAPT Neubauer:** Exhibit 053?

7       **CDR Odom:** Yes, sir.

8       **CAPT Neubauer:** This is, just for the record the SS El Faro survey report for Alaskan  
9 service retro fit prepared by Jeff Mathias, April 2015.

10       **CDR Odom:** Sir, in this report under miscellaneous engine room items, item number 1  
11 is very all pipe hangers, snubbers and supports for the main steam system in the engine  
12 room are in good order to take the increased pounding in Alaska service. And it says,  
13 many hangers are currently loose or broken. Are you familiar with that, and can you  
14 explain?

15       **WIT:** I'm familiar with what he's talking about, yes. All of your larger steam lines have a  
16 – are suspended from the overhead hangers and you have a bracket that supports it,  
17 and a lot of them are spring loaded so to absorb vibration, shock and expansion. So to  
18 have them properly supported they need to – good spring and good steel. So he's in  
19 the process of repairing that.

20       **CDR Odom:** So stating that some of them are broken, what would be the risk to the  
21 system in pounding seas without those hangers in good condition?

22       **WIT:** Well eventually you could possibly crack a line. Possibly. It would have to be  
23 severe.

1 **CDR Odom:** Further the second item talks about cracks in the 2<sup>nd</sup> deck D rings. Are  
2 you familiar with that?

3 **WIT:** Yes.

4 **CDR Odom:** Were there cracks in the 2<sup>nd</sup> deck D rings at the time?

5 **WIT:** There were a few, yes. D rings, uh there's hundreds of them on the 2<sup>nd</sup> deck and  
6 they constantly get run over by the trucks and trailers so they take a pounding. So they  
7 need regular maintenance. We replace them as needed.

8 **CDR Odom:** Were there cracks in the deck itself or the cracks in the D rings?

9 **WIT:** Cracks in the D rings. The clip that holds them down usually cracks at the top.

10 **CAPT Neubauer:** Sir, do you ever remember any reports of water ingress from any of  
11 that – any of those cracks?

12 **WIT:** No, sir.

13 **CDR Odom:** So throughout the scope of this work was there ever any welding or  
14 compromise of any watertight bulkheads or decks?

15 **WIT:** No, sir.

16 **CDR Odom:** That finishes my questions for Alaska retro fit. Do you want to move on or  
17 do you want to take a break?

18 **CAPT Neubauer:** Let's keep going. Mr. Fawcett.

19 **Mr. Fawcett:** Good afternoon Mr. Neeson, how are you, sir?

20 **WIT:** Good, sir.

21 **Mr. Fawcett:** A couple of questions. We had talked about during the course of your  
22 testimony the deviation voyage in late August time through the Old Bahama Channel  
23 route. Do you know if at any time since you've been Port Engineer with Tote if there

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1 had been an assessment of the voyage plans on the El Faro or the El Yunque to  
2 determine if the ships were being adequately handled on the voyages at sea with regard  
3 to weather?

4 **WIT:** I don't know of any official assessment. I know that people in the office all concur  
5 with the Captain's choice of taking the Old Bahama Channel. I don't think there was  
6 never any problem with that. They all agree with Captain on taking that direction.

7 **Mr. Fawcett:** Was there ever a meeting that you were aware of that was used by  
8 corporate officers or people that work Tote Services to determine if that voyage was  
9 appropriate given the weather?

10 **WIT:** I don't know of anything from higher up, no. Just the gentlemen in the port that I  
11 work with.

12 **Mr. Fawcett:** So you mentioned earlier that there was a high turnover of unlicensed  
13 personnel, is that correct?

14 **WIT:** Yes, sir.

15 **Mr. Fawcett:** In the months leading up to the accident voyage that started on the 29<sup>th</sup>  
16 of September, would you say that there was a high turnover of Chief Mates for the El  
17 Faro?

18 **WIT:** I believe there was.

19 **Mr. Fawcett:** What was the reason for that?

20 **WIT:** Just temporary people, permanent guys weren't available. I'm not sure. You'd  
21 have to ask HR on that one.

22 **Mr. Fawcett:** Throughout this testimony we've heard different characterizations of the  
23 fact that the Captain is ultimately responsible for the vessel, he runs the vessel in an

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1 autonomous way meaning that the shore side does not approve of his voyage plans or  
2 provide direct oversight of what he does. So how does the Captain what plans are for  
3 boiler and the boiler repairs so that he can make decisions effecting the safety of  
4 voyages? Do you ever tell him, for example this is the status of the boiler, this is when  
5 we're going to get it repaired, any precaution to take during the voyage?

6 **WIT:** Yes. But there's no precautions to take. If the boilers are good, there's nothing to  
7 warn him about. We don't sail with boilers unless they're ready to go. So as far as that  
8 goes. And – so he has a ship that runs at 100 percent at all times or he doesn't sail.

9 **Mr. Fawcett:** How do you tell the Captain, from a company side, not from a shipboard  
10 side, about your plans and attentions for something like a propeller strut bearing where  
11 lube oil samples are indicating the presence of tin or a particular matter and that the  
12 bearings are running hot? Like how would you tell him about what the plan of action is  
13 to work on that bearing or operating it at a certain speed or anything like that?

14 **WIT:** Well the strut bearing was showing a slightly elevated levels of tin, but it was not  
15 overheating. And it was maintaining a constant level of tin. So it was not increasing, it  
16 was not showing imminent failure. And we discussed uh, we ordered a bearing for the  
17 shipyard period. We were going to change it out before the Alaska service regardless  
18 of anything else. So we were going to change that bearing anyway. And he was  
19 informed about that and also conditions of the boiler and our plans to fix the boiler and  
20 when.

21 **Mr. Fawcett:** And how is he advised of that?

22 **WIT:** Verbally, plus he has a copy of the dry dock spec.

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1 **Mr. Fawcett:** So on the time that Captain Davidson got ready to depart on the August,  
2 or upon the September voyage, did he know at that time of what his status was with  
3 regard to his potential for getting a Marlin class ship? Based on your understanding.

4 **WIT:** He knew, yes, he knew.

5 **Mr. Fawcett:** He knew what?

6 **WIT:** He knew he was not getting a Marlin class ship.

7 **Mr. Fawcett:** Did he tell you how that news was conveyed to him?

8 **WIT:** I believe it came through from the office, from Human Resources I believe.

9 **Mr. Fawcett:** So you mentioned also earlier in your testimony the note that was about  
10 taking precautions for Joaquin. Could you talk a little bit more about that?

11 **WIT:** Everyday he puts out a noon report, distance, direction, fuel oil, and arrival times.  
12 And at the bottom there's a little note if he wants to throw in there he can do so. And he  
13 put in the, something like precautions taken for Joaquin. So he was aware of the storm.  
14 That was just like a 4 or 5 words, no big statement.

15 **Mr. Fawcett:** So that was on the 30<sup>th</sup> of September, the 1<sup>st</sup> day at sea out when the EI  
16 Faro left port, do you recall that?

17 **WIT:** Yes.

18 **Mr. Fawcett:** Did you know the route that that vessel was going to take on the 30<sup>th</sup> of  
19 September?

20 **WIT:** No, sir.

21 **Mr. Fawcett:** When it came to Tropical Storm Erika and Danny, I know it was a while  
22 ago so if it takes a minute to think about it, did Captain Davidson have any  
23 conversations with you about, before he departed while you were aboard on the day or

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1 two before the ship departed, did he have any conversations with you about taking an  
2 alternate route or storm provisions or cautions for Erika and Danny?

3 **WIT:** I can't remember anything specifically, but I know he has talked about taking  
4 different routes depending on which way the storms go. So that's sort of a natural  
5 conversation.

6 **Mr. Fawcett:** So did you have that kind of natural conversation on the last day you  
7 were aboard with Captain Davidson with regard to Joaquin?

8 **WIT:** No, I don't remember having that conversation.

9 **Mr. Fawcett:** And that 30<sup>th</sup> of September email, that position report, which I believe  
10 was the noon position report, when did you ultimately see it?

11 **WIT:** I seen it that afternoon.

12 **Mr. Fawcett:** Which ----

13 **WIT:** After the ship transmits their messages.

14 **Mr. Fawcett:** And so you saw it the afternoon of the 30<sup>th</sup>?

15 **WIT:** Yes, I believe so.

16 **Mr. Fawcett:** Do you know who's directly responsible for reviewing the position reports  
17 of the vessel so that the vessel's position can be tracked at any time within the Tote  
18 organization?

19 **WIT:** I don't believe anyone does that, sir.

20 **Mr. Fawcett:** Okay. And a couple of clarifying questions. Captain Neubauer asked  
21 you a question about the BVS system and you answered that, I think with regard to you  
22 didn't know about the purchasing of it and you know the installation aboard ship, would  
23 that be a fair characterization?

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1 **WIT:** Yes, sir.

2 **Mr. Fawcett:** So are you aware that Mr. Lawrence and Mr. Matthews have updated  
3 tropical weather predictions emails sent to them for tropical storms?

4 **WIT:** No, I'm not copied in on that.

5 **Mr. Fawcett:** Have you ever seen that or discussed the fact that they have a desktop  
6 emails that come in from applied weather technology that show graphic of the storm  
7 along with other position information for tropical weather?

8 **WIT:** No I have not seen that.

9 **Mr. Fawcett:** Thank you, sir.

10 **CAPT Neubauer:** Commander Denning.

11 **CDR Denning:** I have a couple follow on questions regarding that Exhibit 53 you were  
12 just looking at. Let's start with the first topic that we discussed verifying the pipe  
13 hangers, you described their function. Can you just tell us how – how far apart is the  
14 spacing of those supports?

15 **WIT:** The supports are just larger than the diameter of the pipe that it's holding.

16 **CDR Denning:** How far – what's the distance from one support to the next? Or are  
17 they run the continuous line?

18 **WIT:** It depends on the configuration of the pipping. Most pipping is not dead straight  
19 for 30 feet. It turns, bends, curves, makes its way through the engine room. So you  
20 could – you possibly just have one pipe hanger for one line or you could have three.

21 **CDR Denning:** I'm trying to understand if one is, as this describes, loose or broken,  
22 would the other supports along the line pick up that load or would it ----

23 **WIT:** It's very possible.

1 **CDR Denning:** So we can't really ascertain from this one what the likelihood of, you  
2 know crack in the line might do?

3 **WIT:** It's highly unlikely. I've been aboard many ships with bad hangers and I've never  
4 seen one fail because of a bad hanger.

5 **CDR Denning:** So you said it's highly unlikely ---

6 **WIT:** Yes, sir.

7 **CDR Denning:** That it would result in the steam line. And then a couple of follow ons  
8 on the D ring item. I think you said that the cracks were in the D ring itself?

9 **WIT:** Yeah, there's a, I don't know what you call it, a humped staple that they weld to  
10 the deck that the D ring pivots in, it usually cracks at the very top of the hump there.

11 **CDR Denning:** So I want to read this statement again in the report, it speaks to  
12 watertight integrity and it doesn't say crack in the D ring or in that particular hump that  
13 you described, it says cracks around the buttons and D rings. And that those cracks  
14 could allow ingress of water into the cargo holds. So I want to make sure that we're  
15 talking about the same thing. Are you aware of cracks around the D rings and buttons?

16 **WIT:** No, I'm not, sir.

17 **CDR Denning:** And then if you could go back to Exhibit 6, a similar topic. Exhibit 6  
18 was the corporate position descriptions. And I would like you to go to page 18. So this  
19 is part of the manager, safety and operations, this particular position description. And in  
20 there, bear with me I'm going to pick out a specific line item. So actually, pardon me,  
21 I've got to get to the right page here. On page 18, the fourth from the last paragraph. It  
22 says, assist marine operations Government and commercial and coordinates with Port  
23 Engineers in ensuring that the cargo gear and deck equipment are properly repaired.



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1 When we had testimony earlier in this hearing from John Lawrence he indicated that  
2 that was actually a mistake in his particular job description and that wasn't one of his  
3 duties. What I would like for you to help us understand is who at Tote is responsible for  
4 inspecting this particular gear which would include buttons and D rings. He said it's not  
5 in his job description, I note that it's not included in yours and early in your testimony ----

6 **WIT:** Well by manager of safety and operations, I believe that would be Lee Peterson.

7 **CDR Denning:** I believe he was – he's the Director of Safety. This was described as  
8 John Lawrence particular job description, and he said this was a typo.

9 **WIT:** It's a mistake, yes.

10 **CDR Denning:** It's a mistake in his job description. So I'm asking who's job description  
11 is that, if it's a mistake in his?

12 **WIT:** Well it would be me.

13 **CDR Denning:** So you're saying that is one of your responsibilities as ----

14 **WIT:** Yes.

15 **CDR Denning:** And how – so at what frequency are those particular fittings actually  
16 inspected? Besides the fact that it was included in the Alaska conversion survey report,  
17 is it an annual inspection or how often are these D rings and buttons actually inspected?

18 **WIT:** There is no checklist for individual D rings and buttons and so forth. The ship's  
19 crew, the Chief Mate is responsible for checking to make sure all the lashings and the  
20 lashing fixtures are good. And he would convey that to me if repairs were needed.

21 **CDR Denning:** Thank you.

22 **CAPT Neubauer:** Sir, were you aware that that job description had shifted to your job  
23 description?

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1 **WIT:** No, sir.

2 **CAPT Neubauer:** Until today?

3 **WIT:** Yes.

4 **CAPT Neubauer:** Mr. Roth-Roffy do you have any questions. Oh, Lieutenant  
5 Commander Venturella.

6 **LCDR Venturella:** Good afternoon, sir. I just wanted to revisit one topic, I just had a  
7 question on from before. You mentioned that the El Faro was carrying an additional life  
8 raft on board and I wanted to understand a little bit better the reasoning. On the El  
9 Yunque, I'm sure you remember in June 2015 there were problems with the port life  
10 boat.

11 **CAPT Neubauer:** Of one, I want to standby. Make sure you remember.

12 **WIT:** Yes, please proceed.

13 **LCDR Venturella:** Do you recall if the problems were on the port life boat of the El  
14 Yunque in June?

15 **WIT:** There was steel, too thin in spots on the davit, on the actual davit arms. Because  
16 they were deteriorating.

17 **LCDR Venturella:** Does it sound familiar, pad eyes and also a foundation?

18 **WIT:** Yes.

19 **LCDR Venturella:** Okay. Were you concerned about the same problems on the El  
20 Faro?

21 **WIT:** Yes.

22 **LCDR Venturella:** Had the crew conducted their weekly inspections and did they find  
23 anything that would lead them to believe the same conditions existed on the davits?

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1       **WIT:** On which vessel?

2       **LCDR Venturella:** I'm sorry.

3       **WIT:** On which vessel?

4       **CAPT Neubauer:** Are you referring to the El Faro?

5       **LCDR Venturella:** Oh, yes I am. I'm referring to the El Faro and I'm trying to find out if  
6       the El Faro's crew found the same conditions on either the port or starboard life boat  
7       davit?

8       **WIT:** The vessel does a weekly boat drill. During that time they check the davits, the  
9       conditions of all the equipment related to the boat. So there's no actual weekly checklist  
10      of what items to check. So they do a normal safety check as they operate the lower the  
11      boat. So if they see something they bring it up to the Mate and the Captain.

12      **LCDR Venturella:** On the El Yunque you put the life raft on board because there was a  
13      problem with the port life boat davit and you were on a 10 day cargo ship safety  
14      equipment certificate, so that temporary certificate so that you could continue to  
15      operate. Were you self-enforcing something like that on the El Faro or was ABS  
16      involved in that again?

17      **WIT:** This was a preventative maintenance for the El Faro.

18      **LCDR Venturella:** So to your awareness there could have been the same types of  
19      problems on both davits, one davit, or?

20      **WIT:** Possibly, yes.

21      **LCDR Venturella:** Thank you.

22      **CAPT Neubauer:** But, sir, just to clarify. Did you ever personally witness any  
23      deterioration on the El Faro's davits prior to this voyage?

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1 **WIT:** Yes.

2 **CAPT Neubauer:** Is that the reason the extra life boat was brought on board the El  
3 Faro's voyage prior to the storm voyage?

4 **WIT:** Well I was doing the El Yunque and the potential of losing a davit due to safety  
5 issues.

6 **CAPT Neubauer:** When the servicing technicians came on board to look at the davit,  
7 was that part of the servicing? Did they inspect the davits?

8 **WIT:** Yes they do.

9 **CAPT Neubauer:** Did they provide any feedback to you on the condition?

10 **WIT:** No, sir.

11 **CAPT Neubauer:** Mr. Roth-Roffy.

12 **Mr. Roth-Roffy:** Good afternoon again, sir. Tom Roth-Roffy, NTSB. Just a couple  
13 quick follow ups on previous issues that I explored with you related to the soft patches  
14 that were scheduled to be removed and before the vessel departed. Do you have any  
15 information or knowledge of it – if those soft patches were actually removed?

16 **WIT:** Well I know the one for the Butterworth heater was removed to place the heater  
17 because I saw the heater in place.

18 **Mr. Roth-Roffy:** Okay.

19 **WIT:** They did remove it and they did replace the soft patch.

20 **Mr. Roth-Roffy:** I'm sorry that was my next question. So you did see that the soft  
21 patch had been refitted?

22 **WIT:** Yes, sir.

23 **Mr. Roth-Roffy:** And had it been bolted down?

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1 **WIT:** Yes, sir.

2 **Mr. Roth-Roffy:** Sir, are you aware of any other access openings to the engine room,  
3 machinery spaces in other locations? I know we've talked about the one on the port  
4 side, are you aware of any other that might exist?

5 **WIT:** Not besides the watertight doors, no, sir.

6 **Mr. Roth-Roffy:** Thank you, that's all. Captain.

7 **CAPT Neubauer:** Commander Odom.

8 **CDR Odom:** I'd like to move into asset management operating system.

9 **CAPT Neubauer:** Oh Commander, if we're going to open up a new line I would like to  
10 open it up to the parties in interest and then take a recess. So Tote do you have any  
11 questions?

12 **Tote Inc:** Sir, would you mind taking a recess first, then come back?

13 **CAPT Neubauer:** Yes. The hearing is recessed and we'll reconvene at 4 O'Clock.

14 *The hearing recessed at 1552, 26 February 2016*

15 *The hearing was called to order at 1602, 26 February 2016*

16 **CAPT Neubauer:** The hearing is now back in session. And Tote we're going to start  
17 off with your – any questions?

18 **Tote Inc:** Mr. King will ask the questions.

19 **CAPT Neubauer:** Mr. King.

20 **Tote Inc:** Thank you Captain. Two issues Mr. Neeson, first you were asked some  
21 questions about the evaluation you performed of Captain Davidson, do you remember  
22 those?

23 **WIT:** Yes, sir.

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1 **Tote Inc:** Did you complete that form and pass it up the line?

2 **WIT:** Yes I did.

3 **Tote Inc:** And do you know what Mr. Morrell did with it once it got to him?

4 **WIT:** No I don't.

5 **Tote Inc:** The other topic I want to discuss is life boat davits. On the El Yunque, you  
6 mentioned a conditional approval?

7 **WIT:** Yes, sir.

8 **Tote Inc:** Okay. And was a term of that conditional temporary approval one that  
9 required you to carry an extra life raft?

10 **WIT:** Yes.

11 **Tote Inc:** When you received that conditional approval for the Yunque, did you decide  
12 to put an additional life raft on the El Faro in case the same thing happened on the El  
13 Faro?

14 **WIT:** Yes.

15 **Tote Inc:** After that additional life, by the way, was that life raft required to be on the  
16 ship?

17 **WIT:** No.

18 **Tote Inc:** After you placed the additional life raft on the ship, did Harding come in to do  
19 a safety equipment annual on the ship?

20 **WIT:** Yes.

21 **Tote Inc:** And did the El Faro pass that safety equipment annual?

22 **WIT:** Yes it did.

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1 **Tote Inc:** And does that task or work by Harding include surveying or reviewing the  
2 davits on the ship?

3 **WIT:** Yes it does.

4 **Tote Inc:** When they completed that annual, did they give you a conditional or a full  
5 approval?

6 **WIT:** The ABS gives the conditional or approval. Harding passed the davits as  
7 functional, 100 percent.

8 **Tote Inc:** And I'm glad you mentioned that. Is Harding as far as you know approved by  
9 the ABS to be a safety equipment servicer?

10 **WIT:** Yes.

11 **Tote Inc:** And you're holding in your hand Exhibit 74, could you read what it says about  
12 1/3 of the way down, page 1 under service report? Yes.

13 **WIT:** Yes, it says the work is done in accordance with the Harding procedures, the  
14 requirements as laid down by SOLAS 1974 and its protocol of 1988, chapter 3,  
15 regulation 20 and the latest IMO guidelines.

16 **Tote Inc:** And, sir, when the El Faro sailed on September 29<sup>th</sup>, did you have any  
17 concern with the safety of the davits on that ship?

18 **WIT:** No, sir.

19 **Tote Inc:** That's all I have. Thank you, Captain.

20 **CAPT Neubauer:** Just a follow up on that questioning. When you said the date of the  
21 safety equipment annual, are we talking about the survey that was done on September  
22 29<sup>th</sup>, 2015?

23 **WIT:** No, sir.

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1     **CAPT Neubauer:** What was the date of the safety equipment annual you mentioned?

2     **WIT:** I believe that was a month earlier. I don't have the exact date. The changing of  
3     the clutches was a follow up from that inspection.

4     **CAPT Neubauer:** And just to clarify, ABS was present during the initial inspection or  
5     equipment annual that was done the month earlier?

6     **WIT:** I don't remember off hand. I don't believe so.

7     **CAPT Neubauer:** Do you remember if the Coast Guard was present?

8     **WIT:** No, sir.

9     **CAPT Neubauer:** Do you ever see the Coast Guard present during equipment tests  
10    while you're in Jacksonville, related to safety exams?

11    **WIT:** No, sir.

12    **CAPT Neubauer:** Any further questions from Tote?

13    **WIT:** No, Captain, thank you.

14    **CAPT Neubauer:** ABS do you have any questions?

15    **ABS:** Just one clarification as Mr. O'Donnell put on the record, ABS was not present  
16    during the Harding repairs, nor at a safety inspection that the Chief described.

17    **CAPT Neubauer:** So to clarify there were no ABS oversight of the El Faro davit work in  
18    either August or September, would that be a fair statement?

19    **ABS:** That's correct.

20    **CAPT Neubauer:** Does Mrs. Davidson have any questions?

21    **Ms. Davidson:** No questions.

22    **CAPT Neubauer:** At this time we're going to open up a new line of questioning.  
23    Commander Odom.



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1       **CDR Odom:** Thank you. I would like to discuss the asset management operating  
2       system and what your responsibilities are for AMOS. Can you tell us what  
3       responsibilities you have to enter maintenance items or how would you work with AMOS  
4       to manage a vessel?

5       **WIT:** 99 percent of my job is work orders, write order vendors and purchase orders  
6       from the vessel and repairs or items for the vessel. And consumables, repairs and I do  
7       check with the Chiefs on oversight on the vessel to check their work records to make  
8       sure everything is up to date. That they're doing their maintenance as required.

9       **CDR Odom:** And how did you do – how do you make those checks to make sure  
10      they're doing it as they're required? Do you pull like a weekly report or something that  
11      gave you list of what items were due and?

12      **WIT:** No I don't.

13      **CDR Odom:** You don't. So it's just in the system, you would go through it?

14      **WIT:** It's in the system, yes. And I do – I sit down and talk to the Chief at every port  
15      and we discuss upcoming items and what was done that previous week.

16      **CDR Odom:** Did you have any administrative permissions in that software that would  
17      allow you set due dates for equipment?

18      **WIT:** No, sir. Not that I'm aware of, they'll do that.

19      **CDR Odom:** Who in the company – if you had an error in the system, who in the  
20      company had administrative permission to make entries?

21      **WIT:** We would have to go through the SPEC TECH to change those parameters.

22      **CDR Odom:** And who is that? Is that ----

23      **WIT:** They're the owners of the program, of AMOS.

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1     **CDR Odom:** Did you ever contact them or would you ever contact them to fix errors in  
2     the system?

3     **WIT:** Yes we did. We had Charlie Young, Charles Young from SPEC TECH he had  
4     contacted, or talked or talked with the Chief Engineer on the phone for a few hours on  
5     updating the AMOS on the El Faro since they had two years of layup and where all the  
6     records were two years old and many of them were like weekly updates that there's no  
7     way you can enter a weekly update for two years. You know per every single item on  
8     the ship. So Mr. Young helped the Chief Engineer walk through that and how to take  
9     care of that problem. And try to update the system.

10    **CAPT Neubauer:** Sir, while El Faro was laid up for the two year period, is it your  
11    understanding that the certificate of inspection was kept current?

12    **WIT:** I'm not aware of that.

13    **CAPT Neubauer:** Commander Odom.

14    **CDR Odom:** So moving on to the process of deferring maintenance. As things come  
15    due and items need to be scheduled, maintenance items, preventative maintenance  
16    items needed to be completed and you're not going to make the target date, how did  
17    you decide if – how long you were going to defer those items? Or what was the process  
18    for deferring maintenance?

19    **WIT:** Well the AMOS has a priority number assigned to all the different jobs. And some  
20    of the low priority jobs they could be put off for indefinitely depending on the equipment.  
21    Whether it was being used or not. Or it would be deferred to the shipyard or just till  
22    next, or the next voyage whatever opportunity arose.

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1 **CDR Odom:** So who made the decision whenever it came down to making a deferment  
2 on ----

3 **WIT:** The Chief Engineer.

4 **CDR Odom:** Were you involved in those discussions when he did them?

5 **WIT:** On occasion.

6 **CDR Odom:** What shore side support did the Chief Engineer make in those decisions?  
7 What did he have? If he needed to defer that longer than say 30 days, was there ever a  
8 time when he needed that authority moved to shore for him to defer it if it was going to  
9 go all the way to the shipyard, the shipyard was 6 months away, who made the decision  
10 then?

11 **WIT:** Uh depending on the equipment, if it was vital piece of equipment, well most –  
12 would be taken care of before then. So most items are done within 30 days, usually it's  
13 getting parts or arranging a vendor to do it. So sometimes it does take a few weeks to  
14 get things done. But they're normally taken care of. And by the condition of the engine  
15 room and it was very well maintained.

16 **CDR Odom:** So if it's a vital piece of equipment, was it your responsibility to contact  
17 ABS to let them know you were deferring something, a vital piece of equipment to the  
18 shipyard, or how did you do that?

19 **WIT:** Well they have the machinery annuals and, by the ABS. We have our CMS  
20 system where you do the 20 percent of the equipment per year for 5 years to get the  
21 100 percent. So these things are monitored. We have vibration analysis, you have  
22 thermograph, so it's – all the equipment is monitored. So ABS is not involved in every

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1 piece of machinery on the ship to that extent. They don't micromanage the ship. So it's  
2 up to the Chief Engineer to talk to me about what we need to get done and do it.

3 **CDR Odom:** Was the vessel schedule a big factor in the decision made in deferring?

4 **WIT:** No, sir.

5 **CDR Odom:** Is there a safety management system process for maintenance deferrals,  
6 or deferring repairs?

7 **WIT:** Not for deferral, not that I'm aware of.

8 **CDR Odom:** Thank you. I'm going to move on to some boiler questions.

9 **CAPT Neubauer:** Before we do that, I would like to ask a couple follow ups on this line  
10 of questioning. Was it completely discretionary what items could be deferred?

11 **WIT:** Yes. Within the safety guidelines, of course.

12 **CAPT Neubauer:** Were there certain priorities that could be deferred, or was it low  
13 priority items that could only be deferred?

14 **WIT:** Low priority items could. Like greasing a winch, instead of greasing it this week,  
15 you grease it next month, it's.

16 **CAPT Neubauer:** How – in regards to the higher priority items, how – were those able  
17 to be deferred?

18 **WIT:** No, sir, we took care of them.

19 **CAPT Neubauer:** What was your perception of company's responsiveness to your  
20 request to get maintenance completed?

21 **WIT:** Very good. They never ham strung me in any way to save money or save time, or  
22 you know maintain the schedule. If we need to fix it we fix it. So they're very good  
23 about that.

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1       **CAPT Neubauer:** Even on the lower priority items?

2       **WIT:** Well ---

3       **CAPT Neubauer:** With a response?

4       **WIT:** What do you mean by a low priority item, as far as?

5       **CAPT Neubauer:** Did you find yourself having to defer the lower priority items  
6 indefinitely?

7       **WIT:** No, sir, no, sir.

8       **CAPT Neubauer:** When you arranged to have the extra life raft on board for the EI  
9 Faro, who did you arrange that with at Tote?

10       **WIT:** Well myself and Fisker-Andersen discussed it and we purchased the raft.

11       **CAPT Neubauer:** Did you have to clear that through Mr. Fisker-Andersen?

12       **WIT:** Well, we both made the same decision as Port Engineers.

13       **CAPT Neubauer:** Was Mr. Fisker-Andersen aware of the servicing being done?

14       **WIT:** Yes.

15       **CAPT Neubauer:** Did he ever mention anything about contacting ABS or the Coast  
16 Guard to do that?

17       **WIT:** No, no, sir.

18       **CAPT Neubauer:** And would you or he be the one to contact ABS ahead of that  
19 servicing?

20       **WIT:** As assigned to engineer for the vessel it should have been me.

21       **CAPT Neubauer:** Mr. Roth-Roffy.

22       **Mr. Roth-Roffy:** Thank you Captain. Sir, I would like to just return to the topic of the  
23 AMOS preventative maintenance program. Regarding the deferral of maintenance, I

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1 believe you stated that you could not defer maintenance of items, certain items. Could  
2 you describe the different priorities within how items are rated, which could be deferred,  
3 which could not be deferred?

4 **WIT:** Well you consider items like bridge equipment would be a high priority, all the  
5 bridge equipment must work, main engine boilers, feed pumps would be a high priority,  
6 you know you've got like a potable water pump would be medium priority, greasing the  
7 winches, changing the oil in a winch would be a lower priority.

8 **Mr. Roth-Roffy:** And does the AMOS assign those priorities so they're visible to the  
9 user?

10 **WIT:** I believe so yes.

11 **Mr. Roth-Roffy:** I apologize, could you say that again?

12 **WIT:** Yes.

13 **Mr. Roth-Roffy:** And if a maintenance item cannot be done, then it could be deferred,  
14 but what if it's just not completed due to operational requirements or lack of parts, would  
15 that just become overdue or is that a different classification of something that's not  
16 accomplished when scheduled?

17 **WIT:** Well if we weren't able – if we weren't able to fix it or maintain it we would  
18 probably order another one, or replacement of that piece of equipment.

19 **Mr. Roth-Roffy:** Actually I was asking, you know sometimes you can intentionally defer  
20 maintenance items, sometimes you perhaps just don't do it. Would it automatically roll  
21 over and be deferred for the system?

22 **WIT:** There's no deferral date or system, it gives you a due date and then once you  
23 pass that it's an overdue date.

1 **Mr. Roth-Roffy:** Okay. So that's not an intentional deferral, is that correct?

2 **WIT:** No.

3 **Mr. Roth-Roffy:** And could you describe how you, actually first let me first establish,  
4 are you responsible for overseeing the completion of maintenance items in AMOS?

5 **WIT:** I check – I review it with the Chief Engineer in our weekly meetings. I don't  
6 actually go through the computer and check every item.

7 **Mr. Roth-Roffy:** I'm sorry, you don't like to go to the computer?

8 **WIT:** No, I don't go through the computer to check it. I sit with Chief Engineer and we  
9 discuss it and go over it, what items need to be taken care of.

10 **Mr. Roth-Roffy:** And if he does not discuss something with you then perhaps you  
11 would not be aware?

12 **WIT:** That's a possibility. I trust my Chief Engineer.

13 **Mr. Roth-Roffy:** What about the entering of the repairs, unscheduled repairs, and  
14 unscheduled maintenance items? Does the system require that, I'm sorry, does the  
15 company require that the crew, the Chief and the Captain and other make entries  
16 whenever a piece of equipment is repaired?

17 **WIT:** Well they should be entered in the engine room log or deck log depending on  
18 which piece of equipment. And also it should be entered in AMOS.

19 **Mr. Roth-Roffy:** What about the navigation equipment, stuff up on the bridge when  
20 that's repaired, is that covered by AMOS?

21 **WIT:** I'm not sure, I never checked that.

22 **Mr. Roth-Roffy:** And what about preventative maintenance actions dealing with the  
23 bridge equipment, is covered by the preventative maintenance program?

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1 **WIT:** I believe it is, but I haven't watched it.

2 **Mr. Roth-Roffy:** Thank you very much. Captain.

3 **CAPT Neubauer:** Sir, were you ever made aware that the El Faro's anemometer was  
4 not working properly?

5 **WIT:** I believe we knew about it at one time, yes.

6 **CAPT Neubauer:** Do you remember how long ago that was, sir?

7 **WIT:** Maybe 3 or 4 months before, middle of summer, June maybe.

8 **CAPT Neubauer:** 3 or 4 months before the accident voyage?

9 **WIT:** Yes.

10 **CAPT Neubauer:** Do you remember was that issue tracked in AMOS at the time?

11 **WIT:** I don't know.

12 **CAPT Neubauer:** Do you remember any actions being taken to correct that issue?

13 **WIT:** No, sir. If the Captain wanted it fixed he would have put in a work order for it and  
14 it would have got fixed.

15 **CAPT Neubauer:** How did you become aware of the problem?

16 **WIT:** I think they told me about it. The Captain or the Mate.

17 **CAPT Neubauer:** Would that be Captain Davidson?

18 **WIT:** Yes, sir.

19 **CAPT Neubauer:** When he told you about it did he ask you to correct the problem?

20 **WIT:** No, sir.

21 **CAPT Neubauer:** Did he mention that it was hindering navigation in any way?

22 **WIT:** No, sir.



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1     **CAPT Neubauer:** Why did he mention it to you? Can you give me the context of the  
2 conversation?

3     **WIT:** No I can't, I don't remember specifically.

4     **CAPT Neubauer:** Did you say also that there was a Mate that mentioned the problem  
5 also?

6     **WIT:** I don't remember exactly who told me, but I heard about it, yes.

7     **CAPT Neubauer:** So it's possible that it may have not been Captain Davidson?

8     **WIT:** It's possible, yes.

9     **CAPT Neubauer:** Did you ever have a discussion with anybody else in the company  
10 regarding that piece of equipment?

11     **WIT:** No, sir.

12     **CAPT Neubauer:** At this time I'll go to the parties in interest. Tote do you have any  
13 questions?

14     **Tote Inc:** Could we confer for one second.

15     **CAPT Neubauer:** Yes, sir. Would you like to take a recess?

16     **Tote Inc:** Just a very brief one.

17     **CAPT Neubauer:** Okay. The hearing will recess for 5 minutes and reconvene at 4:27.

18             *The hearing recessed at 1622, 26 February 2016*

19             *The hearing was called to order at 1626, 26 February 2016*

20     **CAPT Neubauer:** The hearing is now back in session. Tote would you like to start with  
21 questioning?

22     **Tote Inc:** No questions.

23     **CAPT Neubauer:** ABS do you have any questions?

1 **ABS:** No questions, sir.

2 **CAPT Neubauer:** And Mrs. Davidson, do you have any?

3 **Ms. Davidson:** No questions.

4 **CAPT Neubauer:** All right we'll now start with our last line of questioning on  
5 engineering. Commander Odom.

6 **CDR Odom:** Thank you. Mr. Neeson could you please look at Exhibit 60, 60. This is  
7 the email that was sent from Mr. Jim Robinson, August 11<sup>th</sup>, 2015 and it's a list of  
8 upcoming items to do in the shipyard. Looking specifically at items 11 and 12, can you  
9 discuss those?

10 **WIT:** Yes item 11 replace mechanical seal forward main lube oil pump. That's a  
11 normal repair, the seal is not – had not failed, it was just starting to leak a little bit. So  
12 that's a normal replacement item. And the item 12, rebuild or replace the aft main lube  
13 oil pump with warehouse sparing, the pressure is running around 3 psi lower than the  
14 forward pump. It was just starting to wear a little bit. 3 psi is nothing significant as far  
15 as supplying system of lube oil. So it was just starting to show little signs of wear. So  
16 we asked for replacement which would be a normal replacement.

17 **CDR Odom:** Would you please discuss item 18?

18 **WIT:** Pull and inspect the HP turbine forward main drum bearing, the bearing has been  
19 running at 168 degrees at full sea speed. Since I've been aboard the ship, it means it's  
20 been run constantly at that speed. He spoke with Mr. Lee Peterson who is a turbine rep  
21 and also with the company at this time. Do as per recommendations and, so open and  
22 inspect which would be a preventative maintenance item. So we would just check it to  
23 make sure it's okay. But it's running constant so, that's normal for a turbine.

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1 **CDR Odom:** Is 168 degrees a higher, on the higher end?

2 **WIT:** A little bit yes, but it's not – it doesn't raise any flags.

3 **CDR Odom:** So at what temperature would it raise flags?

4 **WIT:** I would have to check their, I would say 180. That's just my guestimate at it as  
5 sailing before.

6 **CDR Odom:** Would you discuss item 18 also please?

7 **WIT:** Inspect the low pressure reduction gear high speed pinion and gear as per Dan  
8 McDonald recommendation. This showed up on a vibration analysis. We did discuss it  
9 with Dan McDonald, he's a long time turbine expert. And he recommended that we look  
10 into it. But there was no flags on that one either. Just a routine inspection, preventative  
11 maintenance.

12 **CDR Odom:** Was there anything else with the main or the shaft or the bearings that  
13 were identified as an issue?

14 **WIT:** No, sir. Previously we opened up the main coupling on the high speed pinion and  
15 inspected and the gears were varnish free, clear free and the reduction gear looked  
16 very well, very good for that part, so. No flags.

17 **CDR Odom:** At any time did you recall any temporary pumps being used on the EI  
18 Faro to circulate oil?

19 **WIT:** No, sir.

20 **CDR Odom:** For the gravity tank or anything?

21 **WIT:** No, sir.

22 **CDR Odom:** Was there anything being delayed to the yard period that you feel might  
23 have needed to be addressed sooner?

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1 **WIT:** No, sir.

2 **CDR Odom:** What was your understanding of when the El Faro was going to go into  
3 the yard?

4 **WIT:** We were scheduled to go into the Grand Bahama shipyard after the – one of the  
5 new ships came in service. And we would do a – the boiler burners front maintenance  
6 on that. And when we got to the Tacoma side we would do the remainder of the boiler  
7 recommendations as far as the tube bowing and refractor work.

8 **CDR Odom:** So it was a two phase approach that you were going to do, some work in  
9 the Bahamas, get the vessel underway and go to Tacoma and do the remainder of the  
10 work in Tacoma?

11 **WIT:** Yes. The Walashek has all their equipment and shop in the Tacoma area. So  
12 they're much easier to do it there.

13 **CDR Odom:** So with that can we look at Exhibit number 11 and 12 which is the  
14 Walashek report? Exhibit 11 first is the crew report which is the port boiler and  
15 starboard boiler inspection the crew did back in July. Can you take a minute and look at  
16 that email? And take the time to discuss the contents of it and any concerns you had as  
17 a result of it?

18 **WIT:** Well I did review this with the Chief and I actually stuck my head in the register  
19 and looked at the tube bowings and the refractory. And I recommended or said their  
20 concerns were working in another email and that we should proceed with repairs in the  
21 near future. And that's when we go Walashek to come down and inspect the boilers.

22 **CDR Odom:** So you actually went in the boiler itself?

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1 **WIT:** Well part way in, not completely, but I did put my head far enough in to see where  
2 the tubes were starting to bow and condition of the refractory.

3 **CDR Odom:** And what about the burners throats?

4 **WIT:** Well that is at the registers, you can see that around, that's where the tubes are  
5 and around the burner throats also.

6 **CDR Odom:** Get a quick look at Exhibit 12 which is the Walashek survey report. Have  
7 you seen that before and had time to review?

8 **WIT:** Yes.

9 **CDR Odom:** Is there anything in that report that you felt needed to be addressed  
10 sooner than the yard, or there was a concern to you?

11 **WIT:** No, I discussed that with Jim Doud who is the Walashek supervisor and we  
12 discussed the life and the reliability of the refractory in the tubes and what work needed  
13 to be done and how long he thought it would take before actual work would be required  
14 and he gave a 6 month window where the motors could operate without anymore  
15 additional repairs.

16 **CDR Odom:** And who did you say you discussed that with?

17 **WIT:** Jim Doward [sic] of Walashek.

18 **CDR Odom:** And he's the gentleman that did the survey?

19 **WIT:** No, that was Luke Laakso [sic].

20 **CDR Odom:** Luke Laakso [sic]. Who did you say, is that his supervisor?

21 **WIT:** Jim Doud is his supervisor, yes.

22 **CDR Odom:** And he's the one that said you had 6 months?

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1 **WIT:** Yes, he discussed that with his man, Luke and that's what he – so. They're the  
2 boiler experts and I'll take his word for it.

3 **CDR Odom:** Well when using somebody like Walashek, how does Tote review 3<sup>rd</sup>  
4 party contractors or 3<sup>rd</sup> party surveys for qualification or training? How do you know the  
5 people that are doing your surveys are qualified to do them?

6 **WIT:** Well these people have been in business for, I don't know maybe 50 years in one  
7 way or another. They're established boiler repair company. I'm sure ABS has them  
8 certified. All their repairs are inspected and tested by ABS.

9 **CDR Odom:** So when a 3<sup>rd</sup> party contractor shows up on one of your vessels do you  
10 do anything to verify credentials of that individual or do you just take it at face value  
11 because the company sent them, if they're qualified to do the work that they're there  
12 for?

13 **WIT:** Yes.

14 **CDR Odom:** Moving on to Exhibit 63, this is the economizer email. On the 20<sup>th</sup> of  
15 August from Chief Pusatere to Bill Weinbecker and to help us out we're trying to  
16 establish the timeline for the economizer repair, what transpired with the economizer.

17 **WIT:** For that port stay?

18 **CDR Odom:** Pardon me?

19 **WIT:** For this port stay when they came in? As far as the ----

20 **CDR Odom:** Well the read email.

21 **WIT:** Well I know what's in it.

22 **CDR Odom:** Okay. So it's talking about the super heater.

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1     **WIT:** Okay. Well the Chief sent this message because you had a large water leak in  
2     the boiler.

3     **CDR Odom:** And this was on the way to Puerto Rico, right? Or on the voyage.

4     **WIT:** I think it was on way coming North actually. No? Well it would be going South.  
5     Here on line, section 2 it shows he's going South, so.

6     **CDR Odom:** Right.

7     **WIT:** He would secure the economizer and bypass it at that time. So there's no way to  
8     repair that in San Juan so we ran up to Jacksonville to have it repaired in Jacksonville.

9     **CDR Odom:** So bypassing the economizer for the return trip?

10    **WIT:** Yes, sir.

11    **CDR Odom:** To Jacksonville.

12    **WIT:** Yes.

13    **CDR Odom:** What is the effect on the system by bypassing the economizer?

14    **WIT:** The economizer is just a preheater for the feed water going into the boiler. It's not  
15    a necessary part of it, but It's an efficiency part. So they ended up reducing speed  
16    because of the less heat energy in the feed water. So it effects the steam output. You  
17    end up with higher super heater temperatures because you have colder water in the  
18    boiler. So they have to slow down to maintain the super heater, so. Well it would cost  
19    them a few RPMs I'm sure.

20    **CDR Odom:** Approximately how many RPMs?

21    **WIT:** I would say 2. I don't know exactly, but they do have to slow just a little bit.

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1 **CDR Odom:** Now moving on to Exhibit 55, which is an email dated 23<sup>rd</sup> of August. It  
2 stated that the El Faro needs to secure the plant to repair the super heater drain line.

3 Are you familiar with that email?

4 **WIT:** Yes, sir.

5 **CAPT Neubauer:** Could you give a date on that email please?

6 **CDR Odom:** Yes, sir. 23<sup>rd</sup> of August, 2015.

7 **CAPT Neubauer:** And it was from the Chief Engineer?

8 **CDR Odom:** Yes, sir.

9 **CAPT Neubauer:** And we're looking at Exhibit 055, page 1.

10 **CDR Odom:** Yes, sir. So this is when they're – they've already isolated it, they're  
11 coming back and they're discussing ----

12 **WIT:** Yes.

13 **CDR Odom:** The repairs.

14 **WIT:** Right.

15 **CDR Odom:** On the 24<sup>th</sup> and Exhibit 64 which refers to the super heater drain leak,  
16 also – can you explain the drain line, the super heater drain line? What specifically are  
17 the -- is the super heater leak, where's it at and what?

18 **WIT:** The super heater is a supply line to the two generators, steam generators. It's a  
19 half inch drain line with the flange had a pin hole in the flange at the weld. And ----

20 **CDR Odom:** So it's a pin hole of the weld itself?

21 **WIT:** Yeah.

22 **CDR Odom:** At the flange of the drain line?

23 **WIT:** Yes.



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1 **CDR Odom:** So it's in the main line?

2 **WIT:** Yes.

3 **CDR Odom:** So moving on to Exhibit 62 which is the ABS report. When did ABS  
4 attend to look at the repair and do the hydro? What day was that?

5 **WIT:** It would be on a Tuesday I believe, Tuesday night.

6 **CDR Odom:** Is that the 25<sup>th</sup> or the 8<sup>th</sup>? The report says September 8<sup>th</sup>. I'm trying to  
7 find out when it actually, when they were on board.

8 **WIT:** Well it was the same day as, the Monday and Tuesday they came in and shut  
9 down the plant and fixed the economizer. So they fixed it on the following day, because  
10 it was an all night repair. It may have been on a – sorry I don't retain all of these dates  
11 in my head.

12 **CDR Odom:** That's all right. That's why we're -- It's a little confusing on the line of  
13 emails and the dates on the report. I'm just trying to ----

14 **CAPT Neubauer:** Commander Odom, can you reset what exhibit we're looking at right  
15 now?

16 **CDR Odom:** This is Exhibit 62 which is the ABS report of test from the hydro on the,  
17 the report starts the starboard economizer, but we've confirmed with ABS whether it  
18 was the port.

19 **CAPT Neubauer:** And you're trying to confirm what date, over the range of dates on  
20 that report the work was done?

21 **CDR Odom:** Yes, sir.

22 **CAPT Neubauer:** Can you speak to that, sir?

23 **WIT:** Excuse me?

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1       **CAPT Neubauer:** On Exhibit 62 it says servicing report and there's a range of dates.

2       We're trying to figure out exactly when the work over those range of dates was  
3       performed.

4       **WIT:** I agree, sir. We're looking at the same thing. I'm not sure either why the report  
5       has a different date.

6       **CAPT Neubauer:** Okay. Do you know if the work was done towards the end of that or  
7       towards the beginning?

8       **WIT:** It should be done on the 24<sup>th</sup>, 25<sup>th</sup>, in that range.

9       **CAPT Neubauer:** Okay, thank you.

10      **CDR Odom:** Thank you. And in the report also there's no mention of the super heater  
11      pin hole leak being welded.

12      **WIT:** Yes.

13      **CDR Odom:** Did you report that to ABS?

14      **WIT:** No I didn't.

15      **CDR Odom:** Did you do any type of test after the weld?

16      **WIT:** It was done by ABS certified welder with ABS certified techniques. And when  
17      they brought the plant on it was fine. There was no sign of any pipe thinning or  
18      corrosion around there except for that little pin hole. If the steel was bad there we would  
19      have had to crop it out and then have ABS involved in a different repair, so.

20      **CDR Odom:** And on the super heater, or I'm sorry, the economizer it states that they  
21      did a 800 psi hydro ----

22      **WIT:** Yes.

1 **CDR Odom:** On the economizer. Was that the standard psi of that hydro that were  
2 conducted on the flange all the time?

3 **WIT:** No, sir.

4 **CDR Odom:** Just on that economizer? What was the standard threshold that you  
5 normally used to do hydro's?

6 **WIT:** Well by regulations 1.25. But the boiler pressure was down so the feed pressure  
7 would be down accordingly. We use the feed pump pressure to hydro the system. So if  
8 it's going to leak at 800 it will leak at 1100, it's going to leak. So the ABS inspector,  
9 surveyor used a judgment call on that and I think it's a good judgement call.

10 **CAPT Neubauer:** Sir, was it discussed that it would not reach the level normally  
11 required with the ABS at that time?

12 **WIT:** Well we discussed where we could take it to if we needed to, yes.

13 **CAPT Neubauer:** Was it your impression that the ABS surveyor understood that the  
14 normal limit would not be reached?

15 **WIT:** Yes.

16 **CDR Odom:** Was there anything that was done to limit that or any controls put in place  
17 to not exceed 800 psi?

18 **WIT:** No. I think that's as high as they could go with the boiler at that pressure.

19 **CDR Odom:** With a pin hole leak at the super heater line, was there – were you ever  
20 concerned about the integrity of that line?

21 **WIT:** No, sir.

22 **CDR Odom:** What do you think would cause a pin hole leak in the weld?

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1     **WIT:** It's a drain line. Steel occasionally gets pits. With the – the welder ground down  
2     the weld to check the integrity of steel and it was solid all around the pit. So they  
3     welded it up.

4     **CAPT Neubauer:** Did you inspect that personally, sir?

5     **WIT:** No, sir. I took the Chief Engineer's word for it.

6     **CAPT Neubauer:** And who was that Chief Engineer?

7     **WIT:** Richard Pusatere.

8     **CAPT Neubauer:** Thank you.

9     **CDR Odom:** Of all the other systems in the engine room, was there any issues that  
10    before the El Faro made that voyage that you were aware of that might have caused the  
11    plant to shut down, or the propulsion unit to shut down?

12   **WIT:** No, sir, I have no idea why that happened.

13   **CDR Odom:** Was there any scheduled work to be done or anything in the engine room  
14    that might have led them shutting down the plant?

15   **WIT:** No, sir.

16   **CDR Odom:** What was the condition of the emergency generator as you knew of the  
17    steam turbine generators?

18   **WIT:** The emergency generators are tested once a month, two hour under load. It was  
19    fine. I hear it run once a month. They test it in Jacksonville so it ran fine, sounded fine.

20    The turbo generators were in good condition, no issues that I'm aware of.

21   **CAPT Neubauer:** Sir, would you assess that the Chief Engineers had that same  
22    opinion of the plant?

23   **WIT:** Yes, sir.

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1     **CAPT Neubauer:** You didn't receive any complaints from them of non-responsiveness  
2     by Tote or any plant concerns?

3     **WIT:** No, sir. They were happy with what Tote supplied for them. That we did get them  
4     stuff that they needed on time.

5     **CAPT Neubauer:** Yes, sir.

6     **CDR Odom:** It's my understanding that you primarily took bunkers in Jacksonville,  
7     correct?

8     **WIT:** Yes, sir.

9     **CDR Odom:** Have you ever had a history of or was there ever any issues with  
10    separate fuel or any problems with clogging filters?

11    **WIT:** Not that I'm aware of.

12    **CDR Odom:** At any time had you ever suggested the vessel not get underway because  
13    of a maintenance problem?

14    **WIT:** Well we have held the vessel for steel work that needed to be done and with ABS  
15    approvals on it. So there's no requirement that we have to leave on time to maintain  
16    schedule. We leave when it's ready to leave.

17    **CDR Odom:** That concludes my line of questioning Captain. I'll pass it over.

18    **CAPT Neubauer:** Lieutenant Commander Venturella.

19    **LCDR Venturella:** Sir, you made a statement earlier that I would like to try to get you to  
20    restate. But just to remind you it sounded something like ABS is not involved with every  
21    piece of machinery like that. Can you state it in your own words? How could you say  
22    that?

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1 **WIT:** Well on everyday maintenance of the ship, you know you have a pump that goes  
2 down, you repair it, put it back into place. You don't have to call ABS down for you  
3 know like a potable water pump to replace it. It's stuff like that. Normal everyday  
4 maintenance. I mean every piece of equipment on the ship is eventually is going to  
5 wear out and it's going to need maintenance. And a lot of the smaller items like potable  
6 water pumps, you know a transfer pump. We have let's say a fire pump, well fire pumps  
7 are tested, everything's tested by the ABS in their annuals, but ABS is not down there  
8 for every day to day level maintenance. That's what I mean by that.

9 **LCDR Venturella:** Just to follow up on that, sir, I just want to make sure I understood,  
10 in your experience did ABS surveyors limit their surveys to a certain scope that  
11 excluded some of the machinery?

12 **WIT:** No, they don't – they're not – they don't exclude, let's say they don't have tunnel  
13 vision when they come down to do a survey. If they're down there to look at the main  
14 engine, let's say they inspect the quill shaft, they also do a walk around. They do a  
15 check, they look for soft patches and you know pumps that are leaking too much. They  
16 do a pretty thorough inspection even though they're not there for that reason. So they --  
17 --

18 **LCDR Venturella:** So there was no way for you to know ahead of time of the  
19 inspection that there – certain pieces of equipment wouldn't be examined?

20 **WIT:** No, sir.

21 **CAPT Neubauer:** Sir, to follow up on that. When ABS was at the vessel, were you  
22 usually there also?

23 **WIT:** Yes, sir.

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1       **CAPT Neubauer:** Can you estimate how many times on the El Faro and the El Yunque  
2       that would occur over the course of a year?

3       **WIT:** It seems like a lot lately. Once a month maybe.

4       **CAPT Neubauer:** And when you say it seems like a lot lately, did it seem like the  
5       problems were starting to accelerate from the past?

6       **WIT:** Yes.

7       **CAPT Neubauer:** And it was – it's just general maintenance items, or can you give me  
8       an idea why it was accelerating?

9       **WIT:** Well we had the Coast Guard and ABS making much more thorough inspections  
10      of the vessels.

11      **CAPT Neubauer:** And sir, was that the pre-accident or?

12      **WIT:** Post accident.

13      **CAPT Neubauer:** So just to clarify, you've seen more visits occurring after the accident  
14      voyage?

15      **WIT:** Yes, sir.

16      **CAPT Neubauer:** Now I'm going back to before the accident, sir. Were the problems  
17      accelerating before the accident voyage?

18      **WIT:** I wouldn't say accelerating, but they're constant.

19      **CAPT Neubauer:** And of all the times that ABS had visited the vessel prior to the  
20      accident voyage, was the Coast Guard there?

21      **WIT:** I think maybe once. I can't give you specifics.

22      **CAPT Neubauer:** Sir, but you would estimate maybe one time out of how many times?

23      **WIT:** Ten.

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1     **CAPT Neubauer:** Thank you. Lieutenant Commander Venturella.

2     **LCDR Venturella:** Sir, could you flip to Exhibit 106? Exhibit 106 is a 24 September  
3     2015 Walashek Industrial and Marine Incorporated estimate. And it says for work to be  
4     accomplished late November 2015 in a facility in Portland, Oregon or Seattle,  
5     Washington area. Ten calendar days required to accomplish work.

6     **WIT:** Yes, sir.

7     **LCDR Venturella:** Earlier you mentioned that the work on the boilers would start in the  
8     Bahamas and then be finished up in Tacoma.

9     **WIT:** Yes, this was a preliminary plans. Nothing was set in stone yet. We had a lot to  
10    do yet before we established any real timeline on the repairs.

11    **LCDR Venturella:** So was this estimate not for Tacoma then and for the Bahamas?

12    **WIT:** No this estimate was for Tacoma.

13    **LCDR Venturella:** So was there another estimate for the remainder of the boiler survey  
14    recommendations?

15    **WIT:** Not yet, no sir. This was early in the planning stages.

16    **CAPT Neubauer:** Sir, did you have ever deliver this estimate to a company or was this  
17    compilation of an estimate? Was it still being compiled?

18    **WIT:** Well this was just a single estimate. Yeah it was still being compiled.

19    **CAPT Neubauer:** So you hadn't delivered that to a contractor for consideration?

20    **WIT:** No, sir. Well they are the contractor.

21    **CAPT Neubauer:** So ----

22    **WIT:** They sent me the estimate.



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1     **CAPT Neubauer:** You said this was a preliminary estimate you delivered to Walashek,  
2     is that correct?

3     **WIT:** No, they delivered it to me.

4     **CAPT Neubauer:** Oh okay, I apologize. So you had given them some initial work and  
5     they – this is what they came back with?

6     **WIT:** Yes, I was interested in what is the cost to get this done. I need to establish a  
7     budget.

8     **CAPT Neubauer:** Did you give them the full worklist items and this came back, sir?

9     **WIT:** Not yet, no, sir.

10    **CAPT Neubauer:** Thank you.

11    **LCDR Venturella:** Just to follow up a little bit more on that. You said the Bahamas  
12    was going to be taking place before the Tacoma repairs, right?

13    **WIT:** Yes.

14    **LCDR Venturella:** Was there an estimate request done for the Bahamas already when  
15    this went out?

16    **WIT:** No, sir. This – the estimate's right here, the additional costs would be for  
17    transportation.

18    **LCDR Venturella:** Are you certain that the vessel was going to go to the Bahamas and  
19    that the additionally the other repairs were going to be estimated?

20    **WIT:** Well I'm not positive, no. Everything was still in planning stages.

21    **LCDR Venturella:** Also, sir, you mentioned earlier a six month window was what you  
22    were advised on by Walashek, could be okay for the extended repairs to last.

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1       **WIT:** They said it was good for six more months of operations. Not a six month  
2 window. It was good for six more months.

3       **LCDR Venturella:** Sir, would you say that the email you looked at earlier that was from  
4 the crew's examination of the port and starboard boilers, that the condition was the  
5 same in July as it was when the boiler inspector from Walashek came aboard and in  
6 September?

7       **WIT:** Yes.

8       **LCDR Venturella:** Do you see from this quote for November in Seattle, Washington or  
9 the Portland, Oregon area that you would be at least a five month window from the  
10 crews having done that examination and the quote is only for the burner throats, is that  
11 accurate?

12       **WIT:** That's what it says, yes.

13       **LCDR Venturella:** Also could you turn to Exhibit 114, sir? Exhibit 114 is an excerpt  
14 from the Babcock and Wilcox hydro, I'm sorry from the boiler manual. And it indicates  
15 some specifications for design pressure. And I just want to confirm that these are  
16 accurate. For the economizer was the working pressure around 1200 psi?

17       **WIT:** No, sir.

18       **LCDR Venturella:** Max allowable?

19       **WIT:** That may be the max allowable and design, but in actuality the vessels run at 900  
20 psi.

21       **LCDR Venturella:** Would you say during the El Faro's final voyage, it was – the vessel  
22 was trying to make maximum steam as I understand it, or pretty close to it.

23       **WIT:** I think so.

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1     **LCDR Venturella:** Okay. So based on the test done on the economizer repairs that  
2     were done, it was done to 800 psi, would you say that it would have gone to the  
3     pressure above that during the final voyage?

4     **WIT:** Yes, it would go above the boiler operating pressure, the feed pressure is always  
5     higher than the boiler steam pressure.

6     **LCDR Venturella:** Okay, thank you.

7     **CAPT Neubauer:** Mr. Roth-Roffy.

8     **Mr. Roth-Roffy:** Good afternoon again, sir. Tom Roth-Roffy, NTSB. Sir, are you  
9     aware of the practice with the Tote company to require senior officers to submit turnover  
10    notes to their relief when they're relieved?

11    **WIT:** Yes they are.

12    **Mr. Roth-Roffy:** Sir, is it your practice to review those notes during that turnover  
13    process?

14    **WIT:** Yes I do.

15    **Mr. Roth-Roffy:** And do you maintain a file of those turnover notes that have been  
16    submitted since you've been a Port Engineer?

17    **WIT:** Unfortunately I don't. I review them and then usually after about a month I  
18    discard them. But there should be a set of files on the ship which I could refer to if I had  
19    to, but unfortunately that's not the case.

20    **Mr. Roth-Roffy:** And sir, regarding the economizer repairs, does that involve  
21    plugging's and tubes and welding and jumpers, is that correct?

22    **WIT:** Yes, they, yes.

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1 **Mr. Roth-Roffy:** And in your notification to the ABS surveyor you mentioned both the  
2 plugging of tubes.

3 **WIT:** When I say jumpers, but yes.

4 **Mr. Roth-Roffy:** Sir. And that work was done by a contractor by the name of I believe  
5 Jacksonville Machinery or something.

6 **WIT:** Jacksonville Machine and Repair, yes.

7 **Mr. Roth-Roffy:** And is there a reason that contractor was selected rather than  
8 Walashek, is it a capabilities issue?

9 **WIT:** No it's not capabilities, they're both very excellent contractors. JMR is local, they  
10 have ABS certified welders. Very capable welders. So they were called and they are  
11 local. Walashek is in the West Coast.

12 **Mr. Roth-Roffy:** Oh they don't have a local office service?

13 **WIT:** No they have a representative here, but they do not have the facilities.

14 **Mr. Roth-Roffy:** In regarding the front water wall tubes that were bowed and were  
15 identified with replacement of tubing, when was that work supposed to be done?

16 **WIT:** That would have probably be done on the West Coast.

17 **Mr. Roth-Roffy:** The estimate that you received from Walashek, the West Coast work  
18 did not include the re-tubbing. Could you again explain the – you know why that was  
19 the case?

20 **WIT:** Well we had not arranged it yet, we had at least six more months to worry about  
21 that as far as setting that up. We have many other things on our plate besides ----

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1 **Mr. Roth-Roffy:** The report I believe was dated September 12<sup>th</sup> or so and according to  
2 that repair estimate Walashek work was to be done at the end of November, correct?

3 So is that six months?

4 **WIT:** No, that's their estimate. They're just giving me a window there.

5 **Mr. Roth-Roffy:** I understand. Sir, does the Tote have a program to periodically  
6 inspect their boilers either through AMOS or some other program?

7 **WIT:** Yes, the vessel, they inspect them every three months, they do a water wash  
8 which is a – done by the Chief Engineer. So it's a normal maintenance to go into them  
9 every three months to water wash them. So that's their – and they inspect while they're  
10 there.

11 **Mr. Roth-Roffy:** Is that normally done in port or underway?

12 **WIT:** Uh, we try to do it as we're leaving San Juan, and we can leave San Juan on one  
13 boiler. And it gives the boiler time to cool down so the crew can get in there and water  
14 wash the boiler and then bring it up slow. Because the North bound trip is a slower trip,  
15 they're not under the gun to make schedule. They have an extra day there to – so they  
16 can slow steam on one boiler.

17 **Mr. Roth-Roffy:** In other times when they are heading North bound is it the practice to  
18 secure one boiler?

19 **WIT:** On occasion, yes.

20 **Mr. Roth-Roffy:** On occasion ----

21 **WIT:** Not just because, it's for repairs.

22 **Mr. Roth-Roffy:** Only for repairs?

23 **WIT:** Yes.

1 **Mr. Roth-Roffy:** So they normally steam Northbound, steam with both boilers?

2 **WIT:** Yes.

3 **Mr. Roth-Roffy:** So the maintenance or the inspection you described previously, I  
4 would call that a fire side maintenance?

5 **WIT:** Yes.

6 **Mr. Roth-Roffy:** Was there also a requirement to do water side inspections and  
7 maintenance?

8 **WIT:** No, sir.

9 **Mr. Roth-Roffy:** By the ship's force?

10 **WIT:** No, sir, that's maintained by the boiler chemistry. A good chemistry maintains the  
11 interior of the boiler. They'll stay clean and always – the only way to do internal is you  
12 would have to open up the steam drum and the mud drum and they don't do that  
13 normally. That's a yard type, I don't know.

14 **Mr. Roth-Roffy:** So that would become in the shipyard during a, would it be every year  
15 or when does that get done?

16 **WIT:** Well every 2 or 3 years, depending on the shipyard cycle.

17 **Mr. Roth-Roffy:** So during a dry docking or a more extensive repair period?

18 **WIT:** Yes.

19 **Mr. Roth-Roffy:** And who would do that interior or water side inspection? Would it be  
20 the shipyard or do you have a contractor that would do that?

21 **WIT:** We would have to have a contractor, a boiler contractor to do that. The yard  
22 normally doesn't supply their own boiler people. Boilers are not as common as they  
23 used to be. So contractors are limited.

1 **Mr. Roth-Roffy:** Do you happen to recall who did the last full boiler inspection?

2 **WIT:** No, sir. I was not there, I don't know.

3 **Mr. Roth-Roffy:** Sir, had the vessel, I'm sorry, the boilers been de-rated and pressure  
4 of the operating in design pressure?

5 **WIT:** I believe they were operating at 950, so they were slightly de-rated. I don't know  
6 when they de-rated them. That could have been 20 years ago, I don't – it's up to the  
7 company.

8 **Mr. Roth-Roffy:** Thank you. That's all I have. Captain.

9 **CAPT Neubauer:** Mr. Fawcett.

10 **Mr. Fawcett:** Mr. Neeson just a couple a questions for you. Do you know, or had you  
11 been involved in any discussions about how critical it was to get the El Faro to  
12 commence running out of Tacoma late in the year of 2015?

13 **WIT:** It was imperative to get it there. The El Faro is due to fill in for when the Orca  
14 class ships that was going to Singapore for LNG conversion. So in order to maintain  
15 the schedules we needed to be there by I think by December 8<sup>th</sup> was the date that they  
16 wanted the El Faro there, ready to go in service.

17 **Mr. Fawcett:** Did that in any way increase the pace of the work that you had to do to  
18 meet that imperative, that you just mentioned?

19 **WIT:** Umm no, not really. We were waiting for winches being delivered from Korea,  
20 which was our – holding things up a bit. As far as other modifications those were going  
21 as planned. So we were on target for that date.

22 **Mr. Fawcett:** Did Mr. Fisker-Andersen or anyone else tell you that the Grand Bahama  
23 shipyard work was canceled in favor of the Vigor yard up in the Pacific Northwest?

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1       **WIT:** No. We had three bids out and we had not planned on any specific one yet. So  
2       none of them had been verified or denied or dismissed.

3       **Mr. Fawcett:** So you had mentioned about, you know the work would get done, the  
4       vessel wouldn't sail if required work hadn't gone done, that's correct?

5       **WIT:** Yes.

6       **Mr. Fawcett:** Did you feel pressure to meet the schedule?

7       **WIT:** Yes.

8       **Mr. Fawcett:** And how would you describe the pressure from a Port Engineer's duties  
9       and functions to meet a typical schedule of the El Faro?

10      **WIT:** Well there's the day to day operation and then we had the dry docking and also  
11      the conversion work. So I had to – basically three jobs going, or two and a half. The  
12      dry docking is part of the normal Port Engineer's job, but it's every two to three years.  
13      Where this was all happening at once.

14      **CAPT Neubauer:** Sir, during that time period with the two and a half to three jobs  
15      occurring concurrently, did you ever ask Tote for assistance?

16      **WIT:** Yes I did. That's why Jeff Mathias was hired to assist in the shipboard  
17      maintenance.

18      **CAPT Neubauer:** Okay, supervise the shipboard work being done ----

19      **WIT:** Yes.

20      **CAPT Neubauer:** On board the vessels?

21      **WIT:** Yes.

22      **CAPT Neubauer:** Would the Tote supply that person immediately upon your request?

23      **WIT:** Yes in a reasonable time, yes.



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1       **CAPT Neubauer:** Did you ever request any shore side support?

2       **WIT:** No, sir.

3       **CAPT Neubauer:** Thank you.

4       **Mr. Fawcett:** Speaking specifically to the schedule, it's a liner service that makes, you  
5 know regularly scheduled runs with the commercial goods down to San Juan and back.  
6 Did you ever feel any pressure from your position as engineer to meet that schedule?

7       **WIT:** No, sir.

8       **Mr. Fawcett:** Can you speak for a moment, if I'm correct, the – did the El Faro have  
9 extra engineering officers aboard?

10       **WIT:** They had Jeff Mathias on board for the conversion, supervision and he was a  
11 Chief Engineer from the Alaska service so he's very familiar with that ship and also the  
12 Alaska set up. He knew the engine room was slightly different. The Butterworth heater  
13 and the glycol system. So and as far as another engineer, no, sir.

14       **Mr. Fawcett:** So there were no other ship's company engineers outside the typical  
15 routine which you would expect for a ship like the El Faro?

16       **WIT:** No I don't think so, sir.

17       **Mr. Fawcett:** Thank you, sir.

18       **CAPT Neubauer:** Sir, just a couple follow up questions. In regards to the Polish riding  
19 gang did you ever feel any complaints about any language barriers during that type of  
20 work going on?

21       **WIT:** No. Jeff Matthias was very good with them. Their foreman spoke English very  
22 well. Some of them were a little bit rough, but he communicated with the foreman and  
23 the communications were good. Jobs were getting completed as he wanted them, so

1 there was no language loss barrier in the interpreting what he wanted done. So things  
2 were getting done as Jeff wanted them to get done.

3 **CAPT Neubauer:** I reviewed some email correspondence that suggested the foreman  
4 may be leaving the vessel. Was the same foreman on for the entire project conversion  
5 that you were are aware of?

6 **WIT:** I'm not sure.

7 **CAPT Neubauer:** And thinking back to the evening of the 29<sup>th</sup> of September 2015  
8 while you were on board or in the – around the vessel, did you have an interaction with  
9 Mr. Ron Rodriguez at any point?

10 **WIT:** I would see him in the office. He was doing the loading of the vessel. So he was  
11 busy on CargoMax or.

12 **CAPT Neubauer:** Did you see anything unusual during that process?

13 **WIT:** No, sir.

14 **CAPT Neubauer:** Did he seem stressed at all to you?

15 **WIT:** No, sir.

16 **CAPT Neubauer:** Did Captain Davidson seem to have a sense of urgency to depart on  
17 time in order to avoid the storm that was forming?

18 **WIT:** No, sir.

19 **CAPT Neubauer:** At this time I would like to go to the parties in interest for any final  
20 questions. Tote?

21 **Tote Inc:** Sir, just for clarity of the record, there's a couple of things we would like to  
22 submit for your consideration. The first is an email from Mr. Fisker-Andersen to the

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1 Coast Guard filing an application for inspection in the Grand Bahama shipyard. And  
2 we'll file that with you momentarily after this hearing is concluded.

3 **CAPT Neubauer:** Just for the record we will accept that and make it the next exhibit for  
4 the next hearing session.

5 **Tote Inc:** Thank you, sir. And then secondly last evening we discovered a photograph  
6 of the Butterworth heater being installed on the 29<sup>th</sup>, I guess it was that Mr. Neeson  
7 testified about and we would be happy to provide that if you would like.

8 **CAPT Neubauer:** You would like to also add that as an exhibit? Do you know who  
9 took that photograph?

10 **Tote Inc:** Mr. Neeson did.

11 **CAPT Neubauer:** Thank you. Are there – I'm sorry. ABS, do you have any final  
12 questions?

13 **ABS:** Yes, sir. Chief we had a witness that testified earlier in the week that the boilers  
14 were operating at 900 psi. Based on your testimony today, you mentioned 950. Do you  
15 know whether it was 900 or 950?

16 **WIT:** I can't remember it was 900 degree, or 900 psi, or it was 950 super heat, or  
17 whether it's 950 psi and 900 super heat. I'm not positive on that.

18 **ABS:** Understood. And to the extent that the boilers operated at a certain pressure,  
19 would it be fair to say that the Chief Engineer and the company selected what operating  
20 pressure to run the boilers at?

21 **WIT:** Yes.

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1     **ABS:** So to clarify your earlier statement, it sounded the difference between designed  
2     pressure and operating pressure, that's done at the election of the company, not  
3     through some specific, quote unquote, de-rating?

4     **WIT:** Yes, that's true.

5     **ABS:** Thank you. Nothing further.

6     **CAPT Neubauer:** Mr. Davidson, do you have any final questions?

7     **Ms. Davidson:** No questions.

8     **CAPT Neubauer:** Does anybody have any final questions for Mr. Neeson before we  
9     adjourn? Hearing none, Mr. Neeson, you are now released as a witness at this Marine  
10    Board of Investigation. Thank you for your testimony and cooperation. If I later  
11    determine that this board needs additional information from you I will contact you  
12    through your counsel. If you have any questions about this investigation you may  
13    contact the Marine Board Recorder, Lieutenant Commander Damian Yemma. And at  
14    this time do any of the parties in interest have any concerns with the testimony of Mr.  
15    Neeson today?

16    **Tote Inc:** None, sir.

17    **ABS:** No, sir.

18    **Ms. Davidson:** Captain Neubauer, I just have one comment. I would like to thank you  
19    and your staff along with the NTSB for the manner in which you conducted these  
20    proceedings. And I would also like to acknowledge that the Tote Executives were here  
21    every day and I thank you for that. On behalf of Teresa Davidson I would like to thank  
22    the family members of the El Faro who lost their loved one, our prayers and thoughts  
23    are with you.

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1     **CAPT Neubauer:** Thank you. I also have some final thoughts before we conclude this  
2     first hearing session and one administrative note. Before we conclude this public  
3     hearing session all witnesses that have been held over under their subpoenas are now  
4     formally released from those subpoenas. I will issue new subpoenas to witnesses for  
5     the second session of the hearing as needed. I also want to thank the parties in  
6     interest, the NTSB and the Coast Guard board members for their participation to date in  
7     this investigation. We still have a ways to go, but we have made great progress thanks  
8     to the efforts of all involved and the cooperative spirit that's been shown to date. The  
9     public has also assisted us through the submission of questions to our El Faro U.S.  
10    Coast Guard email address and we hope that continues. Finally I want to personally  
11    thank the family members of the crew that attended in person every day and who  
12    followed the investigation online. Their daily presence reminded us all why we're here  
13    to help prevent another tragedy from occurring in the future. This hearing is now  
14    adjourned and will reconvene at a later date still to be determined. Thank you. And  
15    before we formally break I would like to read some thank you off the record. If I can just  
16    have a moment.

17                   *The hearing adjourned at 1714, 26 February 2016.*