

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 25 May 2016

4 Volume 18

5 **CAPT Neubauer:** Good morning. This hearing will come to order. Today is May 25th,
6 2016 and the time is 9 O'clock. We are 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 of Investigations and analysis,
9 Washington D.C. I'm the Chairman of the Coast Guard Marine Board of Investigation
10 and the presiding officer over these proceedings. The Commandant of the Coast Guard
11 has convened this board under the authority of Title 46, United States Code, Section
12 6301 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 1st, 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 person contributed to the casualty, and whether there is evidence that any
20 Coast Guard personnel or any representative or employee of any other Government
21 agency or any other person caused or contributed to the casualty. I have previously
22 determined that the following organizations or individuals are parties in interest to the
23 investigation. Tote Incorporated, ABS, Herbert Engineering Corporation and Mrs.

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1 Teresa Davidson as next of kin for Captain Michael Davidson, Master of the SS El Faro.

2 These parties have a direct interest in the investigation and have demonstrated the
3 potential for contributing significantly to the completeness of the investigation or
4 otherwise enhancing the safety of life and property at sea through participation as party
5 in interest. All parties in interest have a statutory right to employ counsel to represent
6 them, to cross-examine witnesses and have witnesses called on their behalf.

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

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

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1 Should any person have or believe that he or she has information not brought forward,
2 but which might be of direct significance, that person is urged to bring that information to
3 my attention by emailing elfaro@uscg.mil. The Coast Guard relies on strong
4 partnerships to execute its missions. And this Marine Board of Investigation is no
5 exception. The NTSB has provided a representative for this hearing. Mr. Thomas
6 Roth-Roffy, seated to my left is the Investigator in Charge for the NTSB investigation.
7 Mr. Roth-Roffy, would you like to make a brief statement?

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

17 **CAPT Neubauer:** Thank you. We will now call our first witnesses of the day, Mr. Jerry
18 McMillan from U.S. Coast Guard Sector San Juan.

19 **LCDR Yemma:** Sir, please raise your right hand. A false statement given to an agency
20 of the United States is punishable by a fine and or imprisonment under 18 United State
21 Code Section 1001, knowing this do you solemnly swear that the testimony you're about
22 to give will be the truth, the whole truth and nothing but the truth, so help you God?

23 **WIT:** I do.

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1 **LCDR Yemma:** Thank you. You can be seated, sir. Mr. McMillan can you please state
2 your full name and spell your last name?

3 **WIT:** Jerry Elden McMillan, my last name is M-C-M-I-L-L-A-N.

4 **LCDR Yemma:** And counsel can you also state your name and spell your last please?

5 **Counsel:** Travis Noyes, N-O-Y-E-S.

6 **LCDR Yemma:** Thank you. Mr. McMillan can you please tell the board where you're
7 currently employed and what your position is?

8 **WIT:** I'm currently employed at Coast Guard Sector San Juan in San Juan, Puerto
9 Rico. And I'm the marine inspection training officer.

10 **LCDR Yemma:** And what are some of your responsibilities in that position please?

11 **WIT:** I'm responsible for the training of all the marine inspectors there. Also doing
12 inspections. And there's a whole list of things. Advisor to the command on technical
13 issues with vessels. I'm also the alternate compliance, the ACP alternate compliance ,
14 what do you call it, ACP officer.

15 **LCDR Yemma:** Can you also tell the board about your prior relevant work experience
16 please?

17 **WIT:** Work experience?

18 **LCDR Yemma:** Yes.

19 **WIT:** I came into the marine inspections in 1991 when I became a Warrant Officer.
20 And I've been working marine inspection every since then.

21 **LCDR Yemma:** And what is your highest level of education completed?

22 **WIT:** I have a Bachelors in technical management.

1 **LCDR Yemma:** Thank you Mr. McMillan. Commander Venturella will have questions
2 for you now.

3 **LCDR Venturella:** Good morning Mr. McMillan. This interview will include one longer
4 line of questioning. There will be a discussion of your role as Sector San Juan's marine
5 inspection training officer and then we'll follow that discussion with a discussion of the
6 alternate compliance program and the last Coast Guard annual oversight exam of the El
7 Faro on March 6th, 2015. If at any time you need a break, especially given that we're
8 doing one longer line of questioning please let us know. Do you have any questions?

9 **WIT:** No I don't.

10 **LCDR Venturella:** Mr. McMillan you provided a little bit of your job history, but can you
11 please provide a little bit more on your job history, training and qualifications as far as
12 inspections go which led to your current position as the marine inspection training officer
13 at Sector San Juan?

14 **WIT:** Okay. I started out in San Juan, Puerto Rico in 1991. At that time I got my barge,
15 barge qualification, my small passenger vessel qualification, foreign tank and foreign
16 chemical and cruise ship at that time. After that I moved to Sector Hampton Roads, or I
17 should say Hampton Roads at that time, marine safety office Hampton Roads. And
18 there I was employed in the yards, the barge there. And that's when port state control
19 first started up. And since I knew SOLAS the CID there put me in charge of doing port
20 state control exams. And then after that I got my hull qual there and my machinery
21 qual. And after that I went back to San Juan, Puerto Rico again. And that was about
22 1998. And I've been in San Juan since then. I retired in I would say 2003. And that's
23 when I took a job as the passenger vessel safety specialist for the Coast Guard at San

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1 Juan. And I was still doing training of inspectors back then. And then I, I'm not sure
2 exactly when I became the training officer. There was a grade in another position
3 created there for the training officer, so I applied for it and got it. And I think I've been
4 the training officer there for maybe the past 6 years. So about that time, 5 or 6 years.
5 And I got another qual which is the foreign gas ship qual since I've been there. I didn't
6 mention I also have dry dock inspection qualifications. And I got that in Hampton
7 Roads.

8 **CAPT Neubauer:** Mr. McMillan can you bring the microphone a little closer? Thank
9 you, sir.

10 **WIT:** Okay.

11 **LCDR Venturella:** Could you please explain what a feeder port is and what the role of
12 a marine inspection training officer entails?

13 **WIT:** The feeder port, there's 21 of them in the Coast Guard. And what they're for is to
14 train apprentice marine inspectors on how to be an inspector. The role of marine
15 inspection training officer is to oversee that, the training of those inspectors. And also
16 all the inspectors in general. Keep everyone up on current regulations. Anything new
17 that would come out in international conventions. I just monitor their progress for the
18 most part and make sure that any training that's coming up that they get to they need.
19 Like they need to go to the port state control course or the marine inspection course that
20 they get to those. Or any other 'C' schools that are pertinent to what they're training on
21 at the time.

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1 **LCDR Venturella:** Can you elaborate on why Sector San Juan is considered a feeder
2 port and what qualifications are obtainable or sustainable there? And if you could also
3 just explain to us what obtainable and sustainable mean when it comes to feeder ports?

4 **WIT:** Could you repeat the question again?

5 **LCDR Venturella:** I'll break it down a little bit. Can you elaborate on why Sector San
6 Juan is a feeder port first?

7 **WIT:** The reason we're a feeder port is we have the traffic and vessel coming through
8 that can actually be enough training platforms to train the inspectors on.

9 **LCDR Venturella:** And what qualifications are obtainable and sustainable at Sector
10 San Juan?

11 **WIT:** Can I pull up my list?

12 **LCDR Venturella:** Sure.

13 **WIT:** Okay. In San Juan we're – we can do – can do the port state control, foreign
14 chemical, foreign freight, foreign gas, or I take that back. Not foreign gas. Foreign
15 passenger, foreign tank, commercial fishing vessel, K boat inspector and T boat
16 inspector. Those are the obtainable.

17 **LCDR Venturella:** Can you tell me sustainable? Are there any sustainable quals?

18 **WIT:** Yes. The foreign gas, the barge inspections inspector, the hull inspector,
19 machinery inspector, that's all the one there.

20 **LCDR Venturella:** So am I correct in saying machinery steam is not on the list
21 anywhere?

22 **WIT:** No, they changed the form, but yes we was able to do steam.

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1 **LCDR Venturella:** So at this point and time Sector San Juan is not typically considered
2 a good port to get the hull and machinery quals, but rather more sustain them?

3 **WIT:** That's correct. And now with we don't have any steam ships anymore. They've
4 all departed.

5 **LCDR Venturella:** What challenges do you face at Sector San Juan in training and
6 qualifying marine inspectors?

7 **WIT:** The biggest one is just making sure they get out on enough ships to get the
8 experience that they need.

9 **LCDR Venturella:** Do you find that the volume of ships in general is not enough, or is
10 that what you mean by that challenge?

11 **WIT:** It's since the economy collapsed our foreign freight coming through has slowed
12 down. But we're still – we're still able to do it. It's just making sure we get enough
13 people out there. One of the problems is we had, our apprentices, we have more
14 apprentices than we do journeymen inspectors. So it makes it harder to do that.

15 **LCDR Venturella:** What would you say the approximate ratio of is journeymen to
16 apprentice marine inspectors?

17 **WIT:** It's supposed to be one for one. But we had inspectors that came in this – at this
18 last rotation season that were not journeymen. They were just still apprentices.

19 **LCDR Venturella:** So just to clarify is the billet structure out of alignment with the one
20 to one ratio or is it just the assignments to those billets?

21 **WIT:** Just the assignments to those billets.

22 **CAPT Neubauer:** Mr. McMillan how many journeymen billets do you have filled with
23 apprentice billets currently?

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1 **WIT:** Right now I just graduated them all to a journeymen. So, but I just had, let me
2 count, 6 apprentices that went to journeymen. And of those 6, 3 of those were
3 supposed to have been journeymen when they arrived.

4 **CAPT Neubauer:** Can you give the number at the time of October 1st, 2015 during the
5 El Faro incident?

6 **WIT:** I would have to guess. But I would say of those we had 2 apprentices that were
7 supposed to be journeymen.

8 **CAPT Neubauer:** Thank you.

9 **LCDR Venturella:** Do you have regular communication with the other MITO's around
10 the Coast Guard, or marine inspection training officers around the Coast Guard? And
11 do you have communication with the marine inspection training officer coordinator in
12 Washington, D.C.?

13 **WIT:** Yes we do. We have a phone conference once a month and we meet once a
14 year. And we talk to each other in between that on a regular basis if we run across
15 different situations. And I talk to the program manager at Headquarters probably
16 several times a month.

17 **LCDR Venturella:** Have you ever received feedback from the marine inspection
18 training officer network via these calls or taken the stance personally that machinery
19 inspectors steam qualification is not supported due to phasing out of these ships?

20 **WIT:** We talk about it. We try to do work arounds. We have the spring break out up in
21 the Great Lakes that we send inspectors up from different feeder ports so they can work
22 on their steam quals.

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1 **LCDR Venturella:** You did say you talked about it. So would you say that nationally
2 does the Coast Guard support the machinery inspector steam qualification with funds
3 necessary to train the personnel?

4 **WIT:** In kind of a round about way. Some of the districts will pay for the funding, some
5 of the units will pay for the funding to go get these quals. There are – I'm not sure if
6 there's currently any port that actually, besides up in the Great Lakes that can actually
7 issue the qual. Since we changed the format I'm not sure technically who can do those.

8 **LCDR Venturella:** Since you brought it up. You said change the format. Can you
9 explain what you mean by change the format and how that would have impacted the
10 steam qualification?

11 **WIT:** The new inspection training officer at Headquarters he's looking at making things
12 easier to track for us. And that was taken off the list for some reason, I don't know why.
13 Maybe just a combination of the two. A marine inspector in the past used to be just one
14 qual. And they split it, I would say right around 2000, somewhere in there. In that
15 general area they split the qual into steam and machinery.

16 **LCDR Venturella:** Can you discuss the ship ride program and how that is utilized by
17 marine inspectors at Sector San Juan?

18 **WIT:** Yes. We have, when the apprentices come in part of the things that they're
19 supposed to do is actually go on a ship ride. They actually have a performance
20 qualification standard they have to fill out while they're on board. And we send them.
21 The program is 4 to 6 weeks and if, excuse me, if the – depending on their sea
22 background we may go down to 2 weeks on that. And currently we don't have – this
23 current bunch I have in right now none of them have actually done the ship ride yet. We

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1 have to set that up. And the way the qualifications are going just for port state control
2 they're supposed to do industry training for all the different quals for the foreign freight,
3 gas and all of those. They can either ride the ship or they can actually go dock side and
4 do the training depending on availability.

5 **LCDR Venturella:** Have you found ship ride and industry training to be effective
6 additions to the training program?

7 **WIT:** Yes I do. Everyone that comes back from it is amazed on how much work is
8 actually being done on board the ships that they didn't realize. Because when you're
9 seeing dock side you see just a very limited of what slice of what they're doing. But if
10 you get underway you actually see the whole operation and it makes a big difference in
11 the way the inspector looks at the ships when they're dock side.

12 **LCDR Venturella:** Going back to the machinery steam qualification. There used to be
13 vintage vessel national center of expertise. Are you familiar with that?

14 **WIT:** Yes I am.

15 **LCDR Venturella:** Has the – this establishment of the vintage vessel national center
16 expertise impacted you in any way especially with the training?

17 **WIT:** Not in San Juan because we don't – we don't have anyone working on a steam
18 qual down there currently. But when they're doing the spring break outs they used to
19 help provide the training up there. And then one inspector that I guess is part of the
20 vintage vessel he's now, I can't remember which port he's up there, but he's still up
21 there and he still helps coordinate the spring break out training.

22 **LCDR Venturella:** Can ----

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1 **CAPT Neubauer:** Mr. McMillan can you just clarify though, did you see a level of
2 support drop off when the center was disestablished or was it able to continue with that
3 one inspector at the same level?

4 **WIT:** Like I said we never – I never had to personally use them. I do know that several
5 of the other MITO's had used them. And they actually used them to sit on their boards.
6 But for me, personally for San Juan I didn't see anything. But I think nationally we did
7 see probably a decrease in support.

8 **CAPT Neubauer:** Thank you.

9 **LCDR Venturella:** Can you discuss what a verifying officer is and the effectiveness of
10 their role in the marine inspection training program?

11 **WIT:** Yes. A verifying officer they have to hold the qual and they also have to be
12 someone who can actually – is good at training. So not everyone can get verifying
13 officer. And usually the verifying officer is, in San Juan is assigned by the training board
14 which consist of, it's a pretty long list of people that's on it. But we look at the person
15 and we make sure that they're good at training and that – that's about it. And then we
16 assign that to them and then they can actually sign off the performance based
17 qualifications as they're being witnessed.

18 **LCDR Venturella:** What is the current ratio of marine inspectors in training to verifying
19 officers at Sector San Juan for the typical ratio?

20 **WIT:** It varies depending the qualification. If you listen to the apprentices we don't have
21 enough verifying officers. But we do try to make sure that the verifying officers get out
22 on exams as much as possible. And usually the verifying officers are the journeymen
23 inspectors.

1 **LCDR Venturella:** What is recency and how does that play a part in your
2 responsibilities as a marine inspection training officer?

3 **WIT:** Recency to keep your qualification current you actually have to do at least one
4 inspection a year, that's the minimum. And I keep track of that to make sure everyone
5 is current. So you can be, let's say this, you can have a lot of different qualifications,
6 but if they're not one of the qualifications we use in our port we don't actually activate it.
7 So if it's not sustainable in our port we don't activate it. And I do keep track of that
8 monthly. So I put out a verifying officer list and part of the recency list that tells
9 everyone – so everyone knows what qualification everyone has and if they're a verifying
10 officer.

11 **LCDR Venturella:** You were part of the last annual oversight of the El Faro. Are you
12 conducting marine inspections regularly? And were you recent and considering a
13 verifying officer for your qualifications?

14 **WIT:** Can you repeat that again?

15 **LCDR Venturella:** At the time of the inspection you did on the El Faro in March 2015
16 were you conducting inspections regularly?

17 **WIT:** Yes I was.

18 **LCDR Venturella:** Are you recent on all your qualifications and in particular the
19 qualifications that applied to the El Faro?

20 **WIT:** I'm recent for everything that I can. All the qualifications that are obtainable in
21 San Juan. And also for marine inspection hull since we do, we were doing U.S. flagged
22 deep draft vessels at the time. In other words I'm current.

23 **LCDR Venturella:** Are you considered a verifying officer for your qualification lists?

1 **WIT:** Yes I'm verifying officer for everything.

2 **LCDR Venturella:** What other duties do you have as a marine inspection training
3 officer that you would like to tell us about?

4 **WIT:** That's pretty much my only job is to do that. I also take care of our outlying units,
5 our audit Ponce, St. Thomas on their training aids to make sure everything gets in –
6 gets put in for the 'C' schools if they get put in for that. And also keep all the training
7 management system information current.

8 **LCDR Venturella:** We're going to start asking questions about the alternate
9 compliance program now. Moving away from the marine inspection training officer
10 position. What level of experience do you have with the alternate compliance program?

11 **WIT:** In San Juan pretty much that's all we do for deep draft is the ACP. I'm also the
12 ACP officer there. So I interact with industry all the time. I get emails or phone calls
13 from the different operators. And I interact with the Class surveyors.

14 **LCDR Venturella:** Do you provide training to the Sector San Juan marine inspectors
15 specific to the alternate compliance program including the use of the supplement, the
16 Class rules and the international conventions and codes?

17 **WIT:** There's only a few people in San Juan that hold the machinery hull qual. And
18 they're all current. And really there's no additional training that we do for them. And we
19 do use the – I keep a copy of all the different ones that apply to the vessels.

20 **LCDR Venturella:** During your initial training as a hull or machinery inspector did you
21 ever get training on the use of the ACP supplement?

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1 **WIT:** Just on the job training as I picked it up. When I was in Hampton Roads, this is
2 about when I get my machinery qual ACP program was just starting up. So that's how I
3 got introduced to a lot of it. I did some local training at the unit there.

4 **LCDR Venturella:** What about the authorized classification society rules like ABS
5 rules? Was that something trained to you or would you just have to review that on your
6 own on the job?

7 **WIT:** That was on the job. I used to use it for other standards on vessels. It's actually
8 incorporated in the C.F.R. So we would have refer back to those rules for different
9 things. And pretty much it's just myself reading through most of it to learn it.

10 **LCDR Venturella:** So since you are the alternate compliance program officer for
11 Sector San Juan do you have unrestricted access to review any and all classification
12 society records for vessels in the alternate compliance program?

13 **WIT:** Yes I have access to ABS. And the only other that I've ever dealt with is DNV
14 and they just give us limited access to that vessel for a very short period of time.

15 **LCDR Venturella:** When you say limited access is there anything that you need that
16 you can't get from an authorized classification society?

17 **WIT:** No. We can probably get them, but DNV is very restrictive on what they would let
18 us look at. I shouldn't say look at. They let us look at that one vessel file and they
19 would give us set period of time to look at it at that time. And if I need to get access I
20 can always talk to CVC and they can get us access.

21 **LCDR Venturella:** Please turn your attention to Exhibit 221. Exhibit 221 is a help ticket
22 that you submitted on September 17th to resolve errors within the Coast Guard's MISLE
23 database which caused several older deficiencies on El Faro to appear outstanding.

1 These deficiencies were from as far back as 1998. Can you comment on this and
2 whether this had any impact on your oversighting of the El Faro?

3 **WIT:** It didn't have any impact. Because I went back and looked and see what some of
4 these older activities. It would usually say if there's any outstanding deficiencies on the
5 older activities. So I knew they had been cleared, it was just an administrative thing that
6 had to be corrected. So when we switched from MISLE 4.0 to MISLE 5.0 and in the
7 conversion over something happened and they opened back up. And it wasn't just the
8 El Faro it was across the – almost all the vessels out there.

9 **LCDR Venturella:** Was the issue corrected and is MISLE correctly displaying the
10 information now?

11 **WIT:** I believe it is corrected at this point. There may be a few outstanding ones in
12 there. I would have – let me take a look at something here to make sure. Just looking
13 at the vessel critical profile for the El Faro, I printed it before I came here. There's still
14 some outstanding, but those are more of investigative. And also some things from the
15 marine safety center is still open. But all the vessel inspections look they're even
16 closed. Deficiencies.

17 **LCDR Venturella:** So can you comment overall on the upgrade to MISLE, MISLE 5.0
18 and has that been a smooth change and has it impacted your inspections at all?

19 **WIT:** I would say MISLE 5.0 there's some good things about it and there's some bad
20 things. The reason we had to upgrade to MISLE 5.0 is because of security. So I know
21 they had to get it switched over. There's some things in it that like I said there's some
22 quirks in it. We know what they are now so it's not so much of a problem. And I guess
23 from my understanding there's plans of fixing those, but not right away. It's going to

1 take a bit. Like I said there's some things that I like about it. Hopefully they'll fix the
2 little quirks that are in it right now.

3 **CAPT Neubauer:** Mr. McMillan just to be a little more specific to, I believe the MISLE
4 transition happened in September.

5 **WIT:** Yes.

6 **CAPT Neubauer:** The incident happened in October. On October 1st, 2015 were there
7 any problems being incurred with the transition, the database transition?

8 **WIT:** Other than these activities being opened, nothing that – out of the ordinary. If we
9 needed – if we found something we would put a help ticket and they'd correct it. So
10 there's a few things like that, but nothing really big. I know that they talked to the
11 program manager at the time. So they got a lot less help tickets than they thought they
12 were going to get when they did the switch over. Because when they did the switch
13 over back in 2000 from the old MISLE to the 4.0 there were a lot of problems.

14 **CAPT Neubauer:** Thank you.

15 **LCDR Venturella:** The alternate compliance program was a large shift in the way that
16 the inspections are conducted by the Coast Guard. Can you comment on the
17 differences that you've noticed in the scope of the inspection or level of the inspection
18 between a full certificate of inspection conducted by the Coast Guard and an alternate
19 compliance program exam?

20 **WIT:** Yes. Before when we did – we issued all the certificates it would usually take us
21 two full days to do the exam. And that's before they added all the – these additional
22 codes and regulations, international regulations since the program started. I would say
23 now it would probably take more than that to do through. It would take two inspectors,

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1 you have to have a hull inspector and a machinery inspector. And those – and usually
2 each one of those had an apprentice helping them. So it's full days, two full on days.
3 And now that we're just doing ACP we're usually on board maybe 4 hours, maybe a
4 little longer depending on if there's anything that's ran across. And the difference is, is
5 when we're doing the ACP we're more of a role an auditor than we are the inspector.

6 **LCDR Venturella:** With the alternate compliance program like you said your role is
7 shifting to an auditor or an oversight role. Can you comment on what you witnessed as
8 far as the overall impact in terms of if you include the Class surveys with your oversight,
9 is it equivalent to a certificate of inspection exam conducted fully by the Coast Guard?

10 **WIT:** I would say for the most part yes. It's – I would say yes. It's equivalent as long as
11 it's properly implemented.

12 **LCDR Venturella:** The alternate compliance program makes use of an alternate
13 compliance program supplement, or U.S. supplement. Can you comment on whether
14 you believe that supplement for ABS has been maintained current to be consistent with
15 changes to U.S. regulation and policy?

16 **WIT:** I couldn't comment on that.

17 **LCDR Venturella:** Please turn your attention to Exhibit 113. Exhibit 113 is the last
18 update to the U.S. supplement to ABS steel vessel rules dated 1 April 2011. If you
19 could turn to page 66. Page 66 is part of a checklist on ACP statutory surveys to done
20 in conjunction with initial MAS and renewal safety equipment surveys. Its listed as not
21 Coast Guard approved in the front of the supplement, but as we heard from ABS
22 surveyors in previous testimony it is included as part of their exams. On page 66 under
23 life boat operational test Part 3, specifically number 1 under Part 3 it indicates in A that

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1 Coast Guard inspectors will have a crew proficiency test to conduct during their
2 boarding. At that time the crew must operate each boat in the water and the following
3 test will be carried out. Can you comment on whether that is something that Sector San
4 Juan does during alternate compliance program exams? And is that in any inspection
5 guidance the Coast Guard publishes?

6 **WIT:** It's in the 840 book for us to do the drills. And usually on the life boat we've
7 actually – there was some guidance that came out for internationally about doing the life
8 boat test. They're kind of dangerous. So usually what we do is just lower the life boat
9 to the water and have them bring it back up. We don't do the dock side boat. Because
10 it wouldn't be safe to do so. If something happened to the davit or something you would
11 damage the life boat or hit the dock.

12 **LCDR Venturella:** So you would say it's not part of the Coast Guard ACP oversight
13 exam to conduct a crew proficiency test with the boat in the water?

14 **WIT:** We currently don't do that. Like I said we stopped doing that because of the
15 guidance that we got on the port state side of not putting the crew into the boat into the
16 water because of the dangers.

17 **LCDR Venturella:** Were you aware of this checklist during the exam of the El Faro?

18 **WIT:** Yes I do know that it's in there.

19 **LCDR Venturella:** Do you have any idea why it might be in the supplement in an
20 unapproved version?

21 **WIT:** No idea.

22 **LCDR Venturella:** Have you ever experienced an ABS surveyor communicating to you
23 that an international certificate should be revoked or withdrawn?

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1 **WIT:** Not in San Juan.

2 **LCDR Venturella:** Have you experienced that in another port?

3 **WIT:** No I have – well, yes. But it was a load line certificate for a barge when I was in
4 Hampton Roads.

5 **LCDR Venturella:** How many years have you been overseeing classification surveys,
6 ABS surveys?

7 **WIT:** I've been doing it since 1998.

8 **LCDR Venturella:** I know this would be difficult to measure, but how many inspections
9 or exams would you say that is?

10 **WIT:** I would say probably, we usually get about 4 ACP exams a year in San Juan,
11 used to. And up until the El Faro I would say probably, taking a guess about maybe 50,
12 60.

13 **LCDR Venturella:** Have you ever made a recommendation that the certificates be
14 withdrawn on the same vessels that ABS is a part of?

15 **WIT:** No I have not.

16 **LCDR Venturella:** Do you have any experience with a vessel being dis-enrolled from
17 the alternate compliance program?

18 **WIT:** Yes I have. As part of the disenrollment of the – of a vessel back in I think it was
19 about 2012, '13, '12 I think it was. It was called the Bathen Straight [sic] at that time.
20 And they had their – they got involuntarily dis-enrolled by CVC.

21 **LCDR Venturella:** I don't want to take a lot of time on it, but can you give just a brief
22 understanding of why that happened?

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1 **WIT:** The vessel was in very bad condition in maintenance wise. And they – well it was
2 pretty much maintenance. They had a lot of problems. And you got, I think it's
3 Singapore the one's that actually recommended that the detachment, the Coast Guard
4 detachment in Singapore is the one that actually recommended that it be dis-enrolled.
5 And CVC concurred and they dis-enrolled them. Then they went to Wilmington to do
6 the COI and then because of the condition of the vessel at that time it had to go to dry
7 dock. It had to be towed to dry dock. And then we had to reissue all the certificates.
8 And it took us about a year.

9 **LCDR Venturella:** Why would disenrollment be considered an improvement for the
10 inspection or survey of the vessel if the survey and inspection program known as
11 alternate compliance program is equivalent?

12 **WIT:** The reason that vessel was dis-enrolled was a Class oversight, it was
13 substandard. And it was not ABS.

14 **LCDR Venturella:** Do you believe ABS and Sector San Juan have effectively
15 established and maintained liaison with each other? During the time of the El Faro
16 exam specifically, what kind of relationship did you have with the local surveyors
17 including any principals?

18 **WIT:** We talk to the local surveyors anytime we had a problem on the vessels. It
19 doesn't matter whether they're U.S. or foreign flag. Just pick up the phone and call
20 them. And very professional. Never had any problems getting a hold of each other.

21 **LCDR Venturella:** How often do you or other marine inspectors at Sector San Juan
22 attend alternate compliance program exams conducted by ABS for the purpose of
23 oversight or training?

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1 **WIT:** I can say probably it's only once or twice. Usually the problem was we got very
2 short notice. So we couldn't fit it into our schedule.

3 **LCDR Venturella:** You mentioned short notice. About what level of notice did you get?
4 How many days or hours?

5 **WIT:** Maybe 1 or 2 days at the most. Most of them.

6 **LCDR Venturella:** You mentioned your relationship with ABS in San Juan. Have you
7 mentioned to them that you need more notice to be able to attend?

8 **WIT:** Yes, but usually the problem they had was they got short notice also.

9 **LCDR Venturella:** Are you aware of the alternate compliance program navigation
10 vessel inspection circular 2-95 requirement for 14 day advance notice to Class?

11 **WIT:** Yes I am.

12 **LCDR Venturella:** Have you ever communicated that to ABS in San Juan?

13 **WIT:** Yes I believe I've told some of the inspectors, some of the surveyors in the past
14 about the 2 weeks.

15 **LCDR Venturella:** And what was the reaction you received?

16 **WIT:** Well there's not much that they can do, because like I said they got short notice,
17 so.

18 **LCDR Venturella:** What preparation is typically done and how do you teach
19 preparation for an alternate compliance program exam?

20 **WIT:** What I do is I go into SAFE NET and I look at the surveys see what's outstanding
21 in the system. I also I like to go back a few surveys and see what's been going on, on
22 the vessel. I also usually communicate that to the team that's going out of anything
23 that's – any outstanding conditions of Class.

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1 **LCDR Venturella:** Can you please explain what a Coast Guard 840 booklet would be
2 used for and the specific Coast Guard 840 book that would have been applicable to the
3 El Faro for the March 2015 exam?

4 **WIT:** An 840 book is just a job aid for us so you can keep track of an exam. We do
5 take them out on the exams so we can make sure that we do everything that we're
6 supposed to do. And the current one at the time was the alternate compliance for
7 foreign freight vessels and that was revised in 2001.

8 **LCDR Venturella:** Is the Coast Guard 840 book for the alternate compliance program
9 freight exam current with regulation and policy based on that last revision?

10 **WIT:** Since then there's been several changes to programs, or additions I should say
11 and they're not all in there. Actually I use a one page sheet that I actually send to the
12 vessel with all the current stuff on it that we're looking for.

13 **LCDR Venturella:** If one of your inspectors used the Coast Guard 840 book alone
14 would they be close to the right oversight exam?

15 **WIT:** Yes they would, it would be missing some of the environmental stuff and the
16 security.

17 **LCDR Venturella:** Does the Coast Guard 840 book include any items from the
18 checklist that we went over briefly in the supplement?

19 **WIT:** I would have to look at the checklist. I think for the most part some of it is in
20 there. We try not to duplicate anything that ABS is doing. I would actually have to
21 compare them to make sure. But the 840 book is like I said it's more like on the same
22 lines as a foreign freight vessel exam.

1 **LCDR Venturella:** What qualifications would be necessary to conduct the alternate
2 compliance program annual oversight if the vessel is a deep draft steam propulsion
3 cargo vessel like the El Faro? And did you require those qualification for the March
4 exam?

5 **WIT:** Currently there is nothing in the marine safety manual on who has to do the
6 qualifications for an inspector. But in San Juan I would not let anyone go out unless
7 they had the machinery and hull qual. I shouldn't say -- I wouldn't let them do the exam
8 on their own without having the machinery and hull qual. So usually that meant that I
9 went out on most of them. And I had people helping me.

10 **LCDR Venturella:** Given the split nature of the machinery qual where the steam
11 machinery qual is separate, do you mean that you would require a machinery steam
12 and a hull or just machinery?

13 **WIT:** It's machinery steam. I'm usually that inspector.

14 **LCDR Venturella:** Based on the lack of inclusion of any guidance on the qualifications
15 required for an alternate compliance program exam, would it be possible to include a
16 port state control petty officer instead of a fully qualified hull or machinery steam
17 inspector since the scope of these exams are considered close to that per guidance?

18 **WIT:** There's nothing in the policy prohibiting it. So it could – you could do it. I've
19 actually had a petty officer help me just doing documents on an ACP in the past. I'm
20 usually there going through it with them.

21 **LCDR Venturella:** Is that topic discussed by the marine inspection training officer
22 network? And what is the message that you're uniformly applying to the Coast Guard?
23 Or is there one?

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1 **WIT:** I can't remember ever discussing that subject.

2 **LCDR Venturella:** Please turn your attention to Exhibit 127 page 120 within Exhibit
3 127. Page 120 is the Coast Guard vessel inspection activity summary report for the
4 alternate compliance program annual oversight of El Faro on 06 March 2015.

5 **WIT:** Okay.

6 **LCDR Venturella:** Do you recall how much notice you were provided by ABS to
7 facilitate your attendance?

8 **WIT:** On this one? I don't remember.

9 **LCDR Venturella:** Did you attend at all any of the ABS surveys for the El Faro
10 associated with this annual?

11 **WIT:** No I did not.

12 **LCDR Venturella:** In preparation for this exam did you reference the most recent 2011
13 ABS ACP supplement or another earlier version?

14 **WIT:** It would have been an earlier version because they came into ACP program in
15 2006 I believe. So it would have been an earlier version of that.

16 **LCDR Venturella:** Are you aware of whether ABS was using the same supplement that
17 you were?

18 **WIT:** I have no idea.

19 **LCDR Venturella:** Please describe your role for the 06 March ACP annual oversight of
20 the El Faro? Were you the lead Coast Guard marine inspector and were you taking hull
21 or machinery?

22 **WIT:** At that time I was the lead inspector and I was doing hull.

1 **LCDR Venturella:** Can you describe some of your specific preparation for the El Faro
2 exam including whether you reviewed ABS survey status for El Faro or any open
3 conditions of Class or statutory deficiencies?

4 **WIT:** Yes I did pull up SAFE NET and I believe there was two outstanding conditions of
5 Class at that time. And I did document it in the narrative. And both of those were, I
6 believe, let me look here.

7 **LCDR Venturella:** We're going to turn to the exhibit actually.

8 **WIT:** Okay.

9 **LCDR Venturella:** If you could turn to Exhibit 112 page 16. Exhibit 112 is the ABS
10 survey manager survey status report for El Faro dated 01 October 2015. Page 16
11 includes two open Class recommendations from January 2015. These
12 recommendations would have been opened during the 06 March 2015 Coast Guard
13 annual oversight. I'm going to just read them aloud just so everyone is aware of what it
14 says. The first is 881 and what was found is the vessel's fore peak space aft transverse
15 bulkhead in way of connection to the main deck was found wasted and holed located
16 near starboard side drain opening. It is recommended that the temporary repairs in way
17 of the fore peak space drain be made permanent to the satisfaction of the attending
18 surveyor prior to completing the next dry docking survey. And the due date for that one
19 was set as 26 February 2016 at the dry docking survey. 876 was found during the
20 annual hull survey. The number 1 port double bottom ballast tank was found with
21 frames 50 and 51 detached at the outboard connection to the tank top. The fillet welds
22 were fractured, the fractured walls were located between the rat hole on the frame at
23 the side shell to 2 feet inboard terminating at another rat hole. And the recommendation

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1 for that was the above fractured fillet welds are to be repaired to the satisfaction of the
2 attending surveyor with a due date once again of 26 February 2016 listed as the special
3 periodical survey hull 8. At the time of the annual oversight you led of the El Faro were
4 you aware of these?

5 **WIT:** Yes I was.

6 **LCDR Venturella:** Did anyone from your office or yourself attend the surveys that
7 resulted in these open Class recommendations?

8 **WIT:** No they did not.

9 **LCDR Venturella:** Did any of these concern you in any way or require action on your
10 part for the annual?

11 **WIT:** No. I read through them and since I'm a dry dock inspector I've seen a lot of that
12 stuff. It didn't seem like it was anything – it just seemed very minor. So I didn't see any
13 concerns, that can go to dry dock.

14 **LCDR Venturella:** I would like if you could refer back to Exhibit 127. This is going back
15 to your inspection activity. And page 121.

16 **WIT:** Okay.

17 **LCDR Venturella:** Within your narrative on this page it's mentioned that the
18 requirements are due at dry dock in February 2016, but the vessel may go out of
19 service in October 2015. Was this something you noted on purpose and why?

20 **WIT:** Well at that time they told us that the vessel was going to go out of service. And
21 what I mean out of service they were going to take it – they were going to take it to the
22 shipyard to do some conversions. And they were going to use it in the Alaska trade I

1 believe that's what it was. And we actually had received an application to do a dry dock
2 in the Bahamas after this.

3 **LCDR Venturella:** So is it your assumption that requirements such as these were
4 being put off till the dry dock because there was a conversion coming up and that would
5 ease the repair?

6 **WIT:** Yes. And typically these type of repairs it probably would be a lot easier to do it in
7 dry dock than trying to work cargo and do the repairs.

8 **LCDR Venturella:** You mentioned before that for the El Faro you would personally
9 expect this to have a hull and machinery steam qualified team. Did you have that that
10 day?

11 **WIT:** Okay. On this time we had 3 advanced journeymen and an apprentice. The chief
12 inspection was a hull qualified, myself as hull and – hull and steam qualified and Mr.
13 Schock. He is machinery qualified, but I've been with him on several exams and he
14 was pretty advanced in his working towards a steam qual. So I felt very comfortable
15 with him doing the engine room. And if there's any problems he would have come and
16 got me.

17 **LCDR Venturella:** So Mr. Schock didn't have the machinery steam qual and you said
18 he was close. Was there an effort being made to finish the qualification?

19 **WIT:** The problem we had was getting him up through the spring breakouts. He just
20 didn't have funding at that time to get him up there.

21 **LCDR Venturella:** And why were you short of those type of funds? Was that normal to
22 be short of funds for that?

1 **WIT:** It's – yes. Trying to get, actually sometimes getting funding that's the way the
2 Coast Guard's budget works. Sometimes we don't get the funding until late in the year.
3 So late in the fiscal year. So when the spring break outs are happening I don't know if
4 we actually had the money to do it. Well we didn't have the money to do it. And we had
5 some internal funding issues in San Juan I found out later, but we were actually being
6 short changed about \$28,000 in our budget for prevention. It was being diverted
7 someplace else.

8 **LCDR Venturella:** And we are going to interview Mr. Schock, but just to see if you
9 know as the marine inspection training officer, do you know what specific items he
10 hadn't had signed off yet?

11 **WIT:** I don't remember.

12 **LCDR Venturella:** Did you examine any portion of the machinery side as the
13 machinery steam qualified inspector on board?

14 **WIT:** No I did not.

15 **LCDR Venturella:** Did you oversight Mr. Schock's work in any way?

16 **WIT:** Yes. I just told him when he went down there just to make sure he did the
17 automation testing. And since it's a port state control exam the scope is very limited on
18 what we do down there anyways. It's just more of a walk through the engineering
19 spaces. Make sure that everything looks like it's in order.

20 **LCDR Venturella:** You mentioned before that you have your own checklist instead of a
21 Coast Guard 840 book that you used. Did you also use the 840 in conducting the hull
22 side?

23 **WIT:** Yes we had it on board.

1 **LCDR Venturella:** In your performance of the hull side of the inspection would you
2 consider it a typical scope alternate compliance program exam or did you expand in any
3 area?

4 **WIT:** I say for the hull side it was pretty much the same thing we do for the port state. I
5 do look at the – make sure – one thing I’m really keen on looking at is all openings into
6 the hull that I can physically see to make sure they’re in good condition. Other than that
7 nothing special.

8 **LCDR Venturella:** You mentioned openings into the hull so I’m going to obviously want
9 to know what you mean. Which openings in the hull would you have paid attention to
10 on El Faro in March 2015 if you recollect?

11 **WIT:** Any hatches, doors, weather tight doors, hatches, watertight doors. El Faro has
12 some pretty big watertight doors, you look at those make sure they look like they’re in
13 good shape.

14 **LCDR Venturella:** I would like to walk through your exam in its entirety. Now in doing
15 this if you would like to reference either your checklist or the alternate compliance
16 program freight vessel examination book that would be acceptable just to make sure
17 you get coverage of what you would have actually done. But what I would like you to do
18 at this time is just walk us through your side of the exam that day and tell us what you
19 would have inspected. And then also if you recall any issues that came up.

20 **WIT:** Okay. I started out on the upper deck, which is where the containers are and
21 walked through that. Looking at the cargo, their lashings that are there. When they get
22 into San Juan those are all taken off so I don’t get to see them in place, but I just take a
23 look at the condition of the ones that are laying on the deck, make sure they look good.

1 I'm looking for the condition of how the containers set in the connections to the deck.
2 Make sure those are good. And go up to the bow, look at the life rafts, the six man life
3 rafts up there. Make sure life saving jackets are up there. Look at the anchors and the
4 mooring equipment. Make sure they're in good shape. And like I said look at any of the
5 air pipes that are up there make sure that the fittings are on there so that they're in good
6 shape so they look like they can close and the gaskets are all good. And I went down to
7 the 2nd, I think they call it the 2nd deck on that vessel which is the actual the margin
8 deck. And that's where they have the RO-RO's containers down there. Look at the
9 lashing. They're using a, on that one they're using a chain and a turn buckle on there.
10 Some of those were still connected. Just look at the way they're lashed and make sure
11 they're in accordance with their securing manual, cargo securing manual. Looking at
12 the fire fighting systems up there, the sprinklers, looking at the overheads. Make sure
13 that they're not being damaged by the cargo. Any of the openings that are actually on
14 that deck. They had some hatches going down to the cargo holds to make sure those
15 looked in good condition. Then go up into the fore peak area and look at the condition
16 there. Looking at the condition of the decks make sure that I don't see any fractures in
17 the decks due to cargo or working of the vessel. And I went down into the lower cargo
18 compartments. Looked at the watertight doors as we went down into those areas.
19 Those have the big swinging doors for each cargo hold. Looked at the rum tanks that
20 were down there, just general condition. That's about it. Then after we got done the
21 team got back together then we did – went to do the drills, fire drill and abandoned ship
22 drills. And actually the crew for the fire fighting drill were actually very proficient. You
23 can tell they've been doing a lot of training. They knew exactly what they were doing.

1 And how to put on the gear and all of that they were doing everything the way they were
2 supposed to. I also looked at the CO2 room. I looked at the condition of the CO2
3 bottles and also down in there I believe is the fire detection system which was turned off
4 at the time, which is an air sample system. And the reason they shut that off is due to
5 moving cargo it tends to get dirt into the system and causing them problems. So they
6 shut it off while they are in port. So other than that I can't think of too much else I did at
7 the time.

8 **LCDR Venturella:** Okay. I'm going to ask you a few specific questions just to make
9 sure we cover them just in case you did see something. Do you recall examining the
10 emergency position indicating radio beacon or EPIRB including its hydrostatic release
11 or battery dates?

12 **WIT:** That was I think done by Commander Meskun [sic] because he did the bridge.
13 So – and he didn't say anything about them not being any problem. I should say he
14 didn't mention about those having any problems.

15 **LCDR Venturella:** So just to make sure I understand. You didn't go on the bridge at
16 all?

17 **WIT:** No I did not. Except for when we did the drills then I went up to the bridge.

18 **LCDR Venturella:** What was your impression of the overall maintenance of the ship
19 including whether there were issues with hull structure or any fittings or with watertight
20 or weather tight?

21 **WIT:** Everything looked like it was in good condition. It's an older vessel, but it looked
22 like everything was being maintained.

1 **LCDR Venturella:** Did you note any issues with ground tackle, mooring lines or cargo
2 securing that could have made the items on deck more susceptible if they were in a
3 storm environment?

4 **WIT:** No I did not.

5 **LCDR Venturella:** Did you personally inspect all the life jackets and immersion suits
6 and were they properly stored and maintained?

7 **WIT:** When we did the fire drill the crew brought out their life jackets and their
8 EMERGENT suits. And I believe on one, I did the El Yunque after so I'm not sure, but I
9 think on this I had the cook pull out their EMERGENT so we could look at it and make
10 sure that it fit. And that the actual – the zippers worked and it looked like it was in good
11 condition. And the life jackets, we looked at the lights, whistles and all of that and
12 everything was there and the lights were water activated and they were current. And
13 they're within their inspection. I should say within their expiration date.

14 **LCDR Venturella:** Did you personally enter the life boats and did you run the engine?

15 **WIT:** Yes, I went up and I looked at the life boat and we did run the engine forward and
16 reverse. And I went up there so I could look at the connection and everything before we
17 lowered the vessel – lowered it to make sure that we wasn't going to have a problem.
18 And that's including – besides looking at the life boats, I was actually looking at the davit
19 too, all the connection points on the davits.

20 **LCDR Venturella:** Were you concerned with any particular part of the davit due to your
21 experience on this style of vessel?

22 **WIT:** Due to the age of these vessels I always like to look at where the cable connects
23 into the davit. They have a tendency of over time, they don't do a lot of maintenance on

1 these usually. Just put more paint on them. I like to look at those connection points
2 and make sure they haven't been worn on the pad eyes. We've had a few of those
3 break in the past on foreign vessels. And I have had on some U.S. flagged vessels
4 where I had to have those repaired.

5 **LCDR Venturella:** During abandoned ship drill that was conducted as part of the El
6 Faro's exam were any of the – was one of the life boats lowered to the water? And
7 were immersion suits or life jackets donned by the crew?

8 **WIT:** Yeah. The port life boat was lowered. We didn't actually release it, but we
9 lowered it. And yes the crew was all wearing their life jackets as part of the drill. And
10 they did bring the items that they were supposed to be off of their watch quarter and
11 station bill.

12 **LCDR Venturella:** Do you recall testing the fire main? Did the fire pump and
13 emergency fire pump run well?

14 **WIT:** I believe that was witnessed by Commander Meskun when he was on the bridge.
15 Yeah, he – I believe I remember him telling me that everything went well with the fire
16 hoses. And they tested the main pump and the emergency pump as part of those
17 exams.

18 **LCDR Venturella:** Did you have any involvement in the testing of the emergency
19 generator?

20 **WIT:** No I did not. I believe Andy did that.

21 **LCDR Venturella:** When you were in the holds did you test any bilge pumps or bilge
22 alarms?

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1 **WIT:** On those the bilge pumps are actually in the engine room so no I did not. But I do
2 – part of my exam when I'm down there I look at the bilge, the rose boxes and make
3 sure they're not filled with mud or stuff. And I do not believe that vessel had bilge
4 alarms in the cargo holds. I don't remember any.

5 **LCDR Venturella:** So is it fair to say that if it did have bilge alarms that it wouldn't
6 normally be part of your exam to test the bilge alarms?

7 **WIT:** No we would have tested them. Because usually on port state control you usually
8 don't go down into the cargo holds because of the type of vessel this is we could. We
9 would have if it had been there I wouldn't have tested them. But like I said I don't
10 remember any bilge alarms on the vessel.

11 **LCDR Venturella:** So to your recollection you didn't test a bilge alarm that day?

12 **WIT:** No I did not.

13 **LCDR Venturella:** Did you inspect the cargo hold ventilation ducts as part of your
14 oversight including the fire dampers within?

15 **WIT:** No I would just go through the outside. Those are actually, I think the fire dampers
16 are actually behind a bolted thing, so we don't usually make them take it off because we
17 don't do that on a port state control either, so.

18 **LCDR Venturella:** Do you have an understanding of whether ABS would have entered
19 that during the annual surveys?

20 **WIT:** I have no idea if they do that or not. They should, but

21 **LCDR Venturella:** So have you ever been inside the internals of the ventilation trunks
22 on El Faro or El Yunque?

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1 **WIT:** No I have not. Like I said ABS probably should because typically on a full COI we
2 would be looking at the fire dampers, Coast Guard would.

3 **LCDR Venturella:** Are you aware of any issues on the sister vessel El Yunque within
4 the ventilation trunks discovered since the casualty?

5 **WIT:** I've read the reports.

6 **LCDR Venturella:** And you wouldn't know if El Faro had similar issues or systemic
7 type issues?

8 **WIT:** No not unless we had opened up the trunks and looked in there. And I think, I
9 would have to look at the 840 book, I think something like that would be more of an
10 expanded exam because it's not really covered in the 840 book to look at the fire
11 dampers.

12 **LCDR Venturella:** Would you ever have just exercised the remote connection to the
13 fire dampers?

14 **WIT:** I usually do that on the ones on the upper decks. If the ventilation is actually
15 running I don't like doing that because you can actually might damage the fire dampers.
16 I would actually have to have them stop the ventilation to be able to test and make sure
17 there was no damage.

18 **LCDR Venturella:** Are you aware if the cargo holds on the El Faro had continuous
19 positive pressure ventilation at each level the vehicles were transported?

20 **WIT:** Yes. The way the decks are set up on the lower decks there's openings actually
21 cut into the deck to allow ventilation to flow through.

22 **LCDR Venturella:** Do you know if there was a remote ventilation shut down and was
23 that tested?

1 **WIT:** We did not test the remote shut downs.

2 **LCDR Venturella:** Are you aware of any alarm on El Faro that would indicate loss or
3 required hold ventilation and would alarm an unmanned space?

4 **WIT:** I don't remember if there is one on the bridge or not.

5 **LCDR Venturella:** And would you say the typical ACP oversight exam and the one that
6 you did that day on the El Faro would not have checked something like that?

7 **WIT:** No we probably wouldn't unless it had been an expanded exam. If they had
8 problems with ventilation.

9 **LCDR Venturella:** Okay. Please refer back to Exhibit 127 page 121, which is back to
10 your narrative again. Actually make that page 122. On page 122 it talks about the
11 steering test. Could you explain what you witnessed as far as a steering test on that
12 exam or what you wrote about here?

13 **WIT:** Andy is the one that witnessed the steering test.

14 **LCDR Venturella:** Okay. Well we'll defer those question for the next interview then.
15 But can you tell me then as far as were you part of the communication with steering or
16 was that a different inspector?

17 **WIT:** That was a different inspector. That was Chief of Inspections that was
18 communicating with him.

19 **LCDR Venturella:** Did you notice any unusual crew behavior during your exam that
20 alerted your – kind of peaked your attention?

21 **WIT:** They had a, I think it was, let me see. Either the oiler or [in audible].

22 **CAPT Neubauer:** Mr. McMillan just a reminder to keep the microphone a little closer
23 please.

1 **WIT:** Okay. It was actually the utility person that was on board. Yeah, he came in to
2 show us his credentials and his TWIC card and he back into the room and wouldn't look
3 at us. Which we thought was a little strange. But after talking to the Master we found
4 out he had trust issues of Federal employees. So he didn't want us to – didn't want to
5 look at us. And we actually ran a warrants – a warrant check on him to make sure that
6 there wasn't anything outstanding on him and it came back clean.

7 **LCDR Venturella:** Did you have any safety management concerns or did you
8 experience anything that would have made you feel like there may be concerns with the
9 vessel safety management culture?

10 **WIT:** Not the – the safety management on there seemed to be working. Those are –
11 everything I've – just talking to the ship's crew and the Master and everything they
12 seemed to have a good relation with the company and the company safety
13 management to put in their request and stuff and they were getting things fixed that they
14 needed. And they were getting the money to do what they needed to do. Just in
15 general talking to them they seemed to be – everything seemed to be working on board.
16 So we didn't really have to delve into the safety management too much.

17 **LCDR Venturella:** Did you notice any issues with crew competency or just not being
18 on board very long? Were there any training issues that might make it difficult to
19 operate a vessel that's older, especially an older steam ship?

20 **WIT:** Not that – not when I was on board. Everything, everyone seemed to be knowing
21 – know what their job was. And it didn't seem to be a problem. Now I don't remember if
22 they were taking – if they were changing any crew out that day or not, so.

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1 **LCDR Venturella:** Based on your review of ABS's surveys and your own exam that
2 you led, did you have confidence in the condition of the vessel based on completion of
3 the exam that day?

4 **WIT:** Yes I did.

5 **LCDR Venturella:** Is there anything else you'd like to get on the record regarding this
6 exam?

7 **WIT:** No, other than the Tote vessels, the one's that we've done in San Juan they're
8 actually our better operators. We had another company that operated down there that
9 we were more worried about them than we were Tote. Tote seemed to be a lot better in
10 their safety management of their vessels. Just in general. The vessels I think are
11 actually in a little better condition too.

12 **LCDR Venturella:** Thank you. No further questions Captain.

13 **CAPT Neubauer:** At this time we'll take a recess and reconvene at 1045.

14 *The hearing recessed at 1033, 25 May 2016*

15 *The hearing was called to order at 1048, 25 May 2016*

16 **CAPT Neubauer:** The hearing is now back in session. Commander Denning.

17 **CDR Denning:** Thank you Captain. Good morning Mr. McMillan. I do have some
18 follow on questions for the line of questioning from Lieutenant Commander Venturella.
19 First, when you were first speaking of the marine inspection qualifications and how it
20 was split into steam and other motor vessels. You used a phrase, you said, I think you
21 said something was taken off the list. What did you mean by that? Can you expand on
22 your comment?

1 **WIT:** We get an obtainable sustainable list every year. It comes I think it's CG 7
2 something, and I think it's 741 and also CVC we look at that list and they look at how
3 many inspections we have actually done in our area and we validate that. So when
4 they redid this list this last time they went from like a word document to an excel
5 spreadsheet. And I think at that time it got dropped off that list.

6 **CDR Denning:** So what specifically was dropped off the list?

7 **WIT:** The steam.

8 **CDR Denning:** Steam quals nationwide? Or was it dropped from ----

9 **WIT:** Well it was just dropped off this obtain sustain list.

10 **CDR Denning:** What are the impacts of that qual being dropped off the list?

11 **WIT:** Not much for the training officer point of view because we know that it's there. I
12 think it's just like a more of an administrative function. There are some ports out there
13 that can do steam quals. I don't which ones they are at the moment because I don't
14 have – I would probably have to go back and look at an old list to see which ones are on
15 there.

16 **CDR Denning:** So when you say it was dropped off the list does that mean just for ----

17 **WIT:** It just got dropped – just administratively got dropped off of our list.

18 **CDR Denning:** From you list at specific to Sector San Juan?

19 **WIT:** No this goes out nationwide, so.

20 **CDR Denning:** Does that mean that it's not sustainable to obtain steam quals?

21 **WIT:** No. It's just, like I said it's just an administrative thing that happened that needs
22 to be corrected. So the ports that know that they do steam they do know that they can
23 do steam. It's just – we just need to fix this, this list.

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1 **CDR Denning:** So there are ports where it's still – that still have the capabilities to train
2 marine inspectors on steam, but administratively -----

3 **WIT:** Yes. I have an inspector in my office that just came from San Francisco and he
4 received his steam qual there.

5 **CDR Denning:** You spoke about the ship rider program. Is there a formal agreement
6 with various companies to formalize that?

7 **WIT:** Yes, we have an agreement with them. It's usually signed either locally or we
8 have some that are signed nationally by the, I'm trying to think who it is that signs them.
9 We have a list on our website. It tells us all the different companies that we have
10 agreements with.

11 **CDR Denning:** And is Tote one of those particular companies?

12 **WIT:** Yes I believe they are.

13 **CDR Denning:** Does that – how does that influence a marine inspector when they're
14 inspecting a Tote vessel? Whether they're, or let's back up. How does the interaction
15 go with marine – perspective marine inspectors when they're taking part of the ship rider
16 program?

17 **WIT:** Usually the apprentices, we try to get them on board as soon as they can before
18 they have any inspection experience. We just want them to see what the daily
19 operations of a vessel are. And we rotate them through, try to rotate them through the
20 different departments on that PQS that we have them fill out.

21 **CDR Denning:** And do you feel that it creates any type of conflict with that inspector
22 down the road having had so much influence by one particular company or another?

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1 **WIT:** No I don't believe it does. Because usually, like I said in our port we don't do any
2 domestic qual. We don't do any training for deep draft or machinery quals in our port.
3 So it's more of just for them to get interaction with the mariners. And their future – if
4 they do come back to San Juan all the people they probably dealt with are probably not
5 going to be ----

6 **CDR Denning:** You spoke about preparation for inspections. Particularly you
7 mentioned DNV and that you had limited access to their records. How did that influence
8 – how does that typically influence preparation for an inspection?

9 **WIT:** Well the reason DNV doesn't, I guess they have a – they're not like ABS where
10 we have a lot of vessels in ours and they don't want us to have access to -- they may
11 not have a good way for us to have access to just U.S. vessels. So that's the
12 experience I had at the time. So they just give us very limited access at that time. Now
13 if we do need it, like I said we can just go to CVC and the liaison officer up there he can
14 actually get us access. And really I only had one vessel that was DNV which is an ACP
15 program. And I haven't had any need to get access to any of their stuff after that.

16 **CDR Denning:** Have you experienced any limits or challenges obtaining access to
17 ABS records?

18 **WIT:** No, I have full access. And our agreement is that we're only, from what I
19 understand, is that we're only going to look at vessels that are in the ACP program.
20 And Headquarters they'll look at it for load line and stuff like that. So if we need
21 something that has a load line that's issued by that we can actually go in and look. Like
22 mainly that is just barges. But rarely need to look at those, but any other vessel I think

1 we have worldwide access to their system. We just keep it to U.S. vessels and ACP
2 program for the most part.

3 **CDR Denning:** The MISLE 5.0 challenges that Commander Venturella spoke with you
4 about, the help ticket that you submitted because the El Faro was showing deficiencies,
5 several deficiencies dated back several years. How did you determine which
6 deficiencies were still valid if the data was showing you incorrect information?

7 **WIT:** I went back to the last inspection we had in our system, which is before MISLE
8 5.0 went on and I printed out the – I had a print out of a vessel critical profile. So I knew
9 what was open and what wasn't.

10 **CDR Denning:** So were you – sorry please.

11 **WIT:** That's how I determined it. With those old ones going back into the 90's were
12 closed.

13 **CDR Denning:** So do you feel like you were adequately able to sort everything out and
14 adequately prepare for the inspection?

15 **WIT:** Yes. Just to let you know the MISLE 5.0 happened after the inspection on El
16 Faro. So we were using the old system at that time.

17 **CDR Denning:** You were using the old system? Why were you pulling the information
18 on the El Faro if it occurred after the ----

19 **WIT:** Well this is – I was looking at some other issues. I think I was looking at actually
20 closing the activity because I hadn't caught up with my paperwork at that point. So to
21 make sure that everything was copasetic before we closed out.

22 **CDR Denning:** So the inspection, when you were actually preparing for that final
23 inspection you were using legacy MISLE, the old MISLE?

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1 **WIT:** That's correct.

2 **CDR Denning:** So those challenges didn't present themselves until you were closing
3 the loop with the MISLE activity after the inspection?

4 **WIT:** That's correct.

5 **CDR Denning:** Regarding the ACP, the role of the Coast Guard as more of an auditor,
6 oversight for ACP, you were asked if it's actually an equivalent level of safety and your
7 answer was yes as long as it's properly implemented. What challenges have you
8 experienced in implementing ACP?

9 **WIT:** I haven't had any problems myself. What I was meaning by that is it depends on
10 the surveyors themselves. And I know ABS as well as the Coast Guard we have
11 challenges with getting qualified people. Everyone has different strengths. So usually
12 they have one surveyor doing stuff that over a longer period of time then the Coast
13 Guard really would. So in that regards I think since ABS is on board more they have –
14 there's more exposure the vessel and how it's operated than it would be if it was a
15 traditional Coast Guard oversight. I think that's where the equivalence come in. And
16 plus the steel rules and the international conventions and all of that. So it's the same. I
17 would say pretty much. There's some things that probably need to be ironed out
18 between the differences, things that during a traditional Coast Guard inspection we do
19 that ABS probably doesn't do because it's not in their regulation or may have gotten
20 missed in the supplement.

21 **CDR Denning:** Can you give any examples of that?

22 **WIT:** One of them that we run into and I believe it's actually in the NVIC or marine
23 safety manual which is automation testing. I've run into a period of time there where we

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1 were having a lot of problems with automation and we found out that the actual ABS
2 surveyor wasn't doing automation tests on our behalf during the inspections.

3 **CDR Denning:** Does the supplement require those automation tests?

4 **WIT:** I'm not sure if it's in there or not. I know it's in the, I think it's mentioned in the
5 NVIC or the marine safety manual that ABS would do those.

6 **CDR Denning:** So if there is an issue, you know a particular system that's not identified
7 as something that needs to be surveyed in the Class rules and also is not in the
8 supplement, is it true that the regulations aren't specifically applicable and they have to
9 stick to what's in the supplement?

10 **WIT:** The way I understand the ACP program is once they do the supplement and the
11 Class rules and the international conventions they don't have to comply with 46 C.F.R.
12 That's an alternative to our regulations.

13 **CDR Denning:** And have you experienced any particular systems that you think is a
14 safety issue or that is not as equivalent as it was intended to be?

15 **WIT:** I can't think of anything right off the bat. Like I said it's just we some issues with
16 automation testing in the past. So, and we ran into that on another vessel where they
17 actually melted their reduction gear due to problems with automation system.

18 **CDR Denning:** Is there a process for units, whether it's the MITO or the typical
19 prevention chain of command to make recommendations to Coast Guard Headquarters
20 to, you know improve the ACP program or amendments to supplements or anything of
21 that nature?

22 **WIT:** I'm not sure if it's in the NVIC or if it's in the marine safety manual, but there's a
23 thing that talks about giving feedback.

1 **CDR Denning:** Have you had an opportunity or have you ever submitted any of that
2 feedback?

3 **WIT:** No I have not.

4 **CDR Denning:** Are you aware of any from Sector San Juan at all?

5 **WIT:** No.

6 **CDR Denning:** When discussing the test of the life boats you said it's dangerous to,
7 you know, I don't think you said all the way to the water line, but dangerous to release
8 them. Why would you say it's dangerous to do that?

9 **WIT:** It's dangerous for the crew. They've had several life boats drop over the years.
10 They actually had, I was doing a test on a foreign flag vessel where the life boat
11 dropped, an open life boat and it looked like it was brand new except for one little spot
12 underneath the engine where you couldn't see it, on a simultaneous releasing bar it
13 rusted through and you couldn't see it and the crew actually released the aft falls and
14 dropped 5 crew members in the water. So internationally it's been recognized, plus
15 some of the releasing gears, some of the newer types were having problems. Which
16 have been corrected in SOLAS. They've come out with a new design for releasing
17 gear. So everyone is supposed to have those replaced here pretty soon.

18 **CDR Denning:** So essentially what you're saying is because of the releasing gear is in
19 the life boat in order to actually release it from the falls somebody would have to ride it
20 down?

21 **WIT:** Yes.

22 **CDR Denning:** And that in and of itself is too dangerous to do during an inspection?

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1 **WIT:** It's dangerous. Like I said for a port state control we quit doing it. The only ones
2 that we do it for now is just for cruise ships where we actually release the – down with
3 minimum crew and release the boats and operate it.

4 **CDR Denning:** Regarding the notice that a vessel gives ABS or any Class society for
5 that matter and then that the Class society would give to the Coast Guard in order to
6 attend a vessel, you said that they are short notices. Besides the NVIC that says – that
7 determines the 14 days for the notice to the Class society, is there other written
8 procedures for notification between the Class society and the Coast Guard as far as
9 how that's going to work?

10 **WIT:** I'm not sure if that's in a memorandum of understanding or not. I don't remember.

11 **CDR Denning:** Is there any locally generated?

12 **WIT:** No.

13 **CDR Denning:** When you say you've communicated to individual surveyors that you
14 haven't had enough notice and that the 14 day requirement applies, have you ever had
15 any discussions with higher up management besides the individual surveyors within
16 ABS?

17 **WIT:** No I have not.

18 **CDR Denning:** What about individual companies? Have you ever communicated
19 those challenges with companies?

20 **WIT:** No I haven't.

21 **CDR Denning:** Has that concern presented itself with Tote vessels or other
22 companies? Can you clarify that?

23 **WIT:** It's uh, the other company we had is about the same thing.

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1 **CDR Denning:** So I'm sorry. Have you experienced it with those timing challenges
2 with Tote vessels?

3 **WIT:** Yeah, usually we get 1 or 2 days notice from the surveyor that something going to
4 happen.

5 **CDR Denning:** And similar challenges with other companies?

6 **WIT:** Yes.

7 **CDR Denning:** What about Class societies for giving you notification of surveys after,
8 you know let's say damage? Let's say hypothetically a vessel, you know has a
9 grounding or other type of damage and they're doing damage surveys. Do they notify
10 you on those? Something other than a scheduled exam.

11 **WIT:** No. Like I said if Tote called and they said they were having a problem we ask
12 them if they've called Class just to make sure they were in the loop. But we haven't had
13 any issues the other way.

14 **CDR Denning:** So if Class is notified of damage and is going out to do a damage
15 survey do they notify the Coast Guard?

16 **WIT:** They have on non-ACP vessels that they're were doing stuff like that. Like I said I
17 really haven't had an issue with ABS not calling us about stuff. Usually if something's
18 going on they do call us.

19 **CDR Denning:** So on an ACP vessel if there was damage ABS would call you? Or
20 has called you?

21 **WIT:** I really haven't had, can't think of any situations where we've had damage that we
22 didn't know about before ABS. And usually, like I said we usually called ABS and let
23 them know.

1 **CDR Denning:** When you were talking about the 840 books, the use of the machinery
2 steam 840 book you said to Mr. Venturella that you're usually the inspector that does
3 the machinery side. Is there any particular reason why on the last inspection you did
4 the hull side and delegated the machinery side?

5 **WIT:** I've worked with Andy for, he transferred last summer, so yeah, he – I've been
6 working with him for 3 years previous to that and we did some – a lot of vessels
7 together. So I felt very confident that he could do the exams on those vessels. And we
8 actually had one where we had to do some stuff that was really out, kind of outside the
9 scope of ACP even though it was an ACP vessel. Doing oversight on the repairs.

10 **CDR Denning:** So no particular reason, just -----

11 **WIT:** No.

12 **CDR Denning:** Preference for that particular voyage? Or that particular inspection?

13 **WIT:** Yeah.

14 **CDR Denning:** You mentioned that you used an older version of the supplement, the
15 one that was applicable to the El Faro when it came into the ACP program. Can you
16 describe for us maybe some of the differences between that supplement that was used
17 and the more recent revision of the supplement?

18 **WIT:** I really haven't compared them. The only time I really would go into the
19 supplement if there's an issue and just need to see what – how we're going to write up
20 the requirement if we need to write an 835. So to make sure. But other than that we
21 really don't – we don't, other than having it with us we don't really refer to it unless we
22 have a problem.

1 **CDR Denning:** It was discussed the two conditions of Class, or Class
2 recommendations that existed on the El Faro when you went on the final inspection, do
3 you when you're preparing for an inspection, do you only look at the open conditions of
4 Class and recommendations? Or do you fully review the – some of the most recent
5 Class surveys?

6 **WIT:** No I look back through the, maybe last year's worth of surveys or reports and see
7 what's been happening with the vessel. Because these vessel's travel between
8 Jacksonville and San Juan. So things could be going on in Jacksonville that I wasn't
9 aware of. So I just take a look and see what was going on with the vessel.

10 **CDR Denning:** So you look at all the, you look through all the past Class surveys?

11 **WIT:** Yes.

12 **CDR Denning:** For at least the last year?

13 **WIT:** Any outstanding condition of Class recommendations, all that stuff. Also any ISM
14 audits because ABS does the audits. That's all in the SAFE NET so we can see all that
15 stuff that's in there.

16 **CDR Denning:** And do you ever compare with, you know the 840 book with the full
17 survey report and sort of try to determine which systems ABS looked at within the past
18 year to help you determine maybe the scope of your oversight exam?

19 **WIT:** Yeah, the 840 book is very general to say the least. But I can look and see what
20 all the machinery surveys that they've – all the hull surveys and look at all items that
21 they did in there. See what [in audible] they're doing. Because they do a, ABS does a
22 continuous survey when they start. They'll open it up and they'll go over maybe 2 or 3
23 months to finish a survey. So I really – I don't target anything, I just look at those

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1 surveys and see what has been done. And I kind of check up on some of those things
2 that have been outstanding conditions or recommendations in the past. So look at that
3 and I have discussions with the Master about – they can explain more sometimes
4 what’s going on. Master and the Chief Engineer.

5 **CDR Denning:** Do you also – tell me about the review of MISLE activities in
6 preparation for exam as well.

7 **WIT:** Yes usually I go back at least one or two exams and see what was going on, on
8 those vessels in case there was something that looks like maybe a pattern of
9 maintenance issues or something like that. But usually with Tote they really don’t have,
10 you go back and look there’s really not much written in those activities, because they do
11 a pretty good job of keeping their maintenance up. So we really don’t have to issue
12 them 835’s. And only – usually don’t issue an 835 unless Class can’t take care of it. So
13 if we find an issue when we’re out there on an ACP we’ll call Class and if Class said
14 they can’t come out there until they get a call from the company and we’ll tell the
15 company to call. And usually Class is out there that same day, take care of the issue.
16 And they’ll issue the outstanding conditions of Class. But I have issued 835’s when we
17 didn’t have a Class surveyor on board, I should say in San Juan.

18 **CDR Denning:** Okay. So that’s past inspection activities. Do you look at past marine
19 casualty investigations, operational controls, administrative inspections?

20 **WIT:** That’s all in the critical profile. It gives you a, depending on what it is, they’re in
21 there from 12 to 18 months on open activities. So you can take a look and see what
22 was happening with the vessel. And if I had a question about anything I could go back
23 and look at that activity, see what’s going on with it.

1 **CDR Denning:** Do you only look at open activities or recently closed activities?

2 **WIT:** Because that list on that critical profile list open and closed activities. And I think
3 closed activities within the last 12 months.

4 **CDR Denning:** I would like you to take a look at Exhibit 23. And we're actually going to
5 put it up on the screen, some members of the public might be interested in this image.
6 Exhibit 23 is a photo provided by Herbert Engineering of the port side number 3, hold
7 number 3 scuttle. You mentioned during the – during your description of the last
8 inspection that you examined – how you examined openings in the hull. Can you walk
9 us through specifically with scuttles how much attention they receive during the last
10 inspection?

11 **WIT:** Okay. That we look at them. Usually I think when I was on there that day that
12 scuttle was actually opened. And I look at the gaskets and also look at the mechanism,
13 closing mechanism to make sure that it's – looks in good shape. Sometimes I'll actually
14 operate them to make sure they operate. If they – if they look like there's a problem I'll
15 actually operate them.

16 **CDR Denning:** Did you do that on this particular inspection?

17 **WIT:** I can't remember if I did on this one or not. But I didn't see anything out of the
18 ordinary with it. Any excessive wear or anything like that.

19 **CDR Denning:** So do you look at every scuttle on board?

20 **WIT:** Yes.

21 **CDR Denning:** Or do you spot check?

22 **WIT:** All the ones that I walk by I'll look at.

23 **CDR Denning:** This one does stand out in your mind?

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1 **WIT:** Yes because that one is, I believe is the access down to the emergency fire pump
2 if I'm not mistaken. So yeah, plus it's painted orange here, so I think that's the reason
3 that they have that is to mark that as going down to the emergency fire pump.

4 **CDR Denning:** So you don't recall if you actually operated this particular scuttle to
5 make sure it closes properly?

6 **WIT:** No because like I said I did the El Yunque like a month and a half later and
7 between the two it's kind of hard to remember. But I treated the inspections the same. I
8 don't remember if I did it on this one or I did it on the other one. And typically on a port
9 state control exam when you go through you don't operate all the doors and scuttle
10 either. You just look at them and make sure they're in good condition.

11 **CDR Denning:** That's all we need for that image. I would like you to go back to Exhibit
12 127 one more time, page 122. And you don't necessarily need to flip through it.
13 Actually I just read this particular sentence. You mentioned specifically that you didn't
14 test the bilge alarm on the El Faro. And I know that you do, you just mentioned it again
15 that you do the El Yunque and the El Faro and sometimes you mixed the two up. So I
16 want to make sure and I'm not trying to trick you or anything, but in your, I just want to
17 clarify this for the record. In Exhibit 127 which was your last inspection on El Faro it say
18 witness satisfactory operation of the MEPC 107 oily water separator in bilge alarm. So
19 does that help refresh your memory that did you maybe?

20 **WIT:** Okay. The bilge alarm they're talking about is the monitoring, the 15 part per
21 million monitoring. And a lot of people think that's actual physical bilge level alarm and
22 it's not. It's just a 15 part per million bilge alarm.

23 **CDR Denning:** So associated with the oily water separator -----

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1 **WIT:** Yes.

2 **CDR Denning:** Oil content meter.

3 **WIT:** And I didn't check that, Andy checked that.

4 **CDR Denning:** Okay. So again you did not test the actual bilge alarms on El Faro?

5 **WIT:** I didn't. To be honest with you I don't remember if those vessels even had those.

6 **CDR Denning:** Are they required to?

7 **WIT:** No they're not.

8 **CDR Denning:** Thank you. I think that concludes my questions.

9 **CAPT Neubauer:** Mr. Fawcett.

10 **Mr. Fawcett:** Good morning Mr. McMillan. A few questions. At Sector San Juan the
11 prevention strategy incorporates the collaboration between marine casualty
12 investigators and marine inspectors, is that correct?

13 **WIT:** That's correct.

14 **Mr. Fawcett:** Did you consider, at the time you went out to conduct that inspection that
15 they functioned adequately the collaboration between those two sets of different people
16 in your office?

17 **WIT:** Usually they don't come out on inspections with us.

18 **Mr. Fawcett:** What I mean, let me – do the inspectors and investigators talk together to
19 talk about activities related to the ship, or the various ships that you conduct inspections
20 on?

21 **WIT:** All the time. If 2692 come in for some reason they always end up on my desk. I
22 always take them over to the investigation shop. And we would actually go out with
23 investigators if there's a problem on the vessel. And help in a technical manner.

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1 Because they may or may not hold inspection qualifications for that type of vessel
2 they're doing the investigation on.

3 **Mr. Fawcett:** So when you went out to conduct that particular inspection in March,
4 were you aware of a propulsion casualty that might have occurred at sea on the El Faro
5 either in early 2015 or late in 2014?

6 **WIT:** I don't remember.

7 **Mr. Fawcett:** Okay. And there was one in San Juan in the March '15, approximate
8 March '15 time frame, is that correct?

9 **WIT:** That's correct.

10 **Mr. Fawcett:** So you've been in Sector San Juan as a Coast Guard person for how
11 many years?

12 **WIT:** Since this time since 1998.

13 **Mr. Fawcett:** So you've dealt with all the Tote vessels, is that correct?

14 **WIT:** That's correct.

15 **Mr. Fawcett:** Does the Coast Guard have a policy that allows mariners or seafarers to
16 report defects or safety defects in vessels and could you speak about any kind of policy
17 that would relate to that? In general terms.

18 **WIT:** In general terms. Actually there's a Federal law that requires the Masters, the
19 ship's officers to report anything that's wrong with a vessel while we're doing our
20 inspections. So if we go on board they're supposed to assist us. I forget exactly what
21 the law is, but if I had a copy of it here. But they're required to report anything to us if
22 they think it effects the sea worthiness of the vessel. Or any outstanding things that
23 they have. And we're not allowed to divulge who told us. So anyone in the crew can

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1 tell us there's a problem on the vessel and we'll investigate it, but we can't tell ship's
2 management or the Master who told us about the problem.

3 **Mr. Fawcett:** Okay. So there's a law requiring ship officers to report this?

4 **WIT:** Yes.

5 **Mr. Fawcett:** How widespread do you think the practicable knowledge is there for the
6 officers that that's a required responsibility? I'm speaking strictly to the officers that are
7 required by law.

8 **WIT:** I don't know if they actually get taught that in the merchant academies or not. If
9 it's ever brought up. But it's – I have discussed in the past to different crew members
10 on vessels about that law.

11 **Mr. Fawcett:** And speaking specifically to crew members, unlicensed crew, how
12 widespread would you, based on your experience would you think that that knowledge
13 is available to them? That crew persons can speak to you and that reports of safety
14 issues or defects would be anonymously gathered and acted upon by the United States
15 Coast Guard?

16 **WIT:** I have no idea on that.

17 **Mr. Fawcett:** So during the course of your tenure at Sector San Juan have any crew
18 persons come to you and reported defects or safety issues aboard Tote vessels?

19 **WIT:** No they have not.

20 **Mr. Fawcett:** And then finally if you would just kind of take a moment to think about this
21 question. You go aboard Tote vessels, El Faro, El Yunque and the El Morro in
22 particular during all different times of cargo operations, is that correct?

23 **WIT:** That's correct.

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1 **Mr. Fawcett:** So have you been aboard those vessels when they come into port like as
2 soon as they reach port?

3 **WIT:** No we don't.

4 **Mr. Fawcett:** So do you go aboard just prior to departing port? Have you been aboard
5 those vessels?

6 **WIT:** No I have not.

7 **Mr. Fawcett:** Okay so it would be in middle of cargo operations?

8 **WIT:** We usually get there around between 8 and 9 so most of the cargo lashings are
9 already taken off.

10 **Mr. Fawcett:** Okay. So you haven't seen them lashing cargo for preparing to depart
11 port?

12 **WIT:** No I have not.

13 **Mr. Fawcett:** Thank you very much, sir.

14 **CAPT Neubauer:** Good morning, sir. Just a few follow up questions. Do you
15 encounter inspection demands at Sector San Juan that require you to use marine
16 inspectors that don't meet the recency standard?

17 **WIT:** No. Like I said we don't allow that.

18 **CAPT Neubauer:** Does the recency standard apply to ACP oversight exams?

19 **WIT:** It should. Like I said I've been – the way I've been handling it is I won't let
20 someone go out unless they have the qual and they're recent.

21 **CAPT Neubauer:** Is that your policy or is that a Coast Guard policy?

22 **WIT:** That's my policy.

23 **CAPT Neubauer:** Do your journeymen ACP inspectors receive ISO audit training?

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1 **WIT:** No. They did. Just had – everyone that had that training has transferred this
2 summer. Our whole shop is transferring this summer. But yes we did.

3 **CAPT Neubauer:** At the time of the incident had the inspectors doing the oversight
4 exams did they have the ISO auditor training?

5 **WIT:** I had, I'm not sure – Andy made that last training we did or not.

6 **CAPT Neubauer:** Is it Coast Guard policy that the ACP auditors have to have auditor
7 training?

8 **WIT:** That's an interesting question. That's something MITO's were just discussing is
9 what kind of training to get to all the inspectors. And since we're doing more oversight
10 type of inspections we feel as the training officer we feel that every inspector should
11 have auditor training. But right now it's kind of hit and miss on the training. There's no
12 requirement for us to have the training.

13 **CAPT Neubauer:** Are you confident that prior to October 1st, 2015 that your ACP
14 inspectors had read and were familiar with the ABS supplement?

15 **WIT:** Yes considering I'm the one that does it. I'm very confident that I've read all
16 those.

17 **CAPT Neubauer:** But also the other Coast Guard inspectors that were conducting the
18 ACP exams?

19 **WIT:** I know that Andy has actually read them because he brought up some stuff that I
20 had forgotten about.

21 **CAPT Neubauer:** Did you have a copy of the DNV supplement when you did the DNV
22 oversight?

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1 **WIT:** Yes I did. Actually all that stuff is on the website from Headquarters so you can
2 just go in there and pull it off if you want it.

3 **CAPT Neubauer:** Do all of your marine inspectors have access to ABS SAFE NET?

4 **WIT:** No they don't. I'm the only one in the office.

5 **CAPT Neubauer:** How would a marine inspector, while you are not available research
6 a short notice ACP oversight exam?

7 **WIT:** Obviously they wouldn't at this point. But CVC said they would give us access
8 like a general account and I just never got around to having them give us that account.

9 **CAPT Neubauer:** Do you know why that has to be requested directly from
10 Headquarters?

11 **WIT:** There's someone up there that actually – the liaison officer and he's the one you
12 request it through the different Class societies for access.

13 **CAPT Neubauer:** Is it your understanding that you just request access and from that
14 point forward your entire bullpen would have access to SAFE NET?

15 **WIT:** The only people that would have access is the ones that I give the password to.
16 User name and the password.

17 **CAPT Neubauer:** And then one last question, sir. Does ABS have access to Coast
18 Guard MISLE data so that they can review what we've entered on vessels, ACP
19 vessels?

20 **WIT:** I'm not sure.

21 **CAPT Neubauer:** Thank you. I would like to go to the NTSB at this time. Mr. Young.

1 **Mr. Young:** Thank you Captain. Good morning Mr. McMillan. You discussed a lot
2 about obtaining qualifications for machinery and steam. Could you please describe
3 what it takes for an apprentice to obtain quals for machinery?

4 **WIT:** We have a master – currently we have a master matrix that they have. It's
5 probably about, I would say it's about 2 ½ inches thick. So they have to follow a
6 journeyman around and then they have to go through all the – get all their qualifications
7 signed off for that particular competency that they're going for. Currently the Coast
8 Guard is rewriting all of those. So we're changing the whole setup. We've already done
9 some of the domestic stuff, but nothing with deep draft yet. But it's coming.

10 **Mr. Young:** What are some of the areas that would encompass that qual? What are
11 some of the issues or areas that they would have to look into to be qualified to be a
12 machinery inspector?

13 **WIT:** There's a lot of items on there. They have to go through propulsion, auxiliary
14 systems. There's a lot of stuff. I don't – without having the matrix in front of me I
15 couldn't tell you everything that they have to do. It's quite extensive.

16 **Mr. Young:** And each of those items are signed off by a -----

17 **WIT:** Verifying officer.

18 **Mr. Young:** A verifying officer. And how about when it comes to a steam qual? Can
19 you just describe a few of the areas that would need to be addressed to obtain that
20 qualification?

21 **WIT:** They have to do internal inspections of the boilers. They have to be able to set
22 the safety valve. They have to look over speeds, the steam turbines. They test all of
23 these. There's a whole list of things that they have to test. There's actually an 840

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1 book for machinery that they have to follow for all the stuff they have to do. So which on
2 an ACP vessel we don't use. So there's a lot of things that they have to test and verify
3 as part of the exam. And doing the safety takes a while to do those. That's correct. In
4 order to get your steam qual you have be machinery qualed too.

5 **Mr. Young:** So that's a prerequisite?

6 **WIT:** Yes.

7 **Mr. Young:** To steam is to already have the machinery?

8 **WIT:** Yes.

9 **Mr. Young:** And in general about how long does it take for an apprentice to obtain this
10 qualification?

11 **WIT:** That depends on the port. But usually it can take a year or longer. It all depends
12 on the training opportunities that they have in port.

13 **Mr. Young:** And for – I'm sorry do you have more?

14 **WIT:** For machinery it's about a year. And then usually it takes I would say from, well it
15 took me, it took me 2 years to get my machinery and steam qual.

16 **Mr. Young:** And are there any refresher courses to maintain that?

17 **WIT:** We don't have a refresher course, but they do have an online steam course and
18 machinery course that we get off of learning management system. And Andy, I think
19 Andy completed his machinery, both machinery and the steam qual. Machinery and the
20 steam courses that we had.

21 **Mr. Young:** Is there a periodic requirement to take these classes?

22 **WIT:** No. There's a – once you've completed it you're done. Where we keep the
23 recency is actually doing the inspections. So if you go to a port where you're not using

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1 that you just decertify for doing that type of inspection. And when you get to your next
2 port they'll take you out and do exams with you and they'll go through what they call an
3 IPAT, inspector proficiency assessment tool. And we actually have the verifying officer
4 go through and make sure that they can do the exam.

5 **Mr. Young:** And for an ACP vessel inspection what are the minimum requirements for
6 quals for the Coast Guard inspectors?

7 **WIT:** There is none.

8 **Mr. Young:** There is none.

9 **WIT:** Not written. But I think if you talk to any of the ports that do deep draft they just
10 have qualified inspectors go out to do those exams. They're not having – I wouldn't
11 think they would be having like someone that's port state control qualified to go out to
12 do those. You want somebody that has the machinery and the hull qual.

13 **Mr. Young:** What is the minimum number of inspectors that you typically go out for an
14 ACP exam?

15 **WIT:** Two.

16 **Mr. Young:** When was the last time that you had conducted a full COI inspection on a
17 deep draft vessel?

18 **WIT:** Okay. That was from – started in April of 2010 and it ended in October of 2010.
19 That was the vessel that was dis-enrolled from the ACP program.

20 **Mr. Young:** So if I understand that correctly since 2010 there haven't been any full COI
21 inspections of deep draft, only ACP?

22 **WIT:** That's correct.

1 **Mr. Young:** Limited exams. Going back towards the March inspection of the El Faro
2 your team was split up to inspect various areas of the vessel. Any of the team members
3 bring – did they bring any issues or concerns to you as the lead inspector for that
4 inspection that day?

5 **WIT:** The only one was I believe was the steering gear. There was some
6 discrepancies in the rudder angle indicator. But other than that nothing – nothing
7 substantial.

8 **Mr. Young:** And in your preparation for that exam we understood that you were made
9 aware of two open Class recommendations. Is that the first time you were made aware
10 of them or had you been advised of those previously?

11 **WIT:** No, I was just reading through the reports.

12 **Mr. Young:** Is it standard practice when there is an open Class condition that you are
13 notified?

14 **WIT:** No. It's not required as far as I can remember after reading through the [in
15 audible] and stuff. As long as ABS is doing the exams and doing everything, they're
16 doing everything on behalf. We're just checking on it when we do the annual exam.

17 **Mr. Young:** You refer to the 840 book as an aid to assist in the inspection. Is there any
18 requirement to have that sheet or number of sheets completely filled out and retained?

19 **WIT:** Yes. That's in the marine safety manual. And actually after the – we did not fill it
20 out for this MISLE. And the reason for that is we had been – like I said the whole
21 inspection program was switching over to just as job aids. And I forgot that was actually
22 a requirement for us to fill that out. But we did check everything that was on it. And like

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1 I said we have a list that we give to the Master that covers everything that's in that 840
2 book plus the additional requirements since 2001 that's come into effect.

3 **Mr. Young:** Is it standard that the 840 book is not completed on normal ----

4 **WIT:** No it's supposed to be completed.

5 **Mr. Young:** How would it be verified that each of the items were actually completed
6 during an inspection without that book?

7 **WIT:** We actually look through the book to make sure that we caught everything. I've
8 done so many of these exams that over the years, port state control and ACP that I
9 usually don't even look at it until the end of the exam to make sure that we went through
10 everything.

11 **Mr. Young:** And did each of the team members have a copy of this or just yourself?

12 **WIT:** I'm pretty sure that Andy had a copy with him when he went down below. And
13 Commander Meskun had the one that we had in the folder.

14 **Mr. Young:** You also indicated that the port life boat was lowered to the water's edge.
15 The starboard boat was anything done with that if you can recall during that exam?

16 **WIT:** No I went over and looked at it. That boat has a Fleming gear. We operate the
17 Fleming gear. And also looked the actual condition of the davits and the connection
18 points and all of that to make sure everything was in good order.

19 **Mr. Young:** Was that boat cracked out or anything?

20 **WIT:** No it was not. Because like I said it's on the land side. You don't want to, if
21 something happens you don't want it to fall.

22 **Mr. Young:** When the port boat was lowered to the water's edge were there any issues
23 with the winch or the apparatus to lower the boat to the water?

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1 **WIT:** No everything worked good and the limit switches also were tested to make sure
2 they worked.

3 **Mr. Young:** And since October 1st have there been any changes, improvements, or
4 enhancements to your inspection regime on any ACP vessels in Puerto Rico?

5 **WIT:** To be honest since then we have not done any inspections on ACP vessels.
6 That's because Tote is switched over to these new LNG vessels. But we have gone out
7 on those vessels for various issues. To do with LNG propulsion. New ship there's –
8 they go there quirks that you got to work out.

9 **Mr. Young:** And do you have any ACP vessels scheduled to come into Puerto Rico in
10 the next few months or are you completely done with ACP vessels?

11 **WIT:** No we have two Tote vessels that come in. Those are the new LNG ships. And
12 we have two Crowley is bringing in two new LNG cargo vessels here starting next year.

13 **Mr. Young:** Are there, this is getting a little ahead, but are there quals for LNG
14 inspections?

15 **WIT:** That is something that's totally new. So no one has any – I think they're still
16 working on the policy now that we're going to do the inspections. And Jacksonville is
17 working on that quite extensively.

18 **Mr. Young:** Thank you very much. That's all I have.

19 **WIT:** Okay.

20 **CAPT Neubauer:** Mr. Furukawa.

21 **Mr. Furukawa:** Good morning Mr. McMillan. I'm John Furukawa I'm the NTSB group
22 chairman for the survival group. You were asked earlier about journeymen and

1 apprentices you try for a one to one ratio. For October 1st, 2015 how many fully
2 qualified machinery journeymen did you have? So

3 **WIT:** Besides myself one. And that's Mr. Schock.

4 **Mr. Furukawa:** So you had two in San Juan.

5 **WIT:** Yes.

6 **Mr. Furukawa:** And how many apprentices?

7 **WIT:** We have 3 apprentices assigned to the unit.

8 **Mr. Furukawa:** And how many hull, fully qualified hull journeymen did you have at the
9 time?

10 **WIT:** There was, I believe there was two of us. The Chief of Inspections and myself.

11 **Mr. Furukawa:** Okay. And how many apprentices, three?

12 **WIT:** Well three, we have three total apprentices for the whole unit.

13 **Mr. Furukawa:** Okay.

14 **WIT:** But they're not doing qualification for hull or machinery. They're just doing port
15 state on small passenger vessels.

16 **Mr. Furukawa:** So they're apprentices but they're not ----

17 **WIT:** No they're not apprentices for hull or machinery because our port doesn't do that.

18 **Mr. Furukawa:** Okay, thank you. I heard you say, is it worldwide or just within the
19 states that there's a feeling that it's too dangerous to conduct the full launching of a life
20 boat?

21 **WIT:** There's actually an IMO resolution that came out about not doing the – when
22 you're doing the drills not to lower the boats for port state control exams because of the
23 danger because of the releasing gears.

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1 **Mr. Furukawa:** And about what year did that come out?

2 **WIT:** I would have to go back and look. It's been a few years now.

3 **Mr. Furukawa:** Okay. The El Faro she was launched in 1976 and she had been doing
4 full evaluations of launching life boats back in '76.

5 **WIT:** Yes.

6 **Mr. Furukawa:** And it was, I guess it was done safely. But somewhere along the line
7 because of this IMO resolution she had stopped because of new releasing gear, not the
8 old releasing gear?

9 **WIT:** I know that ABS as part of their exam is supposed to lower the vessel, uh lower
10 the boats. So since we're doing the oversight I don't see – didn't see any real need to
11 take them all the way to the water just to – prove proficiency to make sure that they can
12 lower the boats. And the crew's also required every three months to actually lower the
13 boat to the water and operate it, so.

14 **Mr. Furukawa:** To release and operate?

15 **WIT:** Yes.

16 **Mr. Furukawa:** Okay.

17 **WIT:** Because they're operating under SOLAS, SOLAS has a requirement, SOLAS you
18 can do that.

19 **Mr. Furukawa:** Okay. So you're trusting on ACP that life boats are lowered to the
20 water, released and operated?

21 **WIT:** Yeah, like I said just make sure that, like I said ABS is supposed to do that as part
22 of their ACP program. Or part of their surveys.

23 **Mr. Furukawa:** Did you have any reason to believe that they weren't?

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1 **WIT:** No.

2 **Mr. Furukawa:** So you're trusting that through ACP that it's done?

3 **WIT:** That's correct. Because we're not supposed to try to be duplicating survey items,
4 so.

5 **Mr. Furukawa:** Does dropping the life on the dock side into a cradle does that count?

6 **WIT:** They can do that.

7 **Mr. Furukawa:** You mentioned about an ACP disenrollment back in 2010 or 2012.

8 **WIT:** 2010.

9 **Mr. Furukawa:** Okay. And that surveying outfit, it wasn't ABS, what happened to that
10 surveying group? Are they still ACP?

11 **WIT:** As far as I know they're still ACP.

12 **Mr. Furukawa:** Because they were dis – the vessel was dis-enrolled because that
13 surveying group was not doing proper surveys?

14 **WIT:** No, it was basically that the crew was not qualified in their safety management
15 system and the vessel was in very bad condition.

16 **Mr. Furukawa:** But wouldn't the surveyor go out and see that – see the bad condition?
17 It wouldn't have happened overnight, correct?

18 **WIT:** No. From what I understand they had the same surveyor doing all the surveys
19 since the vessel was enrolled into ACP.

20 **Mr. Furukawa:** So there's – is there any recourse for the Coast Guard to dis-enroll a
21 surveying group as being an agent of the U.S. Coast Guard?

22 **WIT:** I believe in the NVIC it talks about that.

23 **CAPT Neubauer:** And sir, we can talk to Mr. Hannon later this afternoon on this.

1 **Mr. Furukawa:** Okay. Thank you Captain. You also mentioned about automation
2 testing that the Coast Guard thought that ABS was doing the testing and I guess it
3 wasn't in the ABS instruction to do it.

4 **WIT:** I'm not sure if it's in their instructions or not, but I know it's in the NVIC. It talks
5 about they do the automation on our behalf.

6 **Mr. Furukawa:** Has that been resolved through Headquarters or between
7 Headquarters and ABS management?

8 **WIT:** Not that I know of. I just talked to local surveyors. I didn't bring it up to
9 Headquarters. I figure it's more of a problem with the local surveyor not knowing that
10 they needed to do it.

11 **Mr. Furukawa:** Are you satisfied that he will do it next time?

12 **WIT:** The people I talked to about it they were doing it after that. And we do spot
13 checks on automations systems.

14 **Mr. Furukawa:** Okay.

15 **WIT:** Which is I think beyond the scope of the ACP program. It's, I don't think – it's not
16 listed in the 840 book. But we do it anyway. Because of the experience we've been
17 having with it.

18 **Mr. Furukawa:** You've been in San Juan since 1998?

19 **WIT:** That's correct.

20 **Mr. Furukawa:** And going back to the El Faro when was the last time that you
21 witnessed the El Faro drop life boats, release it, operate it and bring it back up? Or
22 have you?

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1 **WIT:** Let's see 2006 is when it came into the ACP program. I've only been on it three
2 times. We issued the COI in 2011. On board in 2009 and 2011 and the last one 2015.

3 **Mr. Furukawa:** In 2009 and 2011 do you think you witnessed the operation of the life
4 boats?

5 **WIT:** Of all of these exams I've only looked at the port life boat being lowered to the
6 water because the way the vessel always ties starboard side, or always ties starboard
7 side to.

8 **Mr. Furukawa:** For the port life boat was it lowered to the water, released, operated
9 and then -----

10 **WIT:** I don't remember on the 2009 whether that was the case or not. But in our
11 activity it said I've always lowered it to the water.

12 **Mr. Furukawa:** Thank you. For Coast Guard oversight ACP program, understand that
13 Coast Guard inspector has to attend at least 10 percent of the ACP surveys. So with
14 the ACP surveys in San Juan have the Coast Guard inspectors attended 10 percent of
15 the ACP surveys there?

16 **WIT:** No we have not. Because usually we got a late notice that conflicted with other
17 work that we had to do.

18 **Mr. Furukawa:** Can the Coast Guard – do you have recourse to tell the surveyor or the
19 company that they cannot do the ACP until the Coast Guard inspector can attend?

20 **WIT:** No. As far as I know we can't do that.

21 **Mr. Furukawa:** Okay. Since the ACP program has come into effect has there been
22 any effect on the knowledge or experience the junior Coast Guard marine inspectors,
23 because they're not conducting you know full two day COI's?

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1 **WIT:** I would say probably yes. But we still have areas in the country where we still do
2 full COI's on vessels and not ACP. Those are getting less and less. So I would in some
3 regards it's less training opportunities for our inspectors.

4 **Mr. Furukawa:** Okay.

5 **WIT:** And that was brought up when we started doing the ACP back in '95 I think it was.

6 **Mr. Furukawa:** And in a COI under lifesaving it lists the davits, the life boats and the
7 life rafts. And the boxes for a full weight test, you know for dates, a full weight test, the
8 light weight test, falls renewed and the falls end to end are blank.

9 **WIT:** Yes. Anything that Class does on our behalf we take off the COI. So all the
10 boiler inspections and stuff that's all taken off. Dry docking dates are taken off.
11 Lifesaving, that's all taken off. And you have to refer to ABS records for that
12 information. And if a vessel gets dis-enrolled then we have to take that information from
13 the Class society provides us and we have to load them back into MISLE.

14 **Mr. Furukawa:** But ABS is acting as an agent of the Coast Guard.

15 **WIT:** That's correct.

16 **Mr. Furukawa:** So why are those dates taken off?

17 **WIT:** Because they're – actually our policy says we take that off our COI – that we take
18 that off COI. Because Class is maintaining all those records so it's not a duplication of
19 effort.

20 **Mr. Furukawa:** It's above your pay grade? Above your pay grade?

21 **WIT:** Yes.

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1 **Mr. Furukawa:** How many, for your own experience from 1988 or 1991 as a marine
2 inspector how many vessels do you survey or inspect that have open life boats and
3 gravity davits?

4 **WIT:** Just U.S. flagged vessels.

5 **Mr. Furukawa:** Just U.S. flagged vessels.

6 **WIT:** Yes. Well I take that back. When I was starting with port state control back in the
7 early 90's we used to have some foreign flagged vessels came in with open life boats.
8 But since those vessels are being replaced anything after 1986 has to have enclosed
9 life boats. That's a SOLAS requirement.

10 **Mr. Furukawa:** Okay. So how many vessels for today, how many vessels do you
11 inspect that have open life boats?

12 **WIT:** Well all of those vessels have been taken out of port, but we had all the Horizon
13 Line vessels that came in to San Juan and also the Tote vessels and Sea Star when
14 they were coming in.

15 **Mr. Furukawa:** Okay. A number of vessels today have open life boats that you see in
16 San Juan?

17 **WIT:** None right now because all of those vessels went away.

18 **Mr. Furukawa:** Okay.

19 **WIT:** They've been replaced by LNG.

20 **Mr. Furukawa:** Okay.

21 **WIT:** And Horizon Lines went – they went out of business.

22 **Mr. Furukawa:** Okay. So more open life boats?

23 **WIT:** No more open life boats.

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1 **Mr. Furukawa:** Okay. But when you were seeing U.S. flagged vessels with open life
2 boats it was only U.S. flagged vessels, no foreign flagged vessels?

3 **WIT:** That's correct.

4 **Mr. Furukawa:** Since 1986 or?

5 **WIT:** Umm, talking about older vessels. SOLAS vessels built after 1986 required to
6 have closed life boats. Anything before that they're grandfathered as long as they don't
7 do a major modification to the vessel. And they're allowed to have. But all those older
8 vessels are going away.

9 **Mr. Furukawa:** Okay.

10 **WIT:** Or gone away I should say. I haven't seen anything. There are probably still
11 some of them out there that still have it. But probably very few.

12 **Mr. Furukawa:** Okay. So since 1986. Thank you very much. That's all I have.

13 **CAPT Neubauer:** Mr. Roth-Roffy.

14 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Good morning, sir. Just a few questions for
15 you. I would like to explore some of the issues related to Coast Guard COI full exams
16 and ABS ACP surveys. And I believe you have stated previously that you believe that
17 they are equivalent if they're properly implemented. And that implementation is kind of
18 dependent on skills and quality of the surveyor, is that correct?

19 **WIT:** That and also the company safety management system. To make sure that
20 they're doing what they're supposed to be doing.

21 **Mr. Roth-Roffy:** Okay. I don't follow that.

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1 **WIT:** Well the – if the company is doing what they’re supposed to it makes it a lot
2 easier for the inspectors and also the surveyors to do their job and not having to write
3 up large quantities of 835 or Class, conditions of Class.

4 **Mr. Roth-Roffy:** But in terms of the differences between a Coast Guard full COI
5 inspection and an ABS ACP certification or survey are they equivalent?

6 **WIT:** I would say yes.

7 **Mr. Roth-Roffy:** I would like to revisit the automation system checks. When the Coast
8 Guard does a COI do they do 100 percent check of all safety shutdowns and alarms?
9 For example a boiler automation system.

10 **WIT:** Usually during the COI we do, they run through the whole system. And also on
11 annual exams they’ll do spot checks.

12 **Mr. Roth-Roffy:** Now referring to a previously conducted full COI, you would do 100
13 percent, is that correct?

14 **WIT:** That’s correct.

15 **Mr. Roth-Roffy:** Now with ABS when they do automation system checks do they also
16 do 100 percent of all shutdowns and alarms?

17 **WIT:** I have no idea.

18 **Mr. Roth-Roffy:** But you said that you believed they are equivalent of levels of survey
19 versus inspection.

20 **WIT:** Yeah, I’m not sure what they’re actually – what their procedures say.

21 **Mr. Roth-Roffy:** In regarding the lowering of the life boats. The vessel typically moors
22 starboard side to.

23 **WIT:** That’s correct.

1 **Mr. Roth-Roffy:** Which makes it impossible or difficult to lower the starboard boat to
2 the water's edge or to the pier. Has there been any consideration in the past about of a
3 starboard life boat being never tested because the vessel always mooring starboard
4 side to, that only the port side life boat was being lowered?

5 **WIT:** I'm not sure how the vessel is moored in Jacksonville so I don't. Because most –
6 some of their exams are done up here in Jacksonville, some of them down in San Juan.
7 So I don't know if the vessel – if the boat ever got really looked at.

8 **Mr. Roth-Roffy:** Does the vessel have ramps on the port side? Cargo loading and
9 unloading ramps for RO-RO cargo on the port side?

10 **WIT:** Yeah, they're all on the starboard side.

11 **Mr. Roth-Roffy:** So do you think they could do moored ----

12 **WIT:** No. Unless they were doing something for a survey. Sometimes they'll, and they
13 had done this in San Juan, they'll take the vessel out of service during the slow season
14 to do some work on it.

15 **Mr. Roth-Roffy:** During the annual oversight of ABS, could you describe a little bit
16 more about the level that you, in addition to the sampling or the 840 book guidance, in
17 terms of checking the documents that ABS has, the survey documents, do go in detail
18 review these documents, or do you just verify that they have been completed?

19 **WIT:** No I actually take and relook at what the documents says to make sure that
20 they're accurate for the equipment they have on board. So when we go around we can
21 look at the equipment and make sure it's there. I also look at their – make sure the
22 dates, dates are correct, or [in audible] dates if they need to be. On the load line
23 certificate we actually verify their loading computer, they have it listed on there. We

1 verify the software version that they have on board. That's about the in depth that we
2 do it. We just verify that they're accurate.

3 **Mr. Roth-Roffy:** So for example the ABS annual machinery survey would you just
4 verify that that had been completed or would you actually go in and access the checklist
5 provided?

6 **WIT:** No, we don't look at the checklist. We just look at the – they have a report of all
7 the surveys that they've done and make sure that they were completed. They'll have, if
8 they're outside their survey dates they'll be red or it may be yellow because they're
9 coming up on being due. So I just verify that all of that stuff has been done.

10 **Mr. Roth-Roffy:** Do you ever notice any issues with equipment surveys that are out of
11 date?

12 **WIT:** No. They've always been within date.

13 **Mr. Roth-Roffy:** And there's been a little bit of discussion about concerns or problems
14 with the ACP program. And I believe you mentioned in response that the MITO's had
15 discussed a particular issue related to auditor training. Is there in fact some kind of
16 MITO conference or marine inspection – marine inspection training officer I believe is a
17 MITO?

18 **WIT:** Yes.

19 **Mr. Roth-Roffy:** Do you guys have some kind of an annual conference that you are
20 able to discuss issues with the ACP and training issues related to inspectors?

21 **WIT:** No like I said we do a phone conference once a month. And once a year we do a
22 get together and talk about different training issues. It's not just ACP it's all training
23 issues. We've been pushing a lot of initiatives to help improve training. And we actually

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1 have a, what did you call them? Like a training specialist up in CVC now. I'm not sure
2 exactly what his title is, but he was a training officer down in Texas City and he took that
3 job. He's been doing some great things with the training that we need for different
4 things. And auditor training is one we just brought up last Thursday is what we're going
5 to try to do with that.

6 **Mr. Roth-Roffy:** So that was during your monthly conference call that issue was
7 raised?

8 **WIT:** That's correct.

9 **Mr. Roth-Roffy:** And who is the program manager for the training of marine
10 inspectors?

11 **WIT:** That is Keith Core [sic] is his name.

12 **Mr. Roth-Roffy:** Which office of the Coast Guard?

13 **WIT:** CVC, he's a civilian.

14 **Mr. Roth-Roffy:** And regarding ACP issues, specific ACP issues do you have any type
15 of special portion of the training conference that addresses that or how are those issues
16 addressed, raised and addressed?

17 **WIT:** We really haven't been discussing ACP too much during any of those
18 conferences. It's more of basic training is what we're looking at for the inspectors.
19 We're trying to – we're building on the program. All of this is mandated as part of the
20 2010 Coast Guard authorization act. So we're trying to improve the whole program.
21 Which we've made great strides. It's going to take a while to bring it all up.

1 **Mr. Roth-Roffy:** Okay. I'm sorry. Could you describe in a little more detail the 2010
2 authorization act and what sort of issues that are supposed to be corrected or
3 addressed by the Coast Guard?

4 **WIT:** That has to do with training. It also has to do with who's qualified to be the Chief
5 of Prevention. And also investigation issues. So it's bringing that in. Also talking about
6 the training requirements for our inspectors to be the same as the Class surveyors. So
7 we're looking into that. So we're moving that direction. We've had a lot of work done
8 on that over the – since 2010.

9 **Mr. Roth-Roffy:** And what's the forum for the work that's being done to improve
10 inspector training qualifications? Is that through that MITO annual conference, or how is
11 that being managed?

12 **WIT:** Through the monthly conference and through the annual conference.

13 **Mr. Roth-Roffy:** And when was the last annual conference that you attended?

14 **WIT:** September of last year I believe it was. Yeah, September.

15 **Mr. Roth-Roffy:** And Captain Furukawa asked you about the targeted goal for
16 attending ABS surveys.

17 **WIT:** Yes.

18 **Mr. Roth-Roffy:** In San Juan. And I believe 10 percent is mentioned. Is that a
19 mandated attendance percentage or is that an internal San Juan target?

20 **WIT:** No that's policy. I think, either the marine safety manual or the NVIC talks about
21 it.

1 **Mr. Roth-Roffy:** And you mentioned that you had not reached that target. Have you
2 raised this concern or issue with the ACP program management about whatever issues
3 are causing you to not meet that target?

4 **WIT:** No. Honestly San Juan is a pretty busy port. So just haven't – haven't really
5 thought about it that much.

6 **Mr. Roth-Roffy:** So ACP is a less important mission for the San Juan office?

7 **WIT:** No it's not less important. It's just that with the issues that, not having issues with
8 the operators down there like I said with Tote and stuff, it's not – I guess we wouldn't put
9 it as high priority as actually having gone to a COC on a tank vessel.

10 **Mr. Roth-Roffy:** And do you know if other ports are experiencing problems reaching
11 the 10 percent targeted attendance at ABS surveys? Or is it just a San Juan problem?

12 **WIT:** I have no idea what the other ports are doing.

13 **Mr. Roth-Roffy:** Regarding inspections of older vessels, for example the El Faro was
14 approximately 40 years old. Are you aware of any Coast Guard programs to provide
15 additional focus on specific equipment or hull items for older vessels?

16 **WIT:** If a vessel, Headquarters can look at vessels and they do a risk matrix, and they
17 decide which vessels should be targeted. On ACP they can get inspected on 6 month
18 intervals. So they do the annual then 6 months later we can do it. And there's a list that
19 comes out every year that tells us which vessels are on that program.

20 **Mr. Roth-Roffy:** So the vessels on the program – are any of them on that matrix list
21 because of age of the vessel?

22 **WIT:** I would imagine the age and also the deficiencies on the vessel.

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1 **Mr. Roth-Roffy:** And are you aware of any focused areas on older vessels specifically
2 for example boilers, turbines or other critical machinery that could be given additional
3 focus during surveys and inspections?

4 **WIT:** No I don't know of anything like that. All we're told is that we need to go out –
5 back out and do like a same scope as an annual exam on a vessel.

6 **Mr. Roth-Roffy:** Do you know, sir, if the El Faro was on a targeted matrix for additional
7 or survey or inspection look?

8 **WIT:** No there was not.

9 **Mr. Roth-Roffy:** Thank you very much. Captain.

10 **CAPT Neubauer:** Thank you. Mr. McMillan if the El Faro had been on the targeted list
11 for increased ACP oversight at the time you did your last survey, would you have done
12 anything differently?

13 **WIT:** We would look a little harder to make sure that they were in compliance. The
14 whole goal is to make the ship, when the ship leaves port that it's in a safe condition.

15 **CAPT Neubauer:** But there would be no specific testing requirements? It would be just
16 more diligence?

17 **WIT:** More diligence.

18 **CAPT Neubauer:** In your experience is it generally more difficult to hold an ACP vessel
19 accountable for safety compliance under the ACP program than a traditional Coast
20 Guard inspection regime?

21 **WIT:** I don't think – don't believe so.

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1 **CAPT Neubauer:** And under Coast Guard policy is it your understanding that a priority
2 port state control exam or a tank vessel certificate compliance exam, would that take
3 priority over an ACP exam under Coast Guard policy?

4 **WIT:** No, no it wouldn't. We – if they made application or they needed the exam we
5 would have been there. We would not have put it off.

6 **CAPT Neubauer:** I'll just – I think I need to rephrase the question. If you had a
7 pending priority port state control exam or the opportunity to provide oversight of an
8 ABS ACP survey, what would be the priority?

9 **WIT:** The U.S. flag vessel would take precedent.

10 **CAPT Neubauer:** So are you saying if you received an over – an invite from ABS to
11 attend and oversee a Class survey of an ACP exam, vessel that would be a priority over
12 a port state control exam?

13 **WIT:** Probably not on that because we – on COC's those are mandated by law to
14 attend those.

15 **CAPT Neubauer:** Thank you. At this time I would like to go to the parties in interest
16 and we're only planning to do one round. So please ask any questions you have at this
17 time. Tote?

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

19 **CAPT Neubauer:** ABS?

20 **ABS:** Can we take a short break please?

21 **CAPT Neubauer:** Yes, sir. The hearing will recess and reconvene at 1230.

22 *The hearing recessed at 1213, 25 May 2016*

23 *The hearing was called to order at 1230, 25 May 2016*

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1 **CAPT Neubauer:** The hearing is now back in session. Mr. McMillan before we
2 continue with ABS we would like to clarify one point from earlier testimony. And
3 Commander Odom is going to lead the question.

4 **CDR Odom:** Good morning. I would like to steer you into Exhibit 236 page 22. And
5 this clarification is specific to the previously mentioned 10 percent rule that – this is the
6 marine safety manual which is guidance for marine inspectors and OCMI's in the
7 performance of ACP exams. Earlier you had stated that you had thought there was a
8 10 percent rule for the OCMI as a target for the OCMI in attending statutory exams,
9 annual, periodic, and oversight exams, is that correct?

10 **WIT:** That's correct, sir.

11 **CDR Odom:** Okay. So for clarification in Exhibit 236 on page 22 what is the title of that
12 section?

13 **WIT:** Title of the section?

14 **CDR Odom:** Yes. The title of that section, what is it titled?

15 **Counsel:** Can we just clarify. There are three different sections on page 22.

16 **CDR Odom:** Okay. On the section, let me get to there. The Section 7.

17 **WIT:** It says vessels in dry dock, at dry dock or UWILD oversight examinations.

18 **CDR Odom:** Okay. What is a UWILD?

19 **WIT:** Underwater survey in lieu of a dry dock.

20 **CDR Odom:** And in that section what does it say – state about 10 percent?

21 **WIT:** Okay. Let's see. Oversight may be tailored to the level as appropriate to
22 convince the OCMI that the provisions of the ACP are met. Historically this has been
23 done with roughly 10 percent of general oversight.

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1 **CDR Odom:** And that would be specific to dry dock?

2 **WIT:** That's correct.

3 **CDR Odom:** And UWILD exams?

4 **WIT:** Yes.

5 **CDR Odom:** Alright. I would also like to take you to the next page, page 23.

6 **WIT:** Okay.

7 **CDR Odom:** And the title of this section is for new construction and major
8 modifications. And would you clarify A?

9 **WIT:** A minimum of 10 percent of each new construction or major modification product
10 surveys that occur, project surveys that occur in an OCMI will be subject to direct Coast
11 Guard oversight. Oversight must be increased to at least 40 percent for passenger
12 vessels. OCMI must determine the scope of the oversight. Check the primary
13 lifesaving equipment that must be approved by the Coast Guard. Refer to 46 C.F.R.
14 subchapter W and the U.S. Coast Guard supplement if applicable. And 3 meet the –
15 with the ASC surveyor in charge and vessel owner to develop a mutual acceptable
16 oversight plan at the start of each project. No specific format is required, but an
17 oversight plan must be sufficiently detailed to meet the oversight goals and avoid
18 miscommunication.

19 **CDR Odom:** Thank you. And so for the purpose of 10 percent that would be specific to
20 new construction vessels. And also take you to page 25. And that would be the last
21 section on that page would be Section L. And can you just quickly summarize what that
22 section is? The title of the section? And also what the 10 percent is applicable to in
23 that section.

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1 **WIT:** ACP authorized classification society quality audits. Coast Guard represents the
2 quality management auditor training. Coast Guard representatives quality systems
3 auditor training will reserve 10 percent of internal and external audits conducted at the
4 ASC corporate or local offices. Quality audits including vessel records audit may be
5 performed at the request of the OCMI by the project manager or LORACS. To follow up
6 on serious conditions of Class noteworthy, non-conformities. Really that's saying that
7 we're going to attend 10 percent of the audits.

8 **CDR Odom:** Right, thank you. And then the only other area in the marine safety
9 manual that that 10 percent is mentioned is on page 18.

10 **WIT:** And it says the LORACS is supposed to do 10 percent oversight of the ACP
11 program.

12 **CDR Odom:** Oversight of what?

13 **WIT:** Records I believe it says in there. Survey records and corrective actions initiated
14 during the Coast Guard program oversight.

15 **CDR Odom:** Thank you very much. And so to summarize this there is no rule for 10
16 percent oversight of statutory exams performed on board the vessels on behalf of the
17 Coast Guard by the OCMI's, correct?

18 **WIT:** No it's not.

19 **CDR Odom:** Okay.

20 **WIT:** On page 17 it's not mentioned what the OCMI is supposed to do, the 10 percent
21 oversight.

22 **CDR Odom:** Page 17?

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1 **WIT:** Yeah, 17. The cognizant OCMI, it doesn't mention in there that we have to do 10
2 percent oversight.

3 **CDR Odom:** Can you give me the specific reference please?

4 **WIT:** B17 is Coast Guard responsibilities. One is cognizant OCMI and it's not listed
5 there that OCMI will do 10 percent oversight of statutory.

6 **CDR Odom:** Thank you very much.

7 **CAPT Neubauer:** Thank you for helping to make that clarification. We will now go to
8 ABS for questions.

9 **ABS:** Good afternoon Mr. McMillan. My name is Jerry White I represent ABS. I'm
10 going to work with probably two exhibits, Exhibit 82 and Exhibit 127. If you have Exhibit
11 82 available that would be helpful.

12 **CAPT Neubauer:** And Mr. McMillan we heard that -- having some trouble hearing you.
13 If you could get a little closer to the microphone please.

14 **WIT:** Okay.

15 **Counsel:** What was the second exhibit that you would be working with, sir?

16 **ABS:** 127, 127.

17 **Counsel:** Thank you.

18 **ABS:** Mr. McMillan yesterday Steve Hohenshelt a surveyor with ABS testified. He
19 indicated that as far as the coordination or liaison between ABS and U.S. Coast Guard
20 Sector San Juan he commented that he thought the relationship was good. Do you
21 agree with that assessment?

22 **WIT:** Yes, sir.

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1 **ABS:** He further indicated that to the extent that there were problems that
2 communication by phone or by email would be effective. Do you agree with that
3 assessment?

4 **WIT:** Yes, sir.

5 **ABS:** Today you were asked with regard to what notice you may receive from ABS
6 concerning surveys that may be due to be done aboard the El Faro for example. You
7 indicated that typically 1 or 2 days notice is often provided, correct?

8 **WIT:** Majority of the time that's correct.

9 **ABS:** And Mr. Hohenshelt yesterday indicated that ABS would provide the notice to the
10 Coast Guard in accordance with what notice the owner gave ABS.

11 **WIT:** And that's my understanding, he said he would let us know as soon as he got
12 notified.

13 **ABS:** There's been some further discussions regarding a 14 day notice requirement.
14 Do you recall that?

15 **WIT:** Yes I do.

16 **ABS:** Looking at Exhibit 82, the supplement, excuse me NVIC 2-95, could I direct your
17 attention to page 16 of 33 please? And that's actually NVIC 2-95, change 2.

18 **WIT:** Okay.

19 **ABS:** And just to give you an overview before I direct your attention to a particular
20 section. There's a table of contents there under the caption responsibility of parties. Do
21 you see that?

22 **WIT:** Yes I do.

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 **ABS:** And under duties and responsibilities of vessel owners and operators there's a
2 particular provision regarding scheduling Coast Guard inspections. Do you see that in
3 the table?

4 **WIT:** Yes I do.

5 **ABS:** And now I'm going to ask you to take a look at paragraph 1.3 scheduling ACP
6 surveys. Would you take a moment and read that to yourself please?

7 **WIT:** Okay.

8 **ABS:** For the sake of the record paragraph 1.3 sec – 1.3 states as follows: except in
9 the case of casualty damage or other unforeseen contingencies. Owners should notify
10 the ACP Classification surveyor at least 14 days in advance of the commencement of a
11 survey so as to allow for adequate notification by the Classification Society to the
12 cognizant OCMI. Do you see that exception?

13 **WIT:** Yes, sir.

14 **ABS:** And so would it be fair to say, a fair reading of the requirements under 1.3
15 scheduling ACP surveys indicates that it's the owner's obligation to notify the ACP
16 Classification surveyor within 14 days of the survey, correct?

17 **WIT:** Yes, sir.

18 **ABS:** So that's not an obligation of ABS or the Classification Society, it's an obligation
19 of the owner, correct?

20 **WIT:** The way that reads, yes, sir, that's correct.

21 **ABS:** It further states that the owners should notify the ACP Classification Society.
22 And it would be a fair statement to say it doesn't require the owner to provide the notice
23 within 14 days to get a survey scheduled.

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1 **WIT:** Yeah it doesn't say shall, so.

2 **ABS:** As a follow up to a question that was previously asked as far as your attendance
3 or the Coast Guard's attendance at a particular survey, do you consider it within the
4 Coast Guard's authority to ask for the deferment or delay of a particular survey so they
5 could attend?

6 **WIT:** I would say – I don't know if there's any policy on that. But I would never ask
7 someone to delay a survey. Because the way the ACP program is set up it's supposed
8 to an alternate compliance. So it should be verifying that they actually did the exam.
9 Not actually making sure they would get there and attend it.

10 **ABS:** Could I direct your attention to page 2 of Exhibit 82 under paragraph 6,
11 background.

12 **Counsel:** Can you repeat the location of this?

13 **ABS:** Sure. On Exhibit 82 page 2, paragraph 6. Mr. McMillan take a moment to review
14 the paragraph please.

15 **WIT:** Okay.

16 **ABS:** And based on your reading in that paragraph, sir, would you agree with me that
17 the purpose of the Coast Guard regulatory reform initiative was in fact to use the ACP
18 program to reduce Coast Guard inspection workloads?

19 **WIT:** That's what it was for, sir.

20 **ABS:** And in your assessment has that been successful? Has the ACP program
21 reduced Coast Guard workloads in that area?

22 **WIT:** Yes it has.

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1 **ABS:** And similarly further down in that paragraph, paragraph 6 it indicates, and I
2 quote, a U.S. supplement to ABS rules for Classification of steel vessels, open paren,
3 U.S. supplement, closed paren, was developed to address those areas in which current
4 Coast Guard requirements were not embodied in either ABS rules or international
5 conventions or in the case of international conventions those areas requiring
6 interpretation by a flag administration. And does that comport with your understanding
7 of the purpose of the supplement?

8 **WIT:** Yes, sir.

9 **ABS:** Bear with me one moment please. Under page 3, or on page 3 in the same
10 exhibit there's a paragraph entitled A, equivalent level of safety. Do you see that?

11 **WIT:** Yes, sir.

12 **ABS:** And would you agree with me that that paragraph indicates that the ACP and
13 Classification authorization allows the Coast Guard to avoid duplicating the
14 Classification Society's efforts in plan review and surveying structures, machinery and
15 equipment?

16 **WIT:** That's correct.

17 **ABS:** So the essence of the whole ACP program is to make sure the owner isn't
18 subjected to duplicative requirements and surveys, correct?

19 **WIT:** That's correct, sir.

20 **ABS:** Mr. McMillan I'm finished with Exhibit 82. Would you take a look at Exhibit 122,
21 excuse me, Exhibit 127? And the activity summary report dated March 6, 2015. I don't
22 believe the page is actually referenced on the exhibit. It looks like it's page 120. Are we
23 on the same exhibit?

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1 **WIT:** I think so.

2 **ABS:** And this activity summary report records ACP oversight activity performed by you
3 on March 6th, 2015, correct?

4 **WIT:** That's correct.

5 **ABS:** And this was approximately 2 months after the annual machinery and annual hull
6 survey was performed by Steve Hohenshelt of ABS, correct?

7 **WIT:** That's correct, sir.

8 **ABS:** And would it be accurate to say that it was your opinion stated on page 122 of
9 that report that, I quote, in my opinion, the vessel was found fit for route and service as
10 indicated on the certificate of inspection at the time of inspection. Issued CG-858 to
11 update operators and current address, endorsed the COI and ISSC, departed vessel,
12 inspection complete. Is that correct?

13 **WIT:** That's correct.

14 **ABS:** So while your team attended the El Faro in March 2015 the team considered it fit
15 for its route and service?

16 **WIT:** That's correct.

17 **ABS:** And if we look on page 121 in the document as far as the inspection results
18 there's an indication of the systems that were inspected, correct?

19 **WIT:** Yes, sir.

20 **ABS:** And as a follow up to a prior question from the MBI did you find any evidence of
21 any systemic failures or any areas on the vessel that warranted further attention?

22 **WIT:** No, sir. Other than the steering.

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1 **ABS:** And the steering was a difference between what the rudder angle indicator
2 stated and the actual rudder command, correct?

3 **WIT:** That's correct.

4 **ABS:** And you considered that to be a minor deficiency?

5 **WIT:** Yes, sir. I think we called the Class surveyor to come down to take a look at it. I
6 believe, I'm not sure.

7 **ABS:** In the general discussion on the ACP program have you made any specific
8 recommendation concerning changes to the ACP supplement that you suggest need to
9 be made?

10 **WIT:** No, sir.

11 **ABS:** Are you aware of that process or how that might be attended to?

12 **WIT:** It's either, I think it's in the NVIC that talks about it.

13 **ABS:** That wouldn't be within your job description of duties, correct?

14 **WIT:** If I found something that was concerning, yes I would bring it up.

15 **ABS:** And if I could get back to the 14 day notification reference in the supplement, are
16 you aware of any specific regulation or requirement that requires ABS to tell the Coast
17 Guard that a survey is going to be conducted within 14 days?

18 **WIT:** No, sir.

19 **ABS:** And just to clarify. The notice would be 14 days in advance of an inspection?

20 **WIT:** That's correct.

21 **ABS:** Thank you Mr. McMillan. I have nothing further. Thank you.

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

23 **Ms. Davidson:** No questions, sir.

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1 **CAPT Neubauer:** Are there any final questions for Mr. McMillan? Alright. For the
2 record Mr. McMillan can you confirm that when you referred to Andy in your testimony
3 today that you were referring to Chief Warrant Officer Andrew Schock?

4 **WIT:** That's correct, sir.

5 **CAPT Neubauer:** Mr. McMillan you are now released as a witness at this Marine
6 Board of Investigation. Thank you for your testimony and cooperation. If I later
7 determine that this board needs additional information from you I will contact you
8 through your counsel. If you have any questions about this investigation you may
9 contact the Marine Board Recorder, Lieutenant Commander Damian Yemma. Do any
10 of the PII's have any issues with the testimony that we just received?

11 **Tote Inc:** No, sir.

12 **Ms. Davidson:** No, sir.

13 **ABS:** No, sir.

14 **CAPT Neubauer:** The hearing will now recess and reconvene at 1:45.

15 *The hearing recessed at 1256, 25 May 2016*

16 *The hearing was called to order at 1347, 25 May 2016*

17 **CAPT Neubauer:** The hearing is now back in session. For the record we had to move
18 – make a witness scheduling change. Mr. Andrew Schock is now going to go later this
19 afternoon. And we will now hear testimony from Mr. John Hannon the U.S. Coast
20 Guard Headquarters Office of Commercial Vessel Compliance.

21 **LCDR Yemma:** Would you please stand and raise your right hand. A false statement
22 given to an agency of the United States is punishable by a fine and or imprisonment
23 under 18 United State Code Section 1001, knowing this do you solemnly swear that the

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1 testimony you're about to give will be the truth, the whole truth and nothing but the truth,
2 so help you God?

3 **WIT:** I do.

4 **LCDR Yemma:** Thank you, sir. Be seated please. Sir, could you please start by
5 stating your full name and spelling your last name?

6 **WIT:** John Hannon, H-A-N-N-O-N.

7 **LCDR Yemma:** And counsel?

8 **Counsel:** Travis Noyes, N-O-Y-E-S.

9 **LCDR Yemma:** Thank you. Mr. Hannon can you please tell the board where you're
10 currently employed and what your position is?

11 **WIT:** I'm currently employed at Coast Guard Headquarters in Washington, D.C. at the
12 office of commercial vessel compliance. And I am a program manager for the U.S. flag
13 commercial vessel inspection program.

14 **LCDR Yemma:** Can you also tell the board some of your general responsibilities in that
15 position?

16 **WIT:** I have specific responsibility for management of all of the Coast Guard inspection
17 of U.S. Government owned Naval Auxiliaries. Which would be Military Sealift
18 Command, the Maritime Administration and NOAA. And in addition to that I have
19 general management over the U.S. flag, which would include commercial vessels of all
20 sorts. And then within that staff we have individuals that are given specific vessel types
21 of their specialty. My specialty is focused on large ocean going international vessels.

22 **LCDR Yemma:** Can you also tell the board about your prior relevant work experience
23 please?

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1 **WIT:** Sure. Without getting into a huge amount of detail in my background. I
2 graduated from the State University of New York Maritime College. And I took
3 commission in the Coast Guard when I graduated as an officer in the Coast Guard. I
4 served as a marine inspector in the ports of New York and Baltimore. And then I also
5 served at the Coast Guard training center in Yorktown, Virginia as an instructor. I left
6 active duty in 1989 and then I accepted a position as a Federal employee at Coast
7 Guard Headquarters, what was then called the Office of Merchant Vessel Inspection.
8 And it has gone through various name changes, but it's essentially the same office
9 where I'm currently employed today.

10 **LCDR Yemma:** Sir, what is your highest level of education completed?

11 **WIT:** I have a Master degree in quality systems management from the National
12 Graduate School and I'm a graduate of the U.S. Naval War College.

13 **LCDR Yemma:** Thank you, sir. Commander Odom will have some questions for you
14 now.

15 **CDR Odom:** Good afternoon Mr. Hannon. I'm Commander Michael Odom. All the
16 questions that I have for you today are in regards to your experience in training and
17 responsibilities associated with the alternate compliance program. After I complete my
18 questions I will turn the questions back to Captain Neubauer and he will allow follow up
19 questions from the board members. If at any time you need a break just ask and
20 Captain Neubauer will consider your request. Do you have any questions before we
21 start?

22 **WIT:** No.

1 **CDR Odom:** Thank you. Going into a little bit more detail about your experience and
2 you had just stated in your opening that you were hired on with a different office or it's
3 changed over the years. Can you talk a little bit more about your duties and how
4 they've changed over the years or how the office at Headquarters has changed and
5 how that's affected your position?

6 **WIT:** Well when I started working in 1989 my original focus actually was for a position
7 that was to integrate the recreational boating factory visit program into the marine safety
8 program. So I spent about a year consolidating that and getting that set up. And as it
9 turned out in 1990 Desert Storm happened and all of the reserve force ships were
10 activated. And my last assignment had been at Yorktown was teaching defense
11 readiness planning. Because of my sort of background in the defense department area
12 plus the Naval War College background I was given the job of managing the activation
13 of the Naval Reserve vessels, auxiliaries at that time. So I spent a couple of years
14 doing that. And then the post conflict work that was associated with that. And then
15 slowly I guess I was, you know assimilated more into the general duties of the office.
16 The office itself was reorganized in the middle 90's and renamed, whatever our
17 acronym was, MOC, the office of compliance. So the Coast Guard took a slightly
18 different focus from what had just traditional U.S. flag inspection and we created a
19 division that specifically focused on foreign vessel inspection, port state control. But I
20 was not part of that. So my division used to incorporate foreign vessel as well as U.S.
21 flag vessel inspection and then we spun off foreign vessel inspection to a separate
22 division. But the division I'm in has essentially kept the same work since I started there

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1 in '89. It's just really been a matter of who above us in the chain was changed more so
2 than the division that I worked in.

3 **CAPT Neubauer:** Sir, could you pull the microphone a little closer? Thank you.

4 **CDR Odom:** And in your division is the alternate compliance program oversight one of
5 your duties? If so what function do you specifically perform as it relates to the alternate
6 compliance program?

7 **WIT:** So the alternate compliance – I'm sorry. So the alternate compliance program
8 was conceptualized in the early 90's. I was not the project officer for that. And when it
9 was all set up if you will when the individuals who had set it up departed, they were
10 military personnel I inherited management of that program as part of my general duties
11 in managing deep draft U.S. flag inspection.

12 **CDR Odom:** In your current role do you have any involvement with the international
13 maritime organization?

14 **WIT:** I do. I'm the alternate head of delegation to the triple I subcommittee which is the
15 implementation of IMO instrument subcommittee. And I've been in that capacity for
16 probably about a dozen years. And then I also represent the United States as a
17 member of a working group for the IMO member state audit's team.

18 **CDR Odom:** And also do you have any involvement with the international association
19 of Class societies, also known as IACS?

20 **WIT:** I am, was the chairman for the last 4 years, but I just completed my duties in the
21 chairmanship. And I'm a member of the IACS quality advisory committee.

22 **CDR Odom:** Thank you for that. In previous testimony it's been revealed that the El
23 Faro was enrolled in the alternate compliance program. Can you give us some

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1 background into the origins of the alternate compliance program? In short how was the
2 alternate compliance program developed and what was it intended to achieve?

3 **WIT:** Well my recollection from it, and I said I wasn't actually the direct project officer
4 for it when it was set up. Was that we had an audit by the Department of
5 Transportation's Inspector General's office. I can't locate a copy of that report, I actually
6 tried to locate a copy. Where it was recommended that the Coast Guard examine
7 whether or not we could reduce duplication of effort between Classifications societies
8 and Coast Guard inspection. And so that sort of led to a series of events which was
9 that the legislation had to be created in order for us to be able to accept the reports of
10 Class societies. And then a rule making project had to be undertaken to create the
11 framework for the alternate compliance program. And then when that was completed
12 policy had to be created for the implementation of the alternate compliance program.
13 So that was all accomplished within the span of probably about 3 years.

14 **CDR Odom:** Was the intent of the program to provide an equivalent level of safety?
15 And in your opinion has that been the case?

16 **WIT:** Well the program was intended indeed to achieve an equivalent level of safety
17 using a different standard. So the ACP program is really two pieces if you will. It is
18 ACP the standard, which is not the regulatory standard in the C.F.R. that we had been
19 using. So it a combination of the Classification society rules, the international
20 regulations and then any supplemental items that the Coast Guard decided to keep
21 which are some things that are unique to the United States, some things a
22 interpretations of the international regulations and some things that are variance of what
23 the Classification society rules are. And then there's ACP the inspection program. So

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1 ACP is then executed through surveys that are carried out by the Class societies using
2 the standards that were agreed upon for the alternate compliance program. And then
3 the Coast Guard carries out oversight of the activities of the Class societies to ensure
4 that they comply with the agreement. And then also we do our own on board
5 verification of the vessels. So it's a layered approach of standards, survey, and
6 oversight. And if you look at it in terms of the complete process if executed in
7 accordance with the agreements, I believe that yes it does achieve an equivalent level
8 of safety.

9 **CDR Odom:** ACP is marked as a time saver within the Coast Guard and a time cost
10 savings as it relates to the regulatory – companies. Is that the case? Do you agree
11 with that?

12 **WIT:** Well a clean reading of the rule making, and as I said I wasn't the project officer
13 for the rule making, was that the intent of the program was to relieve the regulatory
14 burden on the industry through duplicate inspections. If the Coast Guard reaped any
15 benefits it was just a sideline to what was the real purpose which was to relieve the
16 regulatory burden on the industry. We did a study about 2 or 3 years into the program
17 to see what, if any differences there were between the two programs actually. And we
18 had a sample at that point of about 200 vessels that were enrolled in ACP and 200
19 vessels that were not enrolled in ACP that were ACP eligible vessels. And we did fairly
20 extensive analysis, actually Captain Neubauer's division did the analysis. And what
21 finally came out was that there wasn't any significance statistical difference between the
22 two populations in terms of their safety or casualties or any of that. And the savings as I
23 recall to the Coast Guard was one full time equivalent position.

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1 **CDR Odom:** Thank you. We've heard this from the surveyors that have provided
2 testimony, but I would like to get your perspective on this. What is the primary purpose,
3 under ACP what is the primary purpose of a Classification society and the role of the
4 surveyor? And how does their role change when it comes to vessels enrolled in the
5 surveys they do on ACP vessels?

6 **WIT:** So Classification societies verify that ships that want to be classed by them,
7 comply with the rules of the Class society. And it's up to the Class society to structure a
8 program in a way that they feel that they're verifying that the vessel complies with their
9 rules. And that's done pretty much the same way that the Coast Guard would actually
10 approach it through plan review initially and then through survey subsequently. That's
11 the process of Class. And Class is a private enterprise which is done for clients. The
12 other role that Class has fulfilled as a corollary to what they do for Class is that they will
13 verify compliance with statutory requirements. Be they national requirements or be they
14 IMO regulations. And in some cases and in many cases they actually overlap because
15 there are no structural rules if you will for construction of vessels contained in SOLAS.
16 Sorry, coming off a cold here. Off of any Coast Guard regulations affecting incorporated
17 by reference the ABS rules into our rules as the structural rules.

18 **CDR Odom:** So does the expectation of what a Classification society role is changed
19 when it comes to performing delegated functions under the alternate compliance
20 program?

21 **WIT:** No. So that was the whole purpose. Was not to change the role of the Class
22 society, it was to take what they do and then add it on to it the additional functions that
23 were statutory in nature. So that was supposed to be the purpose, was to benefit from

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1 reduction of overlap. Because we were looking at those same items under traditional
2 Coast Guard inspections. We would look at the structure. We would look at the
3 machinery, all the things that were covered under the Class rules.

4 **CDR Odom:** So how are Classification societies surveyors different from Coast Guard
5 marine inspectors? For example, marine inspectors they do inspections. Do they do
6 inspections in the same manner? Does a surveyor do inspections in the same manner
7 as a Coast Guard marine inspector conducting an inspection for certification?

8 **WIT:** They follow a different regime in terms of the scheduling and periodicity. Class
9 societies very often use what's called a continuous survey. The Coast Guard generally
10 took an approach of we would come down and knock out the whole inspection once a
11 year. Whereas the Class society would allow the owner to schedule it to be done in
12 pieces over the course of time. Which facilitates the scheduling of vessels. And
13 especially in I guess in the current economic environment where things are more just in
14 time. It fits into the vessel's operating schedule better. But in terms of the approach
15 that was about really the only difference. In terms of how you physically go about in
16 examining things, I mean it's essentially the same approach. There are some tests that
17 are done that are required in Coast Guard regulations which are not required by Class
18 rules. And those are the sorts of things that we had to sort out when we created the
19 supplement, was you know how often and what kind of test would you do on a particular
20 piece of machinery. In some cases the Class society required tests on things that we
21 did not. In some cases we had test that they didn't require. So those were reconciled
22 during the process of creating the supplement.

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1 **CDR Odom:** Can an authorized Class society take enforcement action against a vessel
2 enrolled in ACP?

3 **WIT:** Well Class society is not a Government agency so they are not authorized to take
4 enforcement action. They can recommend to us that the certificate be withdrawn. It is
5 always their prerogative to remove Class because it's issued by them as a service to
6 their client. And in cases where Class is withdrawn then we would consider withdrawing
7 the statutory certificates.

8 **CDR Odom:** And for a Classification society's authorized to participate in ACP can you
9 describe which functions they may perform on behalf of the Coast Guard?

10 **WIT:** Well they perform all of them except for the human element evaluation that we do
11 every year. So really the people part of it if you will. We do the fire and boat drill. And
12 we also do a cursory examination on the physical part of the ship. We do security, we
13 did not delegate security. The United States is not one of the nations that delegated
14 security to third parties. And I think that's about it really. We pretty much let them do
15 most of what used to be a Coast Guard inspection work on an ACP ship.

16 **CDR Odom:** And who is ultimately responsible for inspection of vessels enrolled in
17 ACP?

18 **WIT:** Well the owner is always responsible for their own vessel primarily. And that's
19 really sort of the baseline if you will of any effective safety program. Is there has to be a
20 commitment on part of the owner to maintain the vessel in conformance with the
21 regulations. There are ways to verify that they do. Inspection is one of them. And of
22 course the other one now is the international safety management code.

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1 **CDR Odom:** So does the Coast Guard expend resources for vessels enrolled in
2 ACP? Can the Coast Guard or could the Coast Guard be eliminated from this
3 compliance program all together or further reduce their role in your opinion?

4 **WIT:** I think the current level of oversight is appropriate for maintaining oversight of the
5 program. I mean it is always a balancing act between allowing individual companies the
6 freedom to take responsibility for the maintenance of their vessels and verification of
7 whether or not they do. So we are constantly evaluating the mix between our oversight
8 program and the delegations that we give. I think that the United States has achieved a
9 good mix in having participated in the creation of the international code for recognized
10 organizations. And having been really one of the primary drafters of that document, you
11 know we tried to incorporate into that program that reflected the program of the United
12 States. So I would like to think that our program has become really the international
13 standard for what's an appropriate level of oversight.

14 **CDR Odom:** So is reducing the Coast Guard's role in the program something currently
15 under consideration?

16 **WIT:** If it is I'm not aware of it.

17 **CDR Odom:** So what happens if there's a disagreement between the Classification
18 society and the Coast Guard? How does your office handle a dispute, as the program
19 manager, or is this something that's handled at the Sector or the District office?

20 **WIT:** It would depend on what the disagreement would be. When it comes to
21 something that's at the policy level then we would handle it. In other words if it would be
22 a baseline requirement for a standard or maybe a procedure. If it's something that is
23 just a matter of is this piece of equipment functional or not functional, is it close to being

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1 working or not working, those are the sorts of subjective judgments that surveyors and
2 inspectors make every day. I would hope the two of them would get together at a deck
3 plate level and then come to some consensus about that. And that's really the way the
4 program is designed to work.

5 **CDR Odom:** Can you just – is there a policy or can you discuss what's supposed to
6 happen if an authorized Class society identifies a deficiency outside the authority to
7 delegate it to them under the program?

8 **WIT:** You mean that they want something corrected beyond the authority they have to
9 correct it?

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

11 **WIT:** So they would bring this to the attention of the Coast Guard because we have the,
12 not authority, as I would hope they would bring it to the attention of any of the flag
13 administrations that they are delegated to perform work for. And then we would engage
14 with the owners and ensure that if it needed correction that it would be corrected.

15 **CDR Odom:** Thank you. Coast Guard policy dictates that all authorized Class
16 societies would delegate a responsibility under the alternate compliance program or
17 members of the international association of Class societies, IACS, can you briefly
18 describe and explain what IACS is?

19 **WIT:** IACS is an association of Classification society members. They have a
20 membership criteria. 46 C.F.R. Part A incorporates what used to be actually the IACS
21 criteria, but is no longer the IACS criteria. So our criteria actually is an excess of the
22 IACS membership criteria present. The society or the IACS really sort of evolved into a
23 rule making body if you will, almost about the same time that ACP came into being,

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1 around the middle 90's. They have put forth standards in the meantime that their
2 members have to comply with. And IACS itself had an auditing system to verify that the
3 members were in compliance with the IACS rules or procedures. The European Union
4 regretfully required that IACS do away with their auditing scheme and compelled them
5 to go with accredited certification bodies that are accepted by IACS. So the auditing
6 scheme is not done by IACS anymore, but it's oversight by IACS. But that's the way
7 they ensure that the individual members of IACS are in compliance with rules and
8 procedures of the association. And there are rules that, you know things like transfer of
9 Class between the societies. Essentially IACS is healthy organization that it creates a
10 level playing field between the member societies so that competition is not based upon
11 quality, but upon service provided.

12 **CDR Odom:** I think you sort of already answered this questions, but just to be clear.
13 How does IACS directly affect the alternate compliance program?

14 **WIT:** Well the IACS rules and procedures are going to be incorporated into the member
15 societies rules and procedures because they have to, they're members of IACS. So as
16 these things roll out the Coast Guard is given the opportunity to review and comment on
17 whether we agree with the rule change or not. And if we don't agree with the rule
18 change then we can opt out of it and we can include what we want into our supplement.
19 So we always have the opportunity to not accept decisions necessarily that are made
20 outside of our control which would be within IACS. As a member of the advisory
21 committee on quality certainly the group that I'm a member of which are industry
22 representatives as well as Governmental representatives we consult with IACS on what
23 we think are appropriate, but IACS is under no obligation to accept our advice. And

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1 IACS very often in fact, quite often puts papers into the international maritime
2 organization whenever they do a rule procedure change and request that the IMO
3 consider adopting it as part of the IMO regulations.

4 **CDR Odom:** Previous testimony has highlighted a financial interest that exists between
5 vessel owners and operators and the authorized Class societies. In your professional
6 opinion and experience does this financial relationship influence the objectivity of the
7 Classification societies as it relates to performing the survey and certification functions
8 that the Coast Guard has delegated to them?

9 **WIT:** Well firstly Class societies themselves are not allowed to be publicly held
10 corporations. So there's no stock issued and there is no economic interest at that level
11 by the ship owners. There is a client based relationship with the Class society and the
12 owner where the owner can select a Class society that has been accepted by the Coast
13 Guard. And it is up to the owner to decide which Class society they wish to choose.
14 We consider them all to be equal. And in that sense the money for the service that the
15 Class society provides is given by the owner to the Class society. The Coast Guard is
16 not an intermediary in that process. But we are entitled under our regulations, or under
17 our agreement with the Class societies to receive a copy of the fee schedule that the
18 Class society charges the owners. But we don't dictate what fees are charged. That is
19 essentially what the Class societies are supposed to compete with each other on is
20 fees, not on the quality of the service that they provide. And they can do that, you know
21 through increased efficiency or whatever it happens to be. But I don't – I think in that
22 sense with oversight by the Coast Guard the fact that the owner pays the society, you
23 know it appears on the face of it to create a situation where you could go shopping for

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1 Class societies if you will. You know play one against the other. But my observation
2 has actually been, and IACS has been a very healthy force in that regard. They have a
3 lot of rules now for transfer of Class that make it pretty difficult to just sort of jump from
4 one to the other without having to rectify the deficiencies that you had under the
5 previous society. So we look at that very carefully. And as a member of the IACS
6 advisory committee I certainly look at it very carefully. And I look at it extremely
7 carefully when we do the observation on their quality audits.

8 **CDR Odom:** So if the Classification societies are a business or not a public, or not for
9 profit, whatever – however they're made up. Why do they compete against one another
10 for market share?

11 **WIT:** I don't know why any company competes against another for market share. It's
12 their competitor companies that choose to be in that business and they compete in that
13 market. We set up a structure Governmentally where if you meet the minimum
14 standards you can be recognized by the Coast Guard as a Class society that can
15 conduct inspections on U.S. vessels. The fact that they compete with each other I don't
16 think is relevant to that.

17 **CDR Odom:** Can you describe, going back to IACS, what a procedural requirement is?
18 And can you specifically speak about procedural requirement 9 and procedural
19 requirement 17?

20 **WIT:** Well I can certainly talk about it in general terms. I don't claim to have them
21 memorized. Procedural requirement 17 has to do with ISM audits and or the
22 interchange of information between survey and international safety management code
23 audits. And PR 9 is I believe the survey one. So my total recall on that is not good. I'll

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1 have to – it's a – I would have to read it. But that's essentially the two. One is about
2 survey and one is about ISM.

3 **CDR Odom:** Coast Guard policy states that vessels enrolled in ACP are inspected in
4 accordance with, as you stated Class society rules, international conventions and the
5 U.S. supplement. This regulatory construct is intended to provide an equivalent level of
6 safety to that of a vessel fully inspected by the Coast Guard under the domestic
7 regulations. Can you provide the board with a little more detail into this regulatory
8 construct in your opinion on whether or not it is truly equivalent?

9 **WIT:** Well I'm not the engineering program [in audible] so I can't really speak to the
10 standards in respect to that. There is obviously the base of design requirement. So
11 there is an equivalent level there. There are some things that are in the Coast Guard
12 regulations that are not in the Class rules and vice versa. So that's something that is
13 addressed during the plan review and construction phase of the vessel. So my office if
14 you will administers the inspection program. So our job is to ensure that once all of the
15 plans and designs have been approved to make sure that the vessel is constructed in
16 accordance with them, and also subsequent to operation that it's maintained in
17 accordance with them. And also that it's maintained in accordance with any operational
18 requirements. So if you accept it as a baseline the design requirements are equivalent
19 from an engineering perspective, and as I said I'm the subject matter expert on that.
20 Then really it's a matter of whether or not you feel that the verification is equivalent.
21 And I think that given the later of the approach that we take, although the approaches
22 are not equivalent in every way they are an aggregate equivalent. And that was the

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1 intent of the ACP program. Was that we wouldn't necessarily be exactly alike, but that
2 in the totality of our approach we would achieve an equivalent outcome.

3 **CDR Odom:** Is your program responsible for the marine safety manual Volume 2?
4 More specifically Chapter B9 which is the guidance for the alternate compliance
5 program?

6 **WIT:** That is the chapter in which we put our policy, yes.

7 **CDR Odom:** So are you guys responsible for revisions, updating it and the content
8 that's in it?

9 **WIT:** I believe we are, yes.

10 **CDR Odom:** So Exhibit 236 page 5 Item C, could you please look at that?

11 **WIT:** Yes.

12 **CDR Odom:** So does the marine safety manual, or does the marine safety manual take
13 precedence over regulations?

14 **WIT:** No.

15 **CDR Odom:** Item C which is entitled inspection interval, in my understanding of the
16 regulation in Part A it requires the supplement to identify the gaps if you will between
17 the regulations, the Class rules and the conventions, SOLAS conventions. And in
18 reading this it appears that it has somewhat relaxed that standard. Can you discuss this
19 section and what it means and how it affects the regulations?

20 **WIT:** So this is the section that discusses inspection intervals?

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

22 **WIT:** So it says that there is U.S., there's the international conventions, and there's the
23 Classification society intervals. And it's pretty much universally true even

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1 internationally. So you have things that we have to comply with because of our
2 signatory to the international conventions. And they do specify certain intervals for
3 certain certificates. And there's a guideline if you will that's put out by the IMO. The
4 harmonized system of survey and certification. And then there's also Coast Guard
5 regulation which had in it, and still has in it, some specific inspection intervals. And then
6 you have the alternate compliance program. So the alternate compliance program
7 essentially says that the Class society program in its intervals is in place of what the
8 intervals are in the other part of 46 C.F.R. So there isn't really any conflict in the
9 paragraph. It's a matter of they have – we have substituted as a regulatory matter the
10 use of their inspection intervals as an acceptable equivalent to the intervals that might
11 have been specified previously in 46 C.F.R. Now when it comes to the international
12 convention intervals if a vessel holds international convention certificates, which it must
13 in ACP then it also needs to comply with the intervals that are specified in the
14 international convention. So we have to make sure that whatever we do we comply with
15 those intervals if we're going to issue an international certificate. The Class societies
16 are very certain about that. Anything that comes out of the international maritime
17 organization is evaluated and integrated into the procedures and rules of the Class
18 society. And then the Coast Guard participates in the rule making, I guess bodies of the
19 Class society. At least for the American Bureau of Shipping. And then we have review
20 of all of the others to which we give a delegation. So I attend annually the, for instance
21 ABS special committee on ship operations. And we will go through all the IACS
22 changes that came out that year. All the IMO rule changes that came out that year.
23 And the ABS will show where they integrated those into ABS rules and procedures. So

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1 I'm fairly confident that we have excellent harmony between all of the various required
2 intervals.

3 **CDR Odom:** So in reading this there's – it's specific to the intervals and through this
4 week's testimony there's been a lot of discussion with regards to boiler hydrostatic
5 testing intervals and repair requirements for hydrostatic testing, whereas in specific
6 discussions they do not exist in Part 7 for post construction inspection, specific to the El
7 Faro. So essentially this is talking about interval equivalencies that in boiler intervals in
8 Part 61 that are very specific to boiler inspection, water tube boiler inspection. And
9 there's no interval at all in Part 7. Can you explain how that would be considered an
10 equivalent?

11 **Counsel:** Sir, can you clarify Part 7 and Part 61?

12 **CDR Odom:** Part 61 is 46 Code of Federal Regulation Part 61, which is specific to
13 intervals of boiler inspections for water tube boilers. And then Part 7 is the ABS rule of
14 post construction survey of a vessel. And the comparison is just that there are intervals
15 required under the Federal Regulations, whereas there are no intervals required under
16 the ABS rules. So how do we bridge that gap through this?

17 **WIT:** Well when ACP started we sent a Lieutenant Commander to ABS for I think it was
18 almost 3 months. And they went line by line between the ABS rules and the Coast
19 Guard regulations and identified all of those gaps. And then there was a process, and I
20 was not directly involved in it, but there was a process whereby with our engineering
21 division at that time, they went through and they decided what would go into the
22 supplement. In other words that the Coast Guard would retain it as a necessary and
23 unique requirement even though it wasn't in the Class rules or procedures and what

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1 would not be retained. And I can only suppose now that they chose not to retain it. But
2 that's subjective on my part. It's not in there obviously.

3 **CDR Odom:** Thank you. Thank you for your explanation. So based on all the
4 regulatory construct that we've been discussing do you know if any other flag state uses
5 a similar system as the United States? And whether or not there are any international
6 standards that guide this type of regulatory approach to the ACP?

7 **WIT:** Well there are IMO instruments that discuss the use of recognized organizations.
8 So there's at the international level we are obligated to implement the IMO mandatory
9 instruments. And there's actually an IMO code for the implementation of IMO
10 instruments. And we get audited to it by the IMO. And in that it actually does say that
11 you can delegate to a recognized organization. And it gives some criteria under which
12 you need to maintain Governance over them. And then as a subset of the triple I code
13 there's the RO code. So the RO code gets into very specific organizational
14 requirements for Class societies and it also has as an annex a non-mandatory annex
15 what a properly structured oversight program would look like. So there are other
16 countries obviously that, many other countries that use delegation to recognized
17 organizations. In fact I would say in fact the United States was kind of late to the game.
18 Plus Canada, the United Kingdom, Australia, we were among the, you know a hand full
19 of countries really that maintained a large Governmental work force of ship inspectors.
20 And all of those countries have delegated in one level or the other to RO's and periods
21 since we started the ACP program.

22 **CDR Odom:** Did the United States play a role in the development of the RO code?

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1 **WIT:** Yes. I was the coordinator for the correspondence group that drafted the RO
2 code. And Canada was the Chairman of the working group at the IMO.

3 **CDR Odom:** So is there any sort of an inspection or audit to ensure that the flag states
4 adhere to this code? The RO code.

5 **WIT:** Yes. We have to undergo a now mandatory audit from the IMO. There's 171
6 member states, they do 25 member states per year. They ran a voluntary program from
7 2006 until 2016 and we were among those who volunteered so we were audited in
8 2008. The last I heard, which was really just as of yesterday that our next audit is
9 projected for 2020, 2021.

10 **CDR Odom:** So the U.S. has been audited before? Can you tell us what the results of
11 that audit was?

12 **WIT:** Well they're posted on the internet. So we had nothing to hide obviously. It was
13 actually, the only non-conformity that we got was we could not come up with the letter
14 saying we had acceded to one of the SOLAS conventions. So we actually had to
15 resend the letter. But that was the only non-conformity. There were observations that
16 were given. The primary one I think was – it's difficult for the Coast Guard because
17 there's a standard in the triple I code for flag state surveyors to hold merchant mariner
18 credentials at the more senior level, which would be like Chief Mate, you know First
19 Assistant Engineer and above. And clearly we don't comply with that standard.
20 However, there is another clause in that same section that says you can have a
21 program that achieves an equivalent outcome through training and education and that
22 sort of thing. And the Coast Guard is an excellent training and qualification program for
23 its people. So I really feel confident that actually we do achieve an equivalent level with

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1 our people. But the IMO did make that as an observation that, you know we didn't
2 technically meet the standard. But I think the United States was of the position and still
3 is so that our program is very rigorous and achieves an equivalent outcome.

4 **CDR Odom:** And have you ever audited other flag states? If so how does the U.S.
5 oversight system stack up against other flag states that you've observed?

6 **WIT:** Well I've audited six other flag states in all of various and sizes so it's difficult to
7 draw a comparison. I audited – I'll tell how I've – who's made the report public, I audited
8 Canada, I've audited Poland and I've audited Australia. All those reports are on the
9 internet. So they are countries that are developed nations and have, you know strong
10 Governmental organizations. So I would say in all of those cases we were equivalent.
11 They were equivalent to us and we're equivalent to them in terms of the way we're
12 structured. I have audited one open registry flag and that's a very different scenario. Or
13 two open registry flags. One of a developing nation. And that's a very different situation
14 because they rely less on Governmental and more on delegation.

15 **CDR Odom:** Thank you. Based on the oversight protocols you've just described, can
16 you describe your specific role as it relates to vessel and or Classification society
17 oversight under the ACP?

18 **WIT:** Well as the program manager, you know I'm not involved with the day to day
19 operation. That's really at the field level and at the District level and area level. So we
20 deal at the policy level. Now I do attend the head office quality audits of the Class
21 societies as part of our oversight program. Because I'm at the head office policy level I
22 attend the head office audits of the Class societies. And then we also are sort of a
23 clearing house in our office for information that is funneled from the Class society to the

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1 Coast Guard about things like suspension, withdraw of Class. We have a seat as a
2 guest on, for instance the ABS Classification committee where the ultimate decision is
3 made by the ABS independent board to accept a ship into Class or to have a ship
4 removed from Class.

5 **CDR Odom:** So it's my understanding that the Coast Guard only observes audits. And
6 if they were performed by an accredited certification body. How do we correct or
7 address any areas of concern that may be discovered during the course of these audits
8 as an observer?

9 **WIT:** Well we always schedule a certain amount of time during the audit to discuss
10 specific U.S. flag issues with the Class society. So the audit is really looking at sort of
11 generic organizational process things. Does the Class society have sufficient
12 resources? Does it have good record keeping? Is there a string of accountability, if you
13 will for the way information moves through the organization. This is the sort of things
14 that any good quality system takes care of. And the auditors are very adept at finding
15 flaws in those systems. When it comes to things having to do specifically with vessels
16 that are U.S. flagged that have deficiencies that come up during the course of the year
17 we don't wait until the annual audit. What we normally do is if we feel that it's a quality
18 problem, in other words they didn't follow a process we will identify that to the Class
19 society in a letter and say we would like you to do a self-critical internal analysis of this
20 and report back to us on what sorts of – what was the results of that root cause analysis
21 and what corrective actions have you proposed. And then we will review those when
22 we attend the audit. Normally attend ABS because they usually do the bulk of the work
23 for the Coast Guard, but I also attend all of the other societies on a bi-annual basis.

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1 **CDR Odom:** So speaking about being an observer. If the Coast Guard wanted to step
2 into the role of actually doing those audits instead of being observers, within the
3 prevention program in the Coast Guard do we have qualified auditors or does an auditor
4 qualification exist?

5 **WIT:** We don't have a qualification. We do have a fair number of people who have
6 attended ISO 9001 lead auditor training and really the impetus for that was not for our
7 external delegation of Class societies it's because of the IMO audit. So we have our
8 internal quality management system. So we train people within our organization to be
9 familiar with the ISO 9001 quality system standard. Now those individuals because they
10 have that basis also are familiar with it and could act as auditors of external
11 organizations if they had additional experience. But we choose when we set up the
12 program to not do independent audits. I actually went out on some independent audits
13 that were done by, one by Norway how were nice enough to invite us along. And I
14 guess at the time the Class societies were really being burdened with many
15 independent audits and asked us if we would consider observing the audits. And so I
16 attended a couple of the IACS audits as well as the CB audits. And we developed a
17 very good relationship with IACS. And I really felt pretty confident that we were getting
18 a good product with the IACS audits. When the change was mandated by the
19 European commission to switch to the ACP's, which was outside of our control, by
20 which the Class societies had to comply with it did take them a number of years to come
21 really back up to the level of the IACS auditors were at. So they're about back to where
22 they were with the IACS audits. But I would say it's been about a 5 year laps where the
23 audits probably were not at the level of detail that was from the IACS auditors.

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1 **CDR Odom:** Were there any other procedures in place that the Coast Guard uses to
2 ensure quality systematic process or observed by the Class societies?

3 **WIT:** Well we look at obviously the performance results. So the purpose of looking at
4 quality system is to look at process. That's a preventative approach. And if
5 everybody's following the processes that we've agreed upon then they should be
6 achieving the outcomes that we've all agreed upon. So that's preventative in nature.
7 We do inspection at the tail end of that if you will to gauge whether or not the results
8 have been achieved. So the inspection of the vessel is a metric for determining whether
9 or not the processes are adequate. And where the outcomes are not adequate then it
10 invites a reexamination of the processes. So it's a continuous loop of quality, in terms
11 of improvement of performance. So it's important to have both. It's important to have
12 control and oversight of the processes and have a robust program of measurement
13 through inspection and oversight, of physical oversight of vessels to ensure that results
14 are being achieved. And we also look at port state control results which foreign
15 Governments examine our ships as well. So when we get a detention of a U.S. ship in
16 a foreign port that too is an indicator that perhaps the outcomes that we are supposed
17 to be getting through the processes we've agreed upon are not being achieved. And we
18 also bring those to the attention of our Class society through the quality system.

19 **CDR Odom:** Thank you. What does it mean when an Officer in Charge marine
20 inspector requests a quality review of a Class society's actions? And how's that carried
21 out and what's it a result of?

22 **WIT:** Well it's generally the result of, as I said before that they didn't achieve the
23 desired outcome. The condition of the vessel was not such that it was in conformance

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1 with the minimum standard specified in the regulations. Now whether or not it was
2 related to that process we don't know until we do the quality case. So it may have been
3 that there was a failure in the process. A surveyor may have omitted some step that
4 was agreed upon in the process and we have ferreted that out in some case. I should
5 say the Class society has actually ferreted it out. And then in some cases it is just a
6 matter of the owner of the vessel did not do whatever the prescribed maintenance was
7 or procedure that's required by the regulation and that was not detected because of the
8 time gap between the Class society's last visit on board and our visit on board. So
9 these are – it is a subjective thing. But there's nothing wrong with the Coast Guard
10 officer asking the question. And I would encourage them to do so. I mean we
11 thoroughly investigate all of them. And we work with the Class society to improve
12 processes and in some cases they admit that, you know the individual that was involved
13 for whatever reason, you know failed to follow the established process and they take
14 corrective action. And we have to agree on what the corrective action will be.

15 **CDR Odom:** How do you work with the traveling marine inspection staff to engage the
16 quality of Class activity? Specifically through the document of compliance audits and
17 the safety management certificate audits? And also ABS field office audits?

18 **WIT:** Well our traveling inspection staff is a group of very senior ship inspectors who
19 are Headquarters and they work directly for the Admiral. And we call upon them
20 periodically to go out and sometimes engage in these quality case evaluations that I've
21 previously discussed. Or to attend the audits of companies that are holders of ISM
22 code certificates. Because as I noted previously in some cases what the investigation
23 of the deficiency problem is, is may be related to the company. So we use the travelers

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1 in conjunction with the Class society auditors to evaluate whether or not the company
2 has a functional safety management system. Because that may be the corrective action
3 that's actually required.

4 **CDR Odom:** Thank you. And when they submit a report to your office, as I understand
5 they're required to do if there's findings. What does your office do with that report and
6 how is action taken on their recommendations?

7 **WIT:** Well if it's something obviously that's critical they provide us with feedback really
8 immediately. So we're going to initiate corrective action as rapidly as possible. If it's a
9 recommendation that is more focused on process improvement either on the Class
10 society side or the Coast Guard side that is going to reap some sort of longer term
11 benefit then, you know we will take that into account when we do our next policy
12 revision. And we may, you know we have obviously meetings with the Class societies
13 periodically to discuss process improvement. So it's at two levels. I mean the most
14 important thing obviously for the Coast Guard is a safe ship now. So if it's a safe ship
15 now we're going to action right now and correct it. We're going to look at process
16 improvements, but you know we're not slow to act if it is something that is a safety
17 problem now.

18 **CDR Odom:** Records indicate that there are more than 400 vessels enrolled in the
19 alternate compliance program. If I understood the breakdown right approximately 200
20 of those are deep draft vessels and the rest of them are what we call off shore supply
21 vessels. And you can correct the statistics if you have better – understanding of that.
22 But obviously you alone cannot manage that many vessels. Is there anyone within the

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1 CVC staff that helps you with your duties? If so what functions do those different staff
2 members perform as they relate to the alternate compliance program?

3 **WIT:** Well we have within my division three individuals really who deal day to day with
4 sort of deep draft issues. Including them we also have a division chief. So we have a
5 Lieutenant who daily looks at the Class society informational databases. He's the one
6 who reviews whether some – or there has been port state control detentions, he looks
7 at a weekly summary of all the port state control MOU reports to make sure that no U.S.
8 flag vessels have been detained anywhere. Because we don't always get reports from
9 some of the member states of the IMO on the fact that they detained U.S. ships. So we
10 scour the databases. And then we do get notifications on Class suspension, withdraw
11 and we will also get notified of any PR 17, which we noted previously was the IACS
12 procedure for ISM problems. And then we have another Lieutenant Commander who is
13 in charge of our policy update for ACP. So he is the one who is crafting revisions to our
14 policy and procedures for ACP. So our Lieutenant if you will deals with all sort of the day
15 to day input and then Lieutenant Commander looks at sort of long term solutions. And
16 then I integrate that information to what I do with respect to oversight of the quality
17 management systems and the rule development, procedural process for survey. So it's
18 a, you know it's a team effort at Headquarters. But I don't want to give the impression
19 that we're running management of over 400 ships out of a three person team. I mean
20 the Coast Guard has an extensive network of inspection offices that carry out the day to
21 day functions of inspection. And the purpose of putting out written policy and
22 procedures is that they will execute it without us having to micromanage them on a day
23 to day basis.

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1 **CDR Odom:** Thank you. And previous testimony has discussed the fact the Coast
2 Guard maintains a targeted vessel list with regards to vessels enrolled in the alternate
3 compliance program. Are the vessels on this list considered substandard? Or how
4 does the Coast Guard treat those vessels differently from vessels that are not enrolled
5 on the list?

6 **WIT:** So the targeted list, which is an unfortunate name, because none of the vessels
7 on the list are substandard. So we looked at it probably around early 2000's of how
8 could we make better use of our resources. So we determined to develop a list of what
9 we considered to be risk factors where the probability was higher that a vessel would
10 fall below compliance with the standards. And we would target additional oversight on
11 to those vessels so that we would better manage the use of our resources. So it was a
12 resource management tool for the Coast Guard. It was not intended to be a, you know
13 who's bad and who's good. It was really a matter of who has a higher probability of
14 being at risk than, not that their not in compliance, it's that the level of risk that they
15 wouldn't be in compliance was a little higher because age or because of service or
16 because of their deficiency history. You know we looked at all those factors. And I had
17 a, at the time I had a liaison officer and that individual would go through and go through
18 all the Class society records and manually, it was a task, it was really like the whole
19 year to go through and really read through almost every single individual vessel's file.
20 And then when that position was eliminated we went to our computer people into the
21 Class society computer people and we came up with a way of automating that system.
22 So it wasn't as labor intensive. But in doing so it, you know you gave up a little bit of the
23 subjective aspect of someone actually reading each individual file. But I think by in

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1 large it's a fairly good tool. But that's exactly what it is, it's just a tool for us to use to
2 make better use of the assignment of our resources.

3 **CDR Odom:** So on average it's my understanding that that list is pulled annual and
4 complied. On average about how many of the 400 vessels are on that list? Can you
5 give it in percentages?

6 **WIT:** We use 10 percent. It was just a number we picked. It seems to be the number
7 of the Coast Guard. I have no idea where it came from. But we've always kind of used
8 10 – every since they wrote this NVIC 10-82 they said we're going to oversight 10
9 percent of new construction that was done by the Class societies. I have no clue who
10 came up with 10 percent. But it seems to be the number or choice for the Coast Guard.
11 So we just stuck with 10 percent.

12 **CDR Odom:** 10 percent of the 400 vessels that are reviewed for targeting? Or I'm
13 trying to ----

14 **WIT:** 10 percent of the total vessels that are in the ACP program that would be targeted
15 for additional oversight, right. And it's just the top – it's just the 10 percent that come up
16 with the highest numeric number.

17 **CDR Odom:** So are a lot of those vessels actual commercially operating vessels, or
18 are a lot of them in the vessels that are like in the reserve fleets that are inactive and
19 have deficiencies on them because of that? Like deficiencies that hold them on to that
20 vessel?

21 **WIT:** It's a combination of commercial and military sealift vessels that fall into that
22 profile. I mean as you indicated earlier it is not indicative to the fact that they are
23 substandard in any way. It may be that they're older, they're in a higher risk kind of a

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1 business like carrying passengers or carrying oil and chemicals. We try to look at, you
2 know it's one of those things where you look at risk as in terms of consequences as
3 well. So I mean obviously when you're looking at developing a risk file you have to look
4 at, you know both inputs and outcomes. So we want to minimize obviously the chance
5 that there would be a high consequence outcome. So we try to manage our oversight in
6 a way that focuses our resources to reduce risks.

7 **CDR Odom:** And why is it important for the Coast Guard to keep this list for internal
8 use only?

9 **WIT:** Well at the time we developed it we were very aware that we do make the port
10 state control statistics public. And we were very aware that people in the industry will
11 use the port state control information to effectively use for a business decision, be it
12 chartering, or vetting or whatever it happens to be. And that was not our purpose with
13 this list. Our purpose was strictly to keep it as an internal resource management tool.

14 **CDR Odom:** Understanding the various oversight task that you've described to us, do
15 you feel that you are adequately staffed at the program level to effectively perform the
16 administrative functions of the ACP program?

17 **WIT:** I don't think anybody would ever say they were adequately staffed. I'm just
18 kidding. But the – I think we do a good job with the resources that we have. It's always
19 a question of, you know the field should be our number one priority in terms of Coast
20 Guard resources. And so having I think a small Headquarters level staff is always going
21 to be balanced against putting people out in the field. So I think the Coast Guard sets a
22 priority for making sure that our field positions are staffed by – fully staffed by qualified
23 and competent people. And that we at Headquarters have people, but I think you know

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1 we are the second priority to our people in the field. So I think we do a good job. Could
2 we use more people? I understand there are competing resources in the Coast Guard
3 and those are difficult choices for the Coast Guard to make. I do the best job I can with
4 the resources that we have and I think we do a good job. Could I use more? One or
5 more people, absolutely.

6 **CDR Odom:** So since the inception of the alternate compliance program have there
7 been any staff additions or subtractions with assigned oversight duties? If so what
8 impact have these staffing changes on the effectiveness of the program?

9 **WIT:** I would say it's less about the staff than it is about the missions. The Coast
10 Guard has since post 9/11 taken on security as a very primary mission, we're part of the
11 Department of Homeland Security and you know we have to balance all of the missions
12 of the Coast Guard against the resources that are available. So the staff that we have
13 for our legacy safety missions like for inspection I think it remained at a relatively
14 constant level. We did lose as I mentioned previously the liaison billet to the Class
15 societies. So that's the only individual position that I can actually identify that has been
16 decreased since I've been there.

17 **CDR Odom:** So you lost what was referred to as the LORACS, the liaison officer to the
18 recognized authorized Class society. Since you lost the LORACS how are these
19 functions that the LORACS was performing, since that billet has been eliminated how
20 has the duties that that person had been absorbed and delegated through your staff?

21 **WIT:** Well the liaison officer duties have fallen on essentially myself and the two other
22 members of the staff who deal with the ACP program. So I do a lot of the outreach. It
23 used to be done, Class societies on a daily basis they have questions that need

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1 answering about Coast Guard interpretation of things, and what do you want us to do,
2 that kind of stuff. So vessel inspection issues we're the clearinghouse for them. But for
3 things that have to do with engineering standards or plan review, ABS or the other
4 Class societies will go directly to those offices with those questions. So I think we've
5 spread that load over a lot of different people. The LORACS was a nice thing to have
6 because it was a single person that the Class societies could go to and that person
7 would direct them to the correct person in the Coast Guard. And conversely it was
8 some place where the Coast Guard people at the field level could go and find out who
9 within a Class society did a particular function. But we have I think adequately filled that
10 void.

11 **CDR Odom:** Thank you. I would like to move on and get into some field level type
12 policy items. For example during Coast Guard oversight exams and Classification
13 society surveys, was it intended to be performed jointly or separately? And does that
14 make any difference?

15 **WIT:** Well it was intended that it would be done separately because it was a scheduling
16 issue for the vessel owners. We are always happy to attend, you know in
17 accompaniment of the Class society, but it isn't essential to the job. It's good training
18 for our people and I think I've urged them to coordinate whenever they can. It's also
19 good I think periodically to observe a Class surveyor in the performance of their duty so
20 that you can see the way they approach doing the job. Which might be different than
21 the way the Coast Guard would do it. As part of the quality management system of the
22 Class society they are required to have what's called a vertical contract audit where the
23 actual ACP auditor goes with a Class surveyor on board a vessel and then go through

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1 the whole thing with them that day whatever survey it happens to be and verify that the
2 Class surveyor used the right procedure, that they had the correct training, that they had
3 the qual. So there is another layer on there within the quality management system.
4 And ABS and the others do internal audits as well to verify that. And we check those
5 records when we do our annual observation of the audits.

6 **CDR Odom:** So how is it handled if a deficiency is discovered, particularly from the
7 field level Coast Guard marine inspector if they find a deficiency? Particularly those that
8 may affect the sea worthiness or safety of the vessel. How does the Class and the
9 Coast Guard work together to work and assign the deficiency?

10 **WIT:** Well if the Coast Guard detected it during the course of one of our oversight
11 exams then obviously we would require that it be corrected. If it was a no sail, you
12 know you can't proceed without fixing it kind of deficiency we would certainly notify the
13 Class society and we would like them to attend so that we could do the inspection in
14 concert with each other. We understand sometimes that due to scheduling, due to
15 geography that might not be possible. So there is a mechanism within the policy to
16 create a deficiency if it's going to be cleared later for the Class society to clear it at a
17 later date. But for something that's going to prevent the ship from sailing, you know the
18 Coast Guard is going to remain there or going to save it until it's corrected or else the
19 Class society will come and take our spot and they'll make sure that it's corrected
20 before it sails.

21 **CDR Odom:** Can you explain what a Coast Guard 835 is?

22 **WIT:** A Coast Guard 835 is the Coast Guard form number for a deficiency. And so
23 that's become a slang in the Coast Guard for a deficiency. So we issue deficiencies on

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1 form Coast Guard 835 and it has, you know essentially the force of regulatory legal
2 authority. The Master acknowledges it and you know it has to be complied with. And
3 that's communicated to the Class society if we issue one of those to a vessel.

4 **CDR Odom:** So can you also explain what a condition of Class is?

5 **WIT:** So a condition of Class means that there's something where you're not in
6 conformance with a requirement of Class. Going back to my original discuss there are
7 Class items, there are statutory items. So I believe that the policy of the American
8 Bureau of Shipping as far as I know is that if it's non – even if it's not really a Class rule
9 but it's a statutory item they will still enter it into their system as condition of Class. But
10 they would have to verify that. I believe that's their process. But the condition of Class
11 is against Class. So it is a decision of the Class society to decide when something is a
12 condition of them issuing Class to that vessel.

13 **CDR Odom:** So are you aware of any commercial implications of a condition of Class
14 or a Coast Guard 835 being issued to a vessel?

15 **WIT:** Well the vessel can't proceed if it's a no sail, but that's a commercial implication.
16 There are other individuals who may have access to that information and they may use
17 that in their decision as to whether or not to charter a particular ship. So that could be
18 commercial implications in that regard.

19 **CDR Odom:** Thank you. And also at the field level, are there ACP officers at individual
20 field units?

21 **WIT:** Well as a matter of internal policy we request that yes there would be somebody
22 at the unit who is a coordinator for the alternate compliance program. I'm not sure that
23 all units were aware of that. A Lieutenant on my staff has been checking to make sure

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1 that units have a designated coordinator. I think we had discovered that there was
2 some units that did not. So we have acted to make sure that there are. But you know
3 it's a military service and there's turnover. So sometimes as people transfer that duty
4 might not be picked up by the next person coming in. So it's really something that is in
5 the policy but we need to reinforce it. And we do, we have general – an annual meeting
6 of our department heads and we discuss it. But it's just a policy, it's not a regulatory
7 requirement.

8 **CDR Odom:** Thank you. Previous testimony throughout the MBI has focused on the
9 international safety management code as well as specific components and
10 requirements of company's and vessel's safety management system. Can you describe
11 what the ISM code was intended to accomplish?

12 **WIT:** Well the international safety management code interestingly came out at the
13 same time as the alternate compliance program in 1996ish. And it is intended to require
14 that companies and vessels have safety management, documented safety management
15 procedures that achieve compliance with the regulatory requirements. So you are –
16 there are elements that have to be incorporated into the system that address certain
17 areas. But really every company is allowed to create a system which is unique to their
18 company provided that it achieves the desired outcomes. So the ISM code was a way
19 to have companies look at their procedures and standardize them in accordance with
20 the elements of the ISM code. And then determine really through the whole continuous
21 improvement process that they were achieving the regulatory requirements as a
22 minimum. Certainly we would encourage them to exceed them if they want. But as the
23 minimum. What was somewhat unique about it was that it, for the first time reached into

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1 the management of a company. We had and have regulated ships, but we had no
2 authority over the people sitting in the office downtown if you will. So the ISM code was
3 the first time that people who were not aboard the vessel were part of and accountable
4 to a regulatory system much as the crew would be.

5 **CDR Odom:** Can you discuss the role of the Coast Guard as it relates to oversight of
6 company and vessel safety management systems? As well as the role of Classification
7 societies play and whether or not the Coast Guard performs any oversight as it pertains
8 to the ISM?

9 **WIT:** Well when the ISM code was promulgated by the IMO the Coast Guard translated
10 that into regulations, well it's actually in law and in regulation. And the decision was
11 taken at that time to delegate that function to recognize the organizations to Class
12 societies. So we set up the same process that we do for any of our other delegations.
13 The Class societies were allowed to apply for it and if they met the criteria they were
14 allowed to be delegated. And the Coast Guard puts in policy in the marine safety
15 manual which I've wrote long ago and talked about, you know oversight. We chose at
16 the time not to make oversight of safety management system audits mandatory. So
17 there's no numeric to hit for the safety management code system on oversight. It is
18 something where we do oversight as necessary and as available where there are other
19 indicators to show that vessel performance may not be in accordance with their safety
20 management system. And so what we generally do is we look at vessel performance,
21 vessel condition and if it appears that that is not performing at a level that we want then
22 we may attend with the Class society for the safety management audit. Or we may
23 require an audit be done out of phase if it's too long a wait for an audit.

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1 **CDR Odom:** So does the Coast Guard evaluate the safety management system during
2 routine oversight exams on ACP vessels?

3 **WIT:** They look at the human factors aspect of the vessel which is incorporated into the
4 safety management system. So for instance we do fire and boat drill. Fire and boat
5 drills, crew training, all of that is a part of the safety management system of a vessel.

6 So anytime you're evaluating vessel condition, vessel performance, or performance of
7 the crew, knowledge of the crew, and witnessing a fire and boat drill, all of those things
8 are addressed in the safety management system. So if the crew is unable to perform
9 an adequate fire and boat drill it would be indicative of a problem with the safety

10 management system. So all of those things are metrics and indicators that we can use
11 to decide whether or not they have a properly performing safety management system.

12 If your question is do we do an audit, a mini audit, like a paperwork audit, no we don't.

13 So we look at performance indicators that may lead us back to requesting that the Class
14 society do a physical or an actual audit. But I think for an experienced inspector it
15 becomes apparent whether or not a ship is functional – has a functional safety
16 management system.

17 **CDR Odom:** So we've used the word non-conformity and major non-conformity. Can
18 you explain the difference between those two? And also include if a non-conformity or a
19 major non-conformity is identified by a Coast Guard member, what does that result in?

20 **WIT:** Well there's an actual definition and I don't want to misquote it, but anyway in
21 general terms a major non-conformity is something that presents really an immediate
22 risk to either life or property or the environment. A non-conformity means that you are
23 not in conformance with some aspect of your safety management system. But that it

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1 doesn't impose an immediate risk. So for obviously for things that are immediate risks
2 we would hold the vessel until it was – corrective action was initiated. So generally the
3 progression for major non-conformities is that the vessel's certificate or the company's
4 certificate is held in suspense and then they propose a corrective action and then we
5 decide whether the corrective action is adequate. Knowing that first of all whatever the
6 immediate risk is has been taken care of. In other words if there was a physical
7 problem or something that it's been addressed and fixed. So now we're really looking at
8 procedural corrections. So that's generally the way those things progress. And it just
9 depends on what it is really. They vary. I had one company that just complexly forgot
10 to do its internal audits for a year. That's a major non-conformity. It doesn't really put
11 any lives at risk immediately, but it was a big gap in their safety management system.
12 So they proposed a corrective action and we accepted it and we did end up idling a
13 couple of their, or one of their ships for a couple of days while we worked it out. Which
14 I'm sure was inconvenient for them. But you know it was new and we took it seriously
15 and they did too and that's like the way I think people should take it. If it's a major non-
16 conformity you should take it seriously.

17 **CDR Odom:** So specific to Tote are you aware of any major non-conformities or any
18 audit processes through oversight? Or any issues with their safety management
19 system?

20 **WIT:** I am not personally aware, nothing was brought to my attention like as an
21 immediate program problem. The traveling inspectors I believe participated in an
22 oversight of their audit. But I don't recall that there were any things brought back to me
23 as the program manager that they felt were actionable items for me.

1 **CDR Odom:** Thank you. And can you describe how the ISM code and ACP are
2 somewhat linked together?

3 **WIT:** Well they're both processes. So one is, the ACP program is, I'm sure as you've
4 noted already is the Coast Guard, the Class society and the owner. And really the ISM
5 code is those same three elements if you will with the owner being really the baseline
6 process owner. And then the Class society being the process monitor if you will for ISM
7 code. And the Coast Guard also being the oversight of both the owner and the Class
8 society in that process. So they're interrelated because the maintenance of the ship is
9 in some cases a function of resource allocation which is part of the safety management
10 system. And I think it's important to critically look at whether or not outcomes are being
11 achieved when you look at a safety management system. You can go in and look at a
12 safety management system and it would look perfectly fine on paper, but if you didn't
13 really know how to translate it into the actual condition of the vessel it wouldn't really
14 have any meaning for you. You need both pieces of the equation to really do a
15 meaningful evaluation. So results count. You have to achieve compliance with the
16 regulations through whatever safety management system you have. If you are not
17 achieving that desired outcome then your safety management system is not adequate.

18 **CDR Odom:** So can you describe the relationship between the execution of the safety
19 management system on board an individual vessel and that of a company
20 management?

21 **WIT:** Well the company manages, it might manage one vessel it might manage multiple
22 vessels. But they are in most cases the policy maker for the company. So they set the
23 level if you will for what the performance will be and then they delegate to the vessel

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1 through it's company policies what procedures are to be valid but give discretion to the
2 Master as the owner of the safety management system on board. The execution of the
3 safety management system. And the Master goes back to a person who is called the
4 Designated Person at the company who is supposed to be separate from if you will the
5 chain of command within the company so that individual can be the voice within that
6 company to speak to upper level management and address the concerns of the Master.
7 If there are not adequate resources or there are problems.

8 **CDR Odom:** Thank you. Coast Guard policy states that vessel – a vessel may be
9 involuntarily dis-enrolled from ACP. What are some of the reasons that a vessel may
10 be involuntarily dis-enrolled? And has the Coast Guard ever taken this approach?

11 **WIT:** Well they're in the NVIC. I mean do you want me to read them?

12 **CDR Odom:** I don't think that's necessary. If you can just talk in general terms that's
13 fine.

14 **WIT:** In general terms it's a – if they get several state port detentions, if they get flag
15 state detentions, in other words they're getting a lot of no sail items. If it appears that
16 they have a level of performance which is not improving then we may consider
17 removing them from the alternate compliance program and put them under traditional
18 Coast Guard inspection. As a program manager what I really look at I guess is if at the
19 point which I am associating huge amounts of Coast Guard resource to oversight you at
20 the level above and maybe even beyond where you would have been had I been doing
21 our own inspections you're probably are a candidate to not be in the alternate
22 compliance program. Because it's not reaping any benefit for anybody really. You
23 know we're now duplicating all the effort of a Class society. So it's a pretty rare

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1 circumstance. And we've only done it a couple of times. And in all of those cases when
2 we approach the company and said that we were considering it they decided to
3 withdraw voluntarily.

4 **CDR Odom:** So in 20 years of doing it how many vessels would you say that that has
5 been an issue with that we have had to approach the company or suggest involuntary
6 disenrollment?

7 **WIT:** 4 or 5.

8 **CDR Odom:** Thank you. So can you be a little bit more specific. In what purpose
9 would it serve the Coast Guard or a vessel owner to involuntarily dis-enroll or have them
10 dis-enroll? Would it change anything effectively about the way the vessel is handled or
11 change the level of inspection that the vessel gets?

12 **WIT:** Well it would increase the level of inspection obviously. I mean we would be
13 doing, once it comes back under Coast Guard inspection it would be under Coast Guard
14 inspection. So that doesn't mean the Class society would be removed from the
15 process. They would retain Class in almost every case I can think of. So the Class
16 society would still be attending. So essentially we will both be attending. And then we
17 would likely attend their ISM audits and you know we would probably consider
18 periodically attending them depending on the performance of the company. So we've
19 only had a couple of ships that have done it and we do a little more inspection on them
20 probably than we would do typically on vessels that don't have that performance record.
21 But it's not a normal circumstance. And we at some point, much like the Class societies
22 have to make a decision that you know this isn't just a problem with the material

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1 condition of the ship this is a management problem. So we will seriously look at going
2 through the ISM code system as to corrective action to the problem.

3 **CDR Odom:** That's a little bit confusing to me in the element we consistently have
4 stated that the alternate compliance program is equivalent to a Coast Guard inspection.
5 So if we dis-enroll them, and as you stated it's a more detailed inspection, how is that
6 equivalent or is it more along the lines that we just have more authority over the vessel
7 at that point?

8 **WIT:** It's the latter, we have more authority over the vessel at that point. We have more
9 direct involvement for enforcement.

10 **CDR Odom:** Thank you. So annually the Chief traveler, the traveling inspectors as
11 you've stated who works directly for the Admiral has a meeting with their staff and the
12 focus of that meeting is to establish annual strategic goals looking forward for what the
13 travelers are going to look at. And for the year, during that meeting in August 2015 for
14 the upcoming year of 2016 ACP vessel inspection was identified as the number one
15 priority for the traveling marine inspector staff to on a case by case basis attend as
16 many ACP exams to evaluate the condition of the fleet. And through that program as a
17 result some of the vessels were found to be substandard condition. And were actually
18 no sail in two cases lead to the vessel being scrapped. Can you help us understand if
19 the program is working so well how can a vessel get to a point of deterioration that the
20 vessel would need to be scrapped? And this is with both U.S. Coast Guard marine
21 inspectors and Class surveyors attending the vessels regularly. How can a situation
22 like that get to that point?

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1 **WIT:** Well inspection programs are intended to verify the condition of a vessel on the
2 day that you attend the vessel. Safety management systems and processes are there
3 to ensure that the people who are in charge of making sure the vessel complies are
4 continuously looking at the condition of the vessel and doing a level of maintenance
5 appropriate for the level of maintenance required for that vessel. So a preventative
6 maintenance program which works exceptionally well on a 5 year old ship probably will
7 not work exceptionally well on a 30 year old ship because the level of maintenance is
8 obviously going to be higher. So what you need to look at really is not necessarily the
9 age of the ship, but is the maintenance program which has been configured for that
10 vessel appropriate for the service and circumstances of that ship. And you've got to get
11 that formula right. And that's what inspection programs are intended to verify and not
12 replace the need for the owner to design and implement a program which is appropriate
13 for the needs of that ship. So it isn't necessarily an issue that something is an older
14 ship if you are on top of the maintenance. But you have to apply the resources that are
15 appropriate in order to maintain a vessel in conformance with the requirements. So
16 that's really what's at issue is the Coast Guard's level and the Class societies level of
17 verification. If it starts to rise to the point where it is becoming a quality control
18 department of a company then you really need to question whether or not that vessel
19 should hold a certificate.

20 **CDR Odom:** So who's ultimately responsible to ensure a vessel is in full compliance
21 with the regulations under the alternate compliance program? Is it the Coast Guard, the
22 authorized Class society or the owner?

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1 **WIT:** Well the owner is ultimately responsible to make sure that the vessel is in
2 conformance with the regulations. And the Coast Guard is responsible for ensuring that
3 the requirements of law and regulation are complied with from an enforcement
4 perspective. So it is a partnership if you will. The Class society is in this case say an
5 agent of the Coast Guard and plays that same role as the Coast Guard with respect to
6 verification.

7 **CDR Odom:** Thank you. With regard to the AC – alternate compliance program, are
8 there any strengths or weaknesses to the program that you feel should be brought to the
9 attention of the board?

10 **WIT:** I think that the network of recognized organization delegations at the international
11 level, and that's why we have a vigorous port state control program have been on even.
12 So it is really the responsibility of flag administrations to ensure that their vessels that fly
13 their flag are in conformance with the requirements of the international regulations and
14 of their national regulations. It is optional to use recognized organizations. And if you
15 choose to do so then you have to be a good steward of that delegation. So I don't have
16 a problem with the idea of delegating work to Class societies. But I have a problem with
17 flag administrations who are not good stewards of that trust. And so I think that that's
18 really I think the mandate to the Coast Guard is to be a good steward of that trust
19 knowing that, you know we are the organization delegated with the safety of life at sea.
20 And it is certainly something that we take very seriously.

21 **CDR Odom:** Thank you very much Mr. Hannon. At this time I would like to turn the
22 questions back over to Captain Neubauer.

23 **CAPT Neubauer:** Commander Denning.

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1 **CDR Denning:** Good afternoon, sir. Just a few follow on questions. Early on in your
2 testimony you described a study that was conducted shortly after the implementation of
3 the ACP program. Would it be safe to say that was in the – towards the late 90's in
4 terms of time frame?

5 **WIT:** All I remember was the briefing was given to Admiral Loy. So whenever he was
6 Commandant. Probably late 90's.

7 **CDR Denning:** So since that time are you generally familiar with the size of the U.S.
8 fleet of inspected vessels? You stated approximately 200 vessels were enrolled and
9 those were compared to 200 vessels that were not enrolled in ACP at that time. How
10 has the fleet changed over time since then?

11 **WIT:** Well I think it was mentioned previously the number of off shore supply vessels
12 that comply with the international regulations has increased greatly. At the time we
13 started ACP off shore supply vessels were primarily documented or certified under a
14 Coast Guard domestic regulation program. And so they were excluded from the
15 alternate compliance program because they didn't comply with the international
16 regulations. So as that fleet has increased in terms of its compliance with international
17 regulations more of them have been able to enroll in the alternate compliance program.
18 But I think the number of really traditional sort of cargo carrying ocean going ships and
19 Naval auxiliaries that we enroll in ACP has remained relatively static. But that was
20 actually something we did add to the program was Naval auxiliaries because they are
21 not legally compelled to comply with the international conventions. And they choose to
22 do so voluntarily. So we created a program which we call Military Sealift Command

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1 ACP and they choose to voluntarily participate in that program. But they are not legally
2 compelled to be in that program.

3 **CDR Denning:** So if we were to remove those vessels as well as OSV's and just focus
4 on traditional cargo ships such as the El Faro would the number have significantly been
5 reduced over that period of 15 or so years?

6 **WIT:** I honestly don't have the numbers to give you. It would just be subjective on my
7 part.

8 **CDR Denning:** Okay. And really the reason I'm asking this question is we spoke with
9 Chief, or Mr. McMillan about opportunities to inspect these vessels and how ACP has
10 affected the fields opportunities to remain proficient. So I was going to ask you your
11 perspective on that issue from a Headquarters program management standpoint.
12 Opportunities for field to remain proficient on these vessels with the implementation of
13 ACP.

14 **WIT:** Sure. Well we saw that coming, well I saw it coming anyway. And because we,
15 really it is our training base if you will when you do the inspection that's how you get the
16 skill to do the oversight if you will. So I sat down with a group of, what were then our
17 very senior marine inspectors who were on the Headquarters staff but had a huge
18 amount of marine inspection experience and we talked about, you know strategies that
19 we could come up with that would consolidate within our marine inspector workforce a
20 core of people who had a level of expertise that was appropriate for the oversight of
21 deep draft inspections being done by Class societies. So we developed a strategy
22 document that was ultimately adopted by the Coast Guard and it has centers of
23 expertise, training officers, we increased the size of our civilian workforce. Part of the

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1 problem the Coast Guard has is it is a multi-mission organization so that transferring
2 people from job to job sometimes they move in and out of the actual job of being an
3 inspector or they are promoted to management level jobs where they're not really on the
4 ships doing inspections anymore. So we had to look at strategies that would make sure
5 that we had adequate numbers of individuals with that qualification. Now we don't have
6 an ACP qualification because it's embodied in the deep draft ship qualification if you
7 will. ACP is a process so the qualification is hull and machinery qualifications we have
8 for a deep draft vessel inspection. So really that's the metric of whether we've
9 maintained an adequate workforce to oversight ACP is the number of individuals that
10 are qualified to conduct deep draft vessel inspections.

11 **CDR Denning:** So how do you feel that that – how effective has that been and do you
12 feel that the individuals in the field level in the Coast Guard have been able to maintain
13 that necessary level of proficiency?

14 **WIT:** It has ebbed and flowed I think. I can post 9/11 the Coast Guard was really
15 stressed in terms of resources. But I think today we have, you know gained back any
16 ground that we might have lost trying to take on new missions. So I think that the
17 number of individuals who are in the workforce is adequate. It's one of those things
18 where you don't dictate where the jobs happen. You know industry drives where the
19 work is, not us. So we try to predict if you will where the work will be and position
20 people in those ports so that we'll have adequate resources to cover the work that
21 arises. Our overseas offices, since most of these ships trade internationally a great
22 many of the inspections actually occur outside the United States. So our overseas
23 offices have really sort of the most highly qualified deep draft inspectors in our marine

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1 inspection workforce because they often travel by themselves and almost entirely they
2 do deep draft vessel inspections.

3 **CDR Denning:** You mentioned earlier CG ENG, the office of design and engineering
4 standards. How does your office, the office of commercial vessel compliance work with
5 CG ENG on the implementation of the ACP program at the Headquarters level?

6 **WIT:** Well the engineering directorate, actually office is part of the standards
7 directorate. So the division of labor if you will is that they are the people who develop
8 standards, which I guess I discussed at the beginning is what are the regulatory
9 requirements. And then my office is in the business of verifying that vessels are in
10 compliance with those standards. So we do consult with each other because there are
11 sometimes novel designs that arise that are not addressed by regulation. I mean
12 industry is constantly innovating and we try to keep up with that innovation. And we
13 want to develop standards that are promoting safety and are going to obviously result in
14 safe operation. But at the same time we have to think of what the inspection strategy
15 will be for those and if we need to develop a skill within our workforce in order to inspect
16 new systems. So we have a dialogue with them about it. And they also are the
17 gatekeepers for the Class society recognition and authorization process. So the
18 applications for Class societies for recognition as an organization go to them and the
19 authorizations for individual certificate work also goes to them. But we certainly
20 dialogue about that. And anything that has to do with the survey procedures that they
21 submit will come to my office for a review.

22 **CDR Denning:** And if marine inspectors in the field were to highlight what they
23 perceive as challenges in the ACP program or issues they see regarding equivalent

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1 levels of safety within the ACP program would that be up to the CG ENG to handle and
2 try to address those concerns, or is CVC involved in that process as well at the
3 Headquarters level?

4 **WIT:** If it's something which is purely engineering in nature it would stay really in the
5 engineering division. I'm trying to think of an example. Let's say somebody decided to
6 use some sort of new material for an air compressor tank, you know the engineers, and
7 I'm sure you're familiar with engineers, they're all about the math. If you don't come up
8 with the math you're not going to get your approval. So you know you're going to have
9 to show through analysis that you know whatever you're proposing is achieving
10 whatever the outcome is that is defined in the regulation in terms of what the
11 requirement is. So that sort of thing is what they analyze is, you know things like
12 stability, hull strength, engineering systems. And then the enforcement division or the
13 compliance division where I am we will look at strategies to inspect those systems to
14 make sure that they're being maintained in conformance with the standard.

15 **CDR Denning:** Thank you, sir. That concludes my questions.

16 **CAPT Neubauer:** The hearing will now recess and reconvene at 3:45.

17 *The hearing recessed at 1534, 25 May 2016*

18 *The hearing was called to order at 1546, 25 May 2016*

19 **CAPT Neubauer:** The hearing is now back in session. Good afternoon Mr. Hannon.
20 Before we go to NTSB for some questions I just have a few follow ups from the initial
21 questions. Does CVC track the total number of quality reviews annually that you
22 receive?

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1 **WIT:** We keep a record of all the quality cases that we do in the course of the year.

2 And like I – as I said I aggregate them and then we discuss them with the Class

3 societies that their either at a meeting or else at the annual audit.

4 **CAPT Neubauer:** Are those published anywhere for the public?

5 **WIT:** No. It's just correspondence that goes between us and them. Which is suppose

6 is, not to give anybody any ideas, but I suppose it's available under FOIA. But that's a

7 lawyer question.

8 **CAPT Neubauer:** Do you expect all Coast Guard inspectors conducting ACP oversight

9 duties to have full access to SAFE NET?

10 **WIT:** We make it available, yes. So whether they take advantage of it or not I think we

11 verify periodically, but we have made it available to all activities, yes.

12 **CAPT Neubauer:** Are there any limits, and the only reason ask is because there was

13 only one SAFE NET account available at Sector Puerto Rico?

14 **WIT:** Well we have a Coast Guard account. So our Lieutenant manages it. I'm not

15 aware that – so we thought about having individual accounts for each unit the Class IT

16 managers did not like that idea. So what we ended up agreeing to was that we have a

17 Coast Guard account and we would all kind of yield to access it. I'm not aware that it's

18 presented a problem in terms of, you know multiple log in at the same time sort of thing.

19 There are levels of access within the Class society informational databases so we don't

20 necessarily have the same level of access that like a surveyor would have. But we

21 have a higher level of access than a company would have.

22 **CAPT Neubauer:** We've heard some different accounts on who is actually responsible

23 for observing an annual underway operation of the vessel's life boats. Can you confirm

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1 under ACP if whether it's the Coast Guard or ABS who should be observing that annual
2 operational test?

3 **WIT:** Well the Coast Guard does the fire and boat drill. I actually don't know if ABS
4 watches a fire and boat drill. I thought that was our job. But you mean the underway
5 test as in a launch the boat and watch it go around in a circle?

6 **CAPT Neubauer:** Yes, sir, forward and stern. Actually get it released from the
7 releasing gear.

8 **WIT:** That would be an equipment test. So they have a test that should have – they
9 should be looking at the hardware part of it. So we're evaluating the human factor crew
10 part of it, right.

11 **CAPT Neubauer:** Okay. So just to make sure I understand. If you're looking at it from
12 the life boat performance standard, both life boats it should be Class verifying that at
13 least once annually?

14 **WIT:** I don't know the specific requirement so I can't say. But the Class should be
15 verifying it to the extent that's required by international regulations or Class rules or by
16 the supplement.

17 **CAPT Neubauer:** Is there a Coast Guard policy stating that a qualified hull or
18 machinery inspector has to conduct ACP oversight duties?

19 **WIT:** Off the top of my head I don't know.

20 **CAPT Neubauer:** Under the port state control program it's my understanding that if a
21 foreign vessel is detained in the U.S. port the Coast Guard commercial compliance
22 does a subjective association with the Class society that was – that issued the
23 applicable documents to the issue for which the vessel was detained. And then can

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1 assign an association if it's found it was subjectively close to the date that the Class did
2 the survey. That information is then published in the annual port state control report
3 and each Class society is given a ratio I believe. Is that process still in place?

4 **WIT:** To the best of my knowledge yes.

5 **CAPT Neubauer:** If a U.S. vessel was detained overseas or received a no sail in the
6 domestic trade, or domestic port, is there a similar process for doing a subjective
7 association to the Class society especially if that vessel is ACP?

8 **WIT:** Well what we do is we pursue a quality case if we feel there is a process problem
9 with the Class surveyor that was associated with that inspection for an ACP ship. We
10 do not currently create a database like you referred to, it's port state control in terms of
11 creating a statistical analysis of association.

12 **CAPT Neubauer:** So there would be no way of publishing something to the public to
13 understand what the ratio might be or what the performance might be?

14 **WIT:** I suppose there's always a way to publish something for the public if you wanted
15 to do it. It's just a matter of whether or not gathering that data would provide us with a
16 meaningful metric to gauge performance or else manage the program. So I think the
17 feeling with ACP was that since we were really much more involved was the flag with
18 the vessel that we had greater level of insight into the processes. Whereas port state
19 control we are the recipients of ships that are really inspected by other people. And we
20 are just in a secondary role of verifying. So I think the need to do statistical analysis for
21 port state control probably is a little more imperative because we are not as in control of
22 the condition of those ships.

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1 **CAPT Neubauer:** Yes, sir. Lastly I just want to clarify that when the term the Admiral
2 has been used during this session that that referred to Admiral Paul Thomas, Assistant
3 Commandant for Prevention Policy. Is that your understanding, sir?

4 **WIT:** Yes, that's correct.

5 **CAPT Neubauer:** Thank you. At this time I'll go to the NTSB. Mr. Young.

6 **Mr. Young:** Thank you Captain. Good afternoon Mr. Hannon. Just a few follow up
7 questions. You stated earlier that the ACP program if executed in accordance with the
8 agreement was successful. Were there any issues or in the past that have resulted in
9 any problems because it hadn't been followed through with the agreement? Any
10 issues?

11 **WIT:** There are occasionally issues. And it's part of why we do the quality audits and
12 the oversight. It has come to light in several circumstances with different Class
13 societies where during the plan review they have granted equivalencies that they were
14 not authorized to grant because we are one of the very few nations in the world that
15 actually maintains a plan review oversight. So it's just not really something they're used
16 to when they do their process. And that's been my experience is that the lower the
17 frequency of the individual who does the inspection with the U.S. flag the higher in the
18 probability that they will depart what our U.S. unique requirements. So those are the
19 things that we usually will look for as a flag is whether or not a Class society is following
20 the U.S. specific requirements. Generically they do a very good job of following their
21 processes. And those are audited at any number of levels. But we have to be the
22 steward if you will of making sure that anything that is uniquely a U.S. requirement is
23 being adhered to. So generally that has been the source of the majority of friction that

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1 we've had with the Class societies is circumstances where they really just followed what
2 was their normal procedure, but it wasn't the U.S. requirement.

3 **Mr. Young:** Thank you. And another item I just wanted to clarify. The study that took
4 place 2 to 3 years after the ACP program was instituted. One of the results was that
5 there was no significant statistical difference in casualties. What was the other findings
6 and with regards to savings? I couldn't hear what you said.

7 **WIT:** Oh I'm sorry. So we, back then it was unfortunate when we redid our database
8 we removed man hours from the entry that the inspection had to make. So at that time
9 we still had man hour data to look at in terms of how much we were spending on doing
10 things. So we looked at the non-ACP fleet and we looked at the ACP fleet and what we
11 found was that because there's always a small number of vessels that require, because
12 of detentions or whatever it happens to be additional Coast Guard inspection time that
13 that additional time spent on a small number of vessels negated our savings in
14 aggregate. So we only ended up in aggregate saving 1 full time equivalent position for
15 200 vessels over the course of, I guess it was 2 years.

16 **Mr. Young:** And is part of your program to oversee any sort of review of the
17 supplements that are used for the ACP program?

18 **WIT:** Well the engineering, the standards directorate is really the keeper of the
19 supplement. So primarily what's embodied in the supplement are interpretations of
20 regulatory requirements. So the IMO is constantly rolling out new regulations, so is
21 IACS, so are the Class societies. So we have to look at whether or not there's a need
22 to perpetuate something in the supplement that may have been eclipsed by a
23 requirement that is now standard in the international community. So that's part of the

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1 supplement update process. Other than that, I mean in terms of inspection procedures
2 we look at each individual society in terms of their annual rule making and process
3 development. So that's not in the supplement that's something we look at for each
4 society. We could put it in the supplement if we really have a strong disagreement with
5 whatever change they have implemented. There was an example recently there was a
6 requirement for a tank inspection that IACS implemented which IMO chose not to
7 implement and I checked that actually at the last audit and I was assured that the
8 procedure still required that it be done, but that if the owner you know wanted I guess
9 for an optional procedure they could use the IACS procedure. But the baseline
10 procedure remained the IMO regulation for the U.S. flag that's the baseline requirement.

11 **Mr. Young:** And is there any sort of periodic review or meetings between the ACS's
12 and the Coast Guard within your program where you meet monthly or annual to discuss
13 the program?

14 **WIT:** We meet periodically. It's really with all of them that have any number of U.S.
15 flagged vessels. It's a dialogue that takes place by email and telephone conversations
16 really as needed. We physically try to get together at least every couple of months.

17 **Mr. Young:** And the last question is, what was the number on your staff?

18 **WIT:** Well right now we have 3 individuals who work on deep draft ACP related work on
19 my – and my division is not big, it's probably 10 people.

20 **Mr. Young:** And would those 3 people rotate like the rest of the Coast Guard? Or are
21 they dedicated for a longer period of time?

22 **WIT:** Right now I'm the only civilian of that group. So the others are military, they
23 transfer in and out.

1 **Mr. Young:** And do you see a big issue when they do switch out that you have to start
2 from scratch and retrain the new individuals that come into this job?

3 **WIT:** And actually it's not been a problem. We have been fortunate to get people who
4 really are highly qualified. In some cases, in fact the two I have right now came from
5 our European office where they dealt extensively with deep draft ships and ACP. So it
6 was really – it was, other than just the administrative aspect of it they really both fell
7 right into it. So it wasn't a problem at all.

8 **Mr. Young:** Thank you. That's all I have.

9 **CAPT Neubauer:** Mr. Roth-Roffy.

10 **Mr. Roth-Roffy:** Tom Roth-Roffy, NTSB. Good afternoon Mr. Hannon.

11 **WIT:** Good afternoon.

12 **Mr. Roth-Roffy:** You mentioned the OCMI's were supposed to have ACP officers as
13 part of their staff as a collateral responsibility and there has been some issues with
14 those billets being filled, is that correct?

15 **WIT:** I don't think it's an actual designated billet. I think it's just something that you're
16 supposed to designate within the unit as a manager or management thing. Obviously
17 not every port deals with ACP and some ports deal with it very frequently. So I think in
18 ports where it's a frequent job you have somebody, but there are ports where they don't
19 probably see an ACP ship too often, so they probably might not think about it unless
20 their reminded.

21 **Mr. Roth-Roffy:** Is there an effort at the program level to liaison with these ACP
22 officers to get their feedback on any problems or issues they're experiencing in the field
23 with implementation of oversight of the ACP?

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1 **WIT:** Yes. The Lieutenant on my staff and the Lieutenant Commander are really sort of
2 constantly in contact with the field people. And I have another Lieutenant Commander
3 actually who works on the off shore supply vessel side of things, so he's in contact with
4 the field a lot. Email has changed the face of the world with respect to communication.
5 So it's not like the old days, you know you can send somebody in Washington an email
6 and get answer really almost the same day. So I think the accessibility for information is
7 pretty good at the moment.

8 **Mr. Roth-Roffy:** Is part of that communication with these AC officers, do they have the
9 ability to provide feedback to the program office on problems and issues and do you
10 maintain a record of these issues and how they're resolved? For example questions
11 about the supplement.

12 **WIT:** Well we put out a draft of a revised NVIC to our department heads. So we put out
13 – whenever we're going to do a policy revision we will circulate it internally for comment
14 and then we will aggregate all of those comments and review them as part of the
15 revision process. So that's always part of the process for ACP. Especially and what I
16 think we did recently the maritime security program NVIC in the same manner. We put
17 it out even for public comment. So yes we reach out to the field whenever we're
18 working on making policy revisions to see if they have input to it.

19 **Mr. Roth-Roffy:** And is the current ACP NVIC under review and being revised? Can
20 you speak about any of the sorts of changes that might occur?

21 **WIT:** Well I can say that we're looking at revising it. The changes that are being made
22 are primarily procedural, internal procedural as opposed to being sort of substantive

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1 changes. And that is based on a lot of this input that's come from the field in terms of
2 how we can improve communication and transfer of information.

3 **Mr. Roth-Roffy:** There was a little bit of discussion previously about older vessels and
4 the difficulty and challenges that the owners may face in maintaining them. And you
5 said that a newer vessel would not have the same sort of a maintenance as an older
6 vessel. But looking beyond simple maintenance are there any issues with older vessels
7 that the Coast Guard is aware of and has programs to address, for example a boiler
8 cycling and fatigue issues related to equipment that older vessels might face?

9 **WIT:** Well actually it's the Class societies that have the program that accelerates over
10 time. Federal Regulations the way I read them, in some cases they'll key on dates for
11 things like in water surveys, 15 years is a marker. But the Class societies use a 5 year
12 cycle for special survey. And the scope of the survey increases with each 5 year
13 interval. So actually it's the Class society rules that are designed to increase the scope
14 of the survey as the vessel ages. Coast Guard regulations have more so been
15 performance based where you know this is the standard and you have to meet it. The
16 scope of the actual inspection isn't necessarily altered based on the age of the vessel.
17 So in that sense actually the Class society system is better configured to accommodate
18 the idea of an aging vessel.

19 **Mr. Roth-Roffy:** Does the Class society aging vessel consideration apply to both
20 machinery and hull?

21 **WIT:** I don't have specifics that I can cite. All I know is that the special survey scope
22 does alter in 5 year intervals. So if you were looking for specifics I guess I would have
23 to research that.

1 **Mr. Roth-Roffy:** Just on my limited understanding I thought it was strictly the hull that
2 was subject to increasing oversight as the vessel aged.

3 **WIT:** Well I concur with you on it is the hull. I don't have any specifics on machinery
4 that I could cite. So I guess I defer to that question till later.

5 **Mr. Roth-Roffy:** And I would like to revisit the – your comments regarding the
6 implementation of international safety management code. And the shifting of the
7 responsible – the traditional responsibility of the crew for the safety of the vessel to
8 shore side management. And I just want to make sure I understood your comments
9 properly. Is that correct to include shore side management beyond in responsibility?

10 **WIT:** Yes. The safety management system includes the shore side management.
11 That's what the document in compliance audit incorporates. Companies with respect to
12 preventative maintenance programs use a mix of underway and shore based
13 maintenance. And so that's one of those things that they can choose to do. Some
14 choose to do most of their maintenance with shore based people and some prefer to do
15 it underway. But that's a resource decision for them provided it gets done.

16 **Mr. Roth-Roffy:** But in terms of overwriting authority as a Master and the responsibility
17 of the ship owner, ship managing for the safety of a vessel, is that something that has
18 shifted over time with the implementation of the international safety management code?

19 **WIT:** Well I think the authority of a Master is preeminent even in the ISM code. The
20 company ashore through their designated person has a responsibility to respond to the
21 needs of a Master.

22 **Mr. Roth-Roffy:** And just one more question, sir. Regarding the U.S. maintenance of,
23 as you described them, uniquely U.S. requirements, is there any thought about

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1 harmonizing these unique U.S. requirements with either Class rules or international
2 regulations to reduce, as I believe you described the difficulties experienced in the
3 management of the ACP program?

4 **WIT:** Well the disparities between whatever the U.S. requires and whether the
5 international community requires is always something we're working on at the
6 international maritime organization. There comes a time I suppose when if we are not
7 successful at the IMO to get the world to see it our way then we have to make a
8 decision about whether or not we're going to go with what's the international standard or
9 whether we're going to continue to retain the U.S. standard. The nexus between the
10 two has decreased tremendously in the 20 years since we've had ACP. So by in large I
11 would say that most of what used to be sort of a unique U.S. requirement has become
12 the international standard. And I think we probably are at the point where we would
13 look at whether or not maintaining certain items in the supplement is necessary. But
14 that's a job for our standards directorate.

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

16 **CAPT Neubauer:** At this time I would like to go to the parties in interest and just as a
17 reminder we're only doing one line of questioning for this witness. Tote?

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

19 **CAPT Neubauer:** ABS?

20 **ABS:** Yes. Good afternoon Mr. Hannon. Jerry White I represent ABS. As a point of
21 general information can you describe what a user fee arrangement is and how it would
22 be applied to a non-ACP vessel?

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1 **WIT:** The user fee is required irrespective of whether you're in ACP or not. The user
2 fee is for your Federal service if you will. So if someone is enrolled in the ACP program
3 they would pay the user fee plus they would pay the fee of the Class society. But that's
4 – it's a voluntary program. If they just wanted to pay the user fee and have Coast
5 Guard inspection they could just do that.

6 **ABS:** Okay. So the user fee arrangement is what the Coast Guard charges for its
7 services, correct?

8 **WIT:** Yes. It was a requirement that came out of the 1990 omnibus budget
9 reconciliation act that we were required to charge user fees.

10 **ABS:** Thank you. And as far as the ACP program and the number of deep draft
11 vessels, can you give us an idea or an estimate as to how many deep draft vessels are
12 presently enrolled in the ACP program?

13 **WIT:** I think there's 403 approximately vessels that are currently enrolled in the
14 alternate compliance program. Deep draft means in my mind that they hold
15 international certificates. So I suppose they all qualify for that definition. A good many
16 of them are now off shore supply vessels. But they have unlimited route.

17 **ABS:** And if we eliminated the number of off shore supply vessels, could you give us a
18 better estimate as to what vessels would be deep draft and enrolled in the ACP
19 program?

20 **WIT:** I don't know the exact number. I would, you know I'm just guessing. So it would
21 be probably at least 100 that are off shore supply vessels. You have about another 120
22 that are Government owned, Military Sealift ships. And then the balance would be what
23 was left of the commercial fleet.

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1 **ABS:** So the balance of the U.S. commercial fleet is somewhat less than 200 vessels
2 at this point?

3 **WIT:** Yes, commercial operating ships. Not including OSV's.

4 **ABS:** You described the ACP supplement and there was some discussions concerning
5 its review and or revision. Can you describe in a general sense whether your office
6 would be tasked with revising the ACP supplement and what efforts might be underway
7 to do just that?

8 **WIT:** It's not really my division's job to revise the supplement. It's the engineering
9 division and I understand that they'll be testifying later. So it would probably be better to
10 ask him that question.

11 **CAPT Neubauer:** For the record that will be Captain Hawkins on May 27th, Friday
12 morning.

13 **ABS:** Thank you. You also described the position of the billet of the LORACS person,
14 which I understood to be the liaison between Class and the Coast Guard. And since
15 that billet is no longer in existence can you describe how the Coast Guard and Class
16 liaison on ACP?

17 **WIT:** Well we do it through the staff in Washington. So the LORACS billet, and I
18 apologize for the LORACS title I came up with that. It was originally the ABS liaison.
19 And so what happened was we made that person a liaison to all the Class societies. So
20 LORACS stands for liaison officer for recognized and authorized Class society. Which
21 comes out to be LORACS. And we had that person actually working in the ABS
22 building in Houston, even though they were the liaison to all the Class societies.
23 Because I think the other Class societies were a little put off that they were in the ABS

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1 building we pulled that billet back to Washington. So we had one Commander in that
2 billet for 2 years and then I think we moved through a downsizing and they decided to
3 eliminate the position. So we just rolled those duties over into our office. But we do
4 maintain really daily communication with the various Class society flag state
5 representatives. And so I have email and my staff has email really almost daily from all
6 the Class societies.

7 **ABS:** Thank you, sir. I have nothing further.

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

9 **Ms. Davidson:** No questions.

10 **CAPT Neubauer:** Are there any final questions for Mr. Hannon at this time? Mr.
11 Hannon you are now released as a witness at this Marine Board of Investigation. Thank
12 you for your testimony and cooperation. If I later determine that this board needs
13 additional information from you I will contact you through your counsel. If you have any
14 questions about this investigation you may contact the Marine Board Recorder,
15 Lieutenant Commander Damian Yemma. Do any of the PII's have any issues with the
16 testimony that we just received?

17 **Tote Inc:** No, sir.

18 **ABS:** No, sir.

19 **CAPT Neubauer:** The hearing will now recess and reconvene at 4:25.

20 *The hearing recessed at 1616, 25 May 2016*

21 *The hearing was called to order at 1626, 25 May 2016*

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1 **CAPT Neubauer:** The hearing is now back in session. At this time we will hear
2 testimony from Chief Warrant Officer Andrew Schock, U.S. Coast Guard, Sector San
3 Juan.

4 **LCDR Yemma:** Sir, please raise your right hand. A false statement given to an agency
5 of the United States is punishable by a fine and or imprisonment under 18 United State
6 Code Section 1001, and may also subject you to discipline under the Uniform Code of
7 Military Justice. Knowing this do you solemnly swear that the testimony you're about to
8 give will be the truth, the whole truth and nothing but the truth, so help you God?

9 **WIT:** I do.

10 **LCDR Yemma:** Please be seated, sir. Thank you. Can you please start by stating
11 your full name and spell your last name?

12 **WIT:** Andrew Schock, S-C-H-O-C-K.

13 **LCDR Yemma:** Counsel?

14 **Counsel:** Travis Noyes, N-O-Y-E-S.

15 **LCDR Yemma:** And Chief Warrant Officer Schock can you please tell the board where
16 you're currently employed and what your position is?

17 **WIT:** Coast Guard Sector Delaware Bay. I'm in the investigating shop

18 **LCDR Yemma:** And can you describe for the board some of your general
19 responsibilities in that position please?

20 **WIT:** I'm a marine casualty investigator.

21 **LCDR Yemma:** And can you also tell the board about some your prior relevant work
22 experience?

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1 **WIT:** I've – almost 28 years active duty. Almost 12 years marine inspections. Prior
2 machinery technician. I had 12 years at Sector Delaware Bay as a marine inspector
3 and another 3 years at Sector San Juan, marine inspections and a year at Sector
4 Delaware Bay in the investigation shop.

5 **LCDR Yemma:** And what is your highest level of education completed?

6 **WIT:** Completed high school.

7 **LCDR Yemma:** Thank you, sir. Commander Odom will have some questions for you
8 now.

9 **CDR Odom:** Good afternoon Mr. Schock. I'm Commander Mike Odom with the
10 traveling marine inspector. And all the questions I have are the time frame up until the
11 casualty of the El Faro. I have one line of questioning that I would to complete with
12 regards to your experience, training, understanding of the alternate compliance program
13 as it applied to the El Faro and also the exam that you completed on board the El Faro
14 in March of 2015. After I complete my questions I will turn the board back over to
15 Captain Neubauer and he will open it up to the board for questions. If at any time you
16 need a break just let the Captain know and he'll consider your request. Do you
17 understand or do you have any questions?

18 **WIT:** No I understand.

19 **CDR Odom:** You gave a brief synopsis of your career up to the time at San Juan. Can
20 you go into that in just a little bit more depth as it relates specifically to marine
21 inspections?

22 **WIT:** The time I was in San Juan?

23 **CDR Odom:** Right.

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1 **WIT:** Okay. I went to Sector Delaware Bay, which was then MSO Philadelphia in 2012.
2 Went to marine inspector's course in 2012. Went to various other inspection schools.
3 During my time there I completed the foreign freight qual, foreign tank, foreign chemical
4 tanker, also life raft, T Boat inspector, K Boat inspector, barge at dry dock and
5 machinery inspector there. When I went on to San Juan I got the foreign passenger
6 vessel qualification.

7 **CDR Odom:** Can you please describe your role during the exam your team conducted
8 on the 6th of March, 2015 on the El Faro?

9 **WIT:** Yes. That was an ACP exam. So I did the engine room portion.

10 **CDR Odom:** Were you also there in some sort of a training capacity?

11 **WIT:** I was working or trying to work towards the steam qual. So I guess in that sense,
12 yes.

13 **CDR Odom:** Thank you. And what is your understanding of the qualifications that
14 would be necessary to conduct that exam?

15 **WIT:** So to the best of my knowledge there is no qualification for ACP. The scope of
16 the exam is along the lines of a port state control exam. And the actual items that are
17 checked according to the ACP book, ACP 840 book are SOLAS, international
18 convention items or 33 C.F.R. Those are the types of things that would be normally
19 checked on a port state control exam.

20 **CDR Odom:** So if I understand you correct, you're saying that there's no qualification
21 for ACP per se for that exam. But to inspect or to do the exam on the El Faro do you
22 understand any requirement that there is for that, for the vessel? Not specific to the
23 program but for the vessel?

1 **WIT:** For the vessel if it's not enrolled in ACP?

2 **CDR Odom:** Yes.

3 **WIT:** Yes. You would typically have a hull inspector and a machinery, in this case
4 machinery steam.

5 **CDR Odom:** So is that kind of the basis for how most of our offices make the decision
6 for what type and what make up the exam team will be?

7 **WIT:** I've seen it done different ways. So I said there's no policy. I was just assigned
8 to the teams. I don't know the decision process that went into the selection.

9 **CDR Odom:** Thank you. Can you discuss in detail what it takes to become a Coast
10 Guard machinery inspector? And also include, I know you're not qualified in machinery
11 steam yet but you're working on it, the amount of time and the training and how that
12 process works to become a machinery steam inspector.

13 **WIT:** So for the machinery inspection I don't think it's set in stone, but I think it's
14 generally accepted that the machinery qual you don't get on your first tour. So usually it
15 takes 4 years working towards it so you can get to that point. Not every unit follows
16 that, but I know a lot of units that's the way it works. Then once you get to your second
17 tour usually you can get your, they call major qual, machinery qual or hull qual. That
18 can take, you know it depends on the volume of inspections going. But I would say a
19 year would probably be an average amount of time. With that there's a new
20 requirement that there's an online course. It's actually a pretty good course. I actually
21 went through it and read all the references so I think all in total it must have took me 3
22 months to get through it. Moving on to the steam I don't have the qual yet, but my
23 understanding from the MSM, machinery is a prerequisite for the steam qual. Although

1 if you look at the PQS it almost looks like you get the steam by itself because there's
2 only maybe 6 or 8 steam particular items on it. The rest is general stuff that would also
3 be on your machinery qualification. And obviously that would be volume dependent. I
4 think there's some people that can get accelerated and go through a couple of the
5 breakouts and get through it expedited if need be.

6 **CDR Odom:** Can you explain what a breakout is?

7 **WIT:** I haven't been to one so I can't tell you. But to the best of my knowledge in the
8 Great Lakes all the ships they lay up for the winter. So in the spring time they do their
9 breakouts, they get them ready for the season and that's when all the inspections are
10 done.

11 **CDR Odom:** Thank you. So I know you previously just stated that your highest level of
12 education is high school. But have you completed any formal education courses
13 specific steam plants? For example have you completed courses at a maritime
14 academy, online correspondence as you just previously stated, or any association of
15 mechanical engineers or college level courses?

16 **WIT:** Yes, sir. Currently I'm working on two degrees. One's a bachelor's of science in
17 mechanical engineering. Or actually engineering technology with a concentration of
18 mechanical engineering. Also machinery – machinery technology degree. So a
19 certificate degree. I went to SUNY Maritime for the diesel steam automation course and
20 completed the online course, both for machinery inspector and machinery steam
21 inspector.

22 **CDR Odom:** What about the association of mechanical engineers course, did you go to
23 a course with them?

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1 **WIT:** Yes, sir. I took an online course. It was ASME B31.1, which is pressure piping,
2 usually industrial steam plant type piping.

3 **CDR Odom:** And in your college course for engineering how far along are you on those
4 courses?

5 **WIT:** I believe I'm around the 118 credits.

6 **CDR Odom:** Thank you. And can you go into a little bit more detail about your past
7 field experience specific to steam exams and inspections in the Coast Guard?

8 **WIT:** Yes. Give me a second I can get you a list of all the ones that were completed
9 under the guidance of a qualified inspector.

10 **CDR Odom:** You don't have to go through every individual one. Just kind of give us a
11 general synopsis of your field experience.

12 **WIT:** I attended the fire side, water side exam on the USNS Comfort. And also boiler
13 hydro on that one. I also attended the annual inspection for the Chemical Pioneer
14 which is a full Coast Guard inspection. I was also there for the boiler hydro on the
15 POLLUX which is an SL7. And then in San Juan we had a damage survey for the
16 Horizon Navigator, they lost a steam turbine and actually it was a 3 month project but
17 they had to open up, machine the turbine it's an extensive project line and process.
18 And additionally we went through their periodic safety test procedures on two separate
19 occasions. One I did it jointly with an ABS surveyor and the second day we went and I
20 did it under the guidance of Mr. McMillan. We also did sea trials on that vessel. And
21 then there was another time when Mr. McMillan took me out to do an AC annual on the
22 bariatric test procedures. And we had – I've been involved in a few other boiler

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1 examinations after damage, both from Chemical Pioneer and on the Horizon Navigator,
2 but that was attendance of a Class surveyor.

3 **CDR Odom:** Thank you. So while aboard the El Faro you were under the supervision
4 of a qualified machinery steam inspector, is that correct?

5 **WIT:** I guess that would be correct. An [in audible] was on board. Also to back I've
6 been on board for different inspections, but [in audible] vessel, John W. Brown and a
7 steam vessel. And I also used to do inspections on a T Boat which had a steam plant
8 for main propulsion.

9 **CDR Odom:** So in your training experience is it common as a trainee matures in their
10 experience in level of qualification or in pursuit of that qualification for the qualified
11 inspector to allow the trainee to conduct an exam of equipment independently or
12 complete elements of an exam unsupervised and report their findings back for
13 discussion?

14 **WIT:** That's been I guess normal from what I've seen. The qualified will be there and
15 let the unqualified go through the process.

16 **CDR Odom:** And is it normally discussed with the Master or Chief Engineer so they're
17 fully understanding the intent of the exam is for the marine inspector to gain experience
18 without a qualified marine inspector observing him and to give them the opportunity, the
19 Chief Engineer or the Master, give them the opportunity to decline that situation?

20 **WIT:** I don't know if I've ever seen it in that exact detail. But I have seen it before
21 where they would let the Chief – licensed crew, let them know that they are in training.

22 **CDR Odom:** Okay, thank you. So shifting away from the training questions and
23 moving on to more about the preparation for the inspection. Just to be clear we have

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1 routinely referred to the exam on the El Faro as the annual ACP oversight exam.

2 However, for the purpose of endorsing the COI, the certificate, the Coast Guard
3 certificate of inspection that day, was the endorsement that was made the annual
4 renewal or a periodic endorsement?

5 **WIT:** I did not endorse the COI so I'm not sure.

6 **CDR Odom:** Thank you. Would that have made any difference in the scope of the
7 exam that was performed?

8 **WIT:** We were doing an ACP exam so as far as the ACP 840 book goes I don't think
9 there's any difference. If it were a non-ACP vessel then yes there would be a difference
10 between the annual periodic in the regulations.

11 **CDR Odom:** Thank you. So I would like to ask you if you could state what the exam
12 objectives are of an alternate compliance exam such as the one you were participating
13 in the El Faro.

14 **WIT:** The ACP exams are, as I think we heard earlier, but in lieu of a full Coast Guard
15 exam where their intent is to not duplicate the work that ABS and the Coast Guard do.
16 It is verifying, essentially first and foremost we're doing all the things that ABS or Class
17 society wouldn't do, such as fire and boat drills, securing drills and whatnot. In addition
18 to that we're going to do a walk through and check some items in accordance with the
19 ACP exam guide.

20 **CDR Odom:** Would you say it's fair to say the intent is to ensure that the enrolled
21 vessels are consistently maintained at an equivalent level of safety that is equivalent to
22 the traditional Coast Guard vessel inspection program?

23 **WIT:** I would agree with that, yes.

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1 **CDR Odom:** Thank you. And can you tell us what it means to expand an exam and
2 what is required for you to do that?

3 **WIT:** To expand an exam means you have objective evidence that there's a problem
4 with a certain system or systems. Then you would go deeper and check additional
5 items. In this case the ACP 840 book has certain typical exam items and there's
6 additional expanded exam items.

7 **CDR Odom:** So when you find that objective evidence is your expanded exam limited
8 to that area of objective evidence or can you expand into the entire vessel?

9 **WIT:** I don't think you're restrained. You can expand as much as you felt necessary. It
10 would depend on the particular situation and all the circumstances. But if you saw
11 bigger problems you expand as far as you needed to.

12 **CDR Odom:** Thank you. And can you give us – what are the minimal areas of focus
13 for an exam of this type?

14 **WIT:** Do you want me to go through them line by line?

15 **CDR Odom:** You can if you just briefly state what the minimum requirements are for
16 the Coast Guard for the areas of focus. You don't have to go through what you
17 inspected, but what, like for example lifesaving, firefighting, cargo, what are the
18 minimum?

19 **WIT:** Right. So there were broad areas. You would check documents, you would
20 check the deck, you would check lifesaving, firefighting, machinery, electrical, collision
21 prevention.

22 **CDR Odom:** Thank you. And that would also include hull structure?

23 **WIT:** Yes.

1 **CDR Odom:** Thank you. And in March when you conducted the exam on the El Faro
2 how long did it take you to complete the exam?

3 **WIT:** I can give you a pretty accurate idea. I think – I found the invite from the
4 inspection which I think it was scheduled to start at 9:30. And I believe just before I left I
5 think I contacted the ABS surveyor at 1522.

6 **CDR Odom:** Approximately a little over 6 hours? Or right at 6 hours?

7 **WIT:** Around that, yes. I can't be sure what time we actually arrived. But ----

8 **CDR Odom:** Is that normal for an ACP exam of this type?

9 **WIT:** Umm, it's probably on the long side, but I don't – 3, 4 hours I would say.

10 **CDR Odom:** Okay. And can you describe your preparation for the exam on the El
11 Faro, what you did to prepare for the exam as far as research of records, SAFE NET or
12 anything like that?

13 **WIT:** So the ACP officer, Jerry McMillan he's the one that has access – he was the
14 lead and the way we ran our exams the lead would do all the prep so he would have
15 done all the look into ABS records, audits and SAFE NET. And he prepared a case
16 folder. He made a separate – he gave me the case folder to review a day prior to the
17 exam. So I reviewed, I believe it included the COI, the critical profile and the 840 book.

18 So I reviewed the COI and the 840, I'm sorry, the COI and the critical profile.

19 **CDR Odom:** So did anybody on the team from your office or from the Coast Guard
20 directly or indirectly discuss any of the results of the ABS surveyors findings from the
21 January and February 2015 statutory surveys he completed on the El Faro?

22 **WIT:** I don't recall anything specific.

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1 **CDR Odom:** Now are you generally familiar with the supplement and can you describe
2 how your office applied it to the El Faro or how you used it in this exam, if at all?

3 **WIT:** Yeah I'm very familiar with the supplement. I did bring the supplement with me. I
4 have a binder that has all the ACP related documents including the supplement. I forgot
5 what the rest of the question was.

6 **CDR Odom:** Just ----

7 **WIT:** Describe it.

8 **CDR Odom:** How you applied it.

9 **WIT:** Basically for ACP the vessels have a typical Coast Guard exam, this vessel in
10 particular would be regulated under subchapter I, subchapter F and subchapter J,
11 subchapter W. For an ACP vessel those regulations don't apply, Class rules and
12 international conventions along with the supplement makes up anything that would be
13 lacking that you would normally would find in the C.F.R.'s, at least for an equivalency.

14 **CDR Odom:** So from the supplement are you familiar with the ABS checklist that's
15 been put in the supplement?

16 **WIT:** I've seen the checklist. My understanding is that's actually for the ABS surveyors.
17 So I haven't – I don't have a real in depth knowledge of it. But I know it exists.

18 **CDR Odom:** Alright, so can you tell me what your understanding is of who's
19 responsibility it is from the supplement, or from your experience to launch the life boats
20 and run them in the water?

21 **WIT:** On a – I know Class does that in a dry dock. I've seen that done. But as far as
22 our ACP exams all we do is lower the boats to the boat deck. That's what the policy is.

1 **CDR Odom:** So in the previous testimony there was a few ABS Class
2 recommendations or conditions of Class that were issued during the January, February
3 survey from the Class surveyor. One of those was about the holed deck in the fore
4 peak and I think the previous – Mr. McMillan testified that he knew about that but he
5 said he hadn't tested the emergency generator, or didn't seem like he was aware that
6 there was a – that the emergency generator failed to start during that exam. And was
7 subsequently fixed and cleared during that exam. But did you have any knowledge or
8 visibility on that?

9 **WIT:** You're saying that the emergency generator didn't start during ABS's exam?

10 **CDR Odom:** That is correct.

11 **WIT:** No, I did not know that.

12 **CDR Odom:** Was there any issues with it during your exam?

13 **WIT:** No. It started, we ran it, it was fine.

14 **CDR Odom:** Okay, thank you. Exhibit 127 page 120 is the Coast Guard activity
15 summary from the marine information safety and law enforcement database also known
16 as MISLE. If you could turn to that please.

17 **WIT:** Okay.

18 **CDR Odom:** And looking at that there's a list of items that are checked satisfactorily
19 inspected. Can you explain what that list is and how that is set up in our MISLE
20 database?

21 **WIT:** Yes. So in the vessel critical profile, I'm sorry in the activity summary report
22 there's a section for inspection results. Items that are checked and whether they're
23 checked or not check and if they were inspected satisfactory or with deficiencies.

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1 **CDR Odom:** So all of these items that are listed in here does this mean that everything
2 was satisfactory on the vessel?

3 **WIT:** I guess one issue would be for an ACP vessel on a typical U.S. vessel exam we
4 would issue an 835, so then there may be a deficiency, but according to the guidance
5 for an ACP exam we wouldn't necessarily issue a deficiency, we might be able to just
6 contact Class when we can. So it's possible that something was inspected with a
7 deficiency but then corrected. So I'm not sure. I don't know if there's any guidance that
8 would tell you exactly how to handle that.

9 **CDR Odom:** But really this wouldn't identify any deficiencies that were discovered and
10 subsequently turned over to a Class surveyor, right?

11 **WIT:** That would be correct.

12 **CDR Odom:** Thank you. And who was the company rep that day? Was Mr. Nieeson
13 on board? I notice you have him identified as the point of contact. Was he on board
14 during your survey?

15 **WIT:** I believe the Port Engineer was on board. Jerry, Mr. McMillan kept contacts with
16 those guys pretty regular. They were – he was the point of contact for them and I guess
17 vice versa. So he had a pretty good working relationship with them. I don't know one
18 from the other. I can't tell you who it was other than looking, if it's listed in the narrative I
19 could read that, but I couldn't tell you that's who it was. But I know there was a Port
20 Engineer there.

21 **CDR Odom:** Thank you. And there's a couple of items in the narrative there that refer
22 to a Class report as being identified from SAFE NET. Is that anything that you reviewed

1 or you were concerned about? We can bring up an exhibit that you can read them if
2 you want to, but we discussed them earlier. And they were not engineering related, so.

3 **WIT:** Right. To the best of my recollection those were not briefed to me. And I
4 wouldn't necessarily expect that they would since I was doing machinery. If they were
5 not machinery related items.

6 **CDR Odom:** One of the things that's in the narrative that caught my attention was that
7 it was noted that the vessel, at the end of the narrative, it was going to be taken out of
8 service in the near future. What would be the purpose of stating that in the narrative?
9 Would that have an effect on the outcome of the exam or the decisions that were
10 made?

11 **WIT:** No. To the best of my knowledge, no. That had no influence on anything. We
12 were kind of curious as to what was going on with the vessel just because we knew the
13 new LNG ships were coming and we were kind of curious what was going on with that.
14 But I don't – it had no influence, no.

15 **CDR Odom:** So through the course of the exam on the El Faro was the age the vessel
16 ever a factor from the test you conduct or consideration in any way?

17 **WIT:** We understood they were old ships. But our knowledge of the Tote ships were
18 they were well maintained. So we didn't really expect any problems. We didn't do
19 anything out of the ordinary because of their age. And I guess a lot of the age would
20 have to do with what happened at the dry dock. So that's a piece of information you
21 really don't know. So you would think that would be fine unless [in audible].

22 **CDR Odom:** Thank you. And Exhibit 226 is the Coast Guard 840 ACP exam book.
23 Now was this the book that was used by your exam team to examine the El Faro?

1 **WIT:** Looks like that's a 1999 version. I believe we had the 2001 version. I can't be
2 sure though.

3 **CDR Odom:** Okay. So can you use that as a reference to go through and discuss the
4 items that you tested? Understanding you were on a team and you guys as a team
5 went in separate directions and examined different things. Can you just use the 840
6 book, go through it and tell us what items you personally examined and the result of that
7 exam? And also I think we can agree that all the certificates were in good order and
8 there was no issue with the certificates or any of the license for the members on board
9 and all the manning was proper, is that correct?

10 **WIT:** I did not check licenses, licenses were checked, I was present when they were
11 being checked, but I would have checked the IOPP. And I don't recall at what point I
12 checked the oily record book, I don't recall if it was during the initial check the
13 documents or if it was towards the end with the Chief Engineer. But yes documents,
14 licenses were all checked. So if you want to start at that point.

15 **CDR Odom:** Yeah we can start past that point actually if everything was in good order
16 instead of going through all of those individual certificates and the book.

17 **WIT:** I would say everything was in good order then. There was one issue that came
18 up and I think the previous testimony, Mr. McMillan made the point that there was an
19 individual that acted strange and since the NTSB interview we did find field notes from
20 that day, so we did get the actual name of that individual.

21 **CDR Odom:** Okay, thank you. And moving on past that and can you just get into the
22 material condition of the vessel and the items that you surveyed or examined for
23 specific to what you looked at.

1 **WIT:** Okay. Just I did have the book, I did use the book, but I had my own order of
2 going through things that just developed over time. So I'll have to jump around the boat
3 a little.

4 **CDR Odom:** That's fine.

5 **CAPT Neubauer:** Commander Odom I recommend that, just for sequence that he go
6 by the sequence that he actually performed the exam.

7 **CDR Odom:** That would be fine. So continue.

8 **WIT:** So after license and documents are done we would proceed, the first thing we
9 would check is steering. And we did have some issues with the steering and we also
10 found the field notes that include those. I think the first thing we realized was the gyro
11 repeater was showing an alarm and I believe the crew explained that the gyro was
12 secured so it was just a natural alarm that the gyro wasn't getting any input. So that
13 was the reason for it being an alarm which we understood as a reasonable explanation.
14 Then we tested the steering and I recall the steering would over shoot what we had
15 ordered. So we tested it several times and talked to the Chief Engineer and the Port
16 Engineer and ultimately we ended up calling ABS for it. But the steering worked fine, it
17 would just if we ordered say 10 degrees it would stop running, the pump would stop at
18 10 degrees but the rudder continued to drift for additional 4 or 5 degrees. Other note
19 we note – we made was there was to tighten a starboard bolt for the rudder angle
20 indicator. And there was a large diameter, maybe a 1 inch diameter hex bolt that was
21 not seated up against its bearing surface. And we had looked at closely, and it had no
22 relevance to the steering system, it was just simply there to hold the rudder, you know
23 the little angle indicator in place. So there was really no safety concern there. We did,

1 not sure why it was like that, we brought it up to the Port Engineer and he said he would
2 get it tightened. That's all regarding the notes. But I can expand on that a little bit. We
3 would have checked the steering power failure alarm, the steering diagram in the space
4 and we would have checked on 1 pump, 2 pump. Full follow up, non-follow up. And we
5 would have also tested the emergency steering which the Chief Engineer operated the
6 emergency steering.

7 **CDR Odom:** And did you also test the communications?

8 **WIT:** Yes. We would have used the ship's sound powered phones to talk or the ship's
9 telephone system, intercom system to talk to the bridge. In this particular item I believe
10 we expanded the exam in accordance with the book we expanded the exam to test the
11 loss of power alarm.

12 **CDR Odom:** Okay, thank you. So you contacted ABS about the indicator, the rudder
13 drifting a little bit. And what was the result of that contact?

14 **WIT:** The actual contact with ABS didn't come to the end of the exam. We discussed
15 with the Port Engineer and the Chief Engineer. Originally they seemed unaware of it.
16 After a while they made some comments that there was an older gentleman that had
17 worked on it but had passed away, the older gentleman that had worked on the system
18 had passed away. Then I think eventually the Chief Engineer said maybe these springs
19 for the solenoid may have been bad which seemed to make sense. That was kind of
20 where we left the steering until we finished the exam. Then we contacted ABS to let
21 them look at it. They came right over but we had departed before they showed up.

22 **CDR Odom:** And did that result in a deficiency from ABS, a condition of Class?

23 **WIT:** Yes.

1 **CDR Odom:** And how much time was given on that?

2 **WIT:** I have the emails with the, I'm not sure, I think it was a condition of Class, but I'm
3 not sure. I could look that up. But I don't if I actually brought that with me. But I have
4 those documents.

5 **CDR Odom:** That's okay. We can follow up with that. Just I think what's important to
6 note that ABS followed up with your office and you guys were in agreement with the
7 action that was taken?

8 **WIT:** Yes. We – I contacted ABS, we departed. ABS contacted me I think by the time
9 we were either on the way or had gotten back to the office and said they were at the
10 vessel. We discussed over the phone what the issue was. He tested it and said he
11 verified the problem and was going to take whatever action. I believe he followed up
12 with the Chief of Inspections with his report.

13 **CDR Odom:** Thank you. So moving on past the steering what other items did you
14 examine and what was the result?

15 **WIT:** From the steering, although it's not in the ACP book, part of my particular routine
16 would look at the shaft seal. And I believe I do recall the shaft seal being no issues with
17 it. It was in good condition.

18 **CDR Odom:** Okay.

19 **WIT:** Then from there we would go to the bilge pump which was – we just did a visual,
20 we did not run the bilge system. We did have an issue, Mr. McMillan asked me to take
21 a look at the bilge piping because he had a concern with the wording that was on the
22 COI regarding hazardous cargos. So we had started to discuss that with the Chief
23 Engineer, I was going to ask him to trace out the piping and he without any hesitation he

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1 knew exactly how the piping was run, where it went. He had very good knowledge of
2 the systems. So that concluded what we did with the piping. We went to the, next we
3 would have went to the fire pump and we did a visual inspection of the fire pump. The
4 pump itself would have been run on deck. And from there we would have proceeded to
5 the oily water separator and conducted a test of the oily water separator. From there
6 we proceeded to the sewer system and questioned the Chief Engineer on his
7 knowledge and what they had for treatment for the sewage system. And I think we also
8 made another note, I apologize. Backtrack for the steering. We had another note that
9 there was buckets and absorbents under the rings in the steering. But – which is
10 usually the concern but when we looked at it closely they were fairly clean absorbents
11 and empty buckets. So I paid particular attention to the rings as they were operated
12 and there was no leakage coming out of the seals. I just took that as a conscientious
13 effort to keep the engine room clean – the steering gear clean which it was. Everything
14 was very clean in the ship. Somewhere between the oily water separator and the
15 sewage system we did make a note that there trash cans, non-metallic trash cans
16 stored. And in the process of getting the field notes I talked with Ms. Weiss, she was
17 with me for the entire exam, we were side by side. And she did add that she recalled
18 the oily rags being in the trash can.

19 **CDR Odom:** Who is Ms. Weiss?

20 **WIT:** Lieutenant Commander Weiss she was the – she's the, well she is the ACID, the
21 Assistant Chief Inspection Division in San Juan and she was with me during the
22 machinery portion or major portion of the exam.

23 **CDR Odom:** Thank you.

1 **WIT:** From the sewage system we would have taken a walk around the boilers and
2 examined the boilers, boiler piping back through to the turrets, HP and LP, reduction
3 gears, all associated piping, pumps, etc. And then back to the steam turbine
4 generators.

5 **CDR Odom:** When you were looking at the steam piping did you pay any particular
6 attention to the hangers and their condition?

7 **WIT:** So when I took the ASME B31.1 course there was a section that addressed the
8 importance of the hangers. So it was something that I was cognizant of and I did take a
9 look at the hangers as I was walking through. I can't remember it's been so long, but I
10 believe I may have even pointed it out to Ms. Weiss that the hangers, the importance of
11 the hangers. So I'm pretty sure I took – paid close attention to the hangers and saw no
12 issues.

13 **CDR Odom:** And the condition was satisfactory?

14 **WIT:** Yes.

15 **CDR Odom:** Thank you. And on the boiler did you conduct any periodic safety test
16 procedure?

17 **WIT:** Yes. Probably before we actually looked at the physical boiler I – Jerry, Mr.
18 McMillan had asked me to conduct one periodic safety test procedure on the boiler. I
19 relayed that to the Chief Engineer and he – I think he said what do you want to do or
20 something, I told him let's do well water. And he had some, I think he said he had just
21 done the alarms and there was difficult to do the low low so I asked if it was okay just to
22 do the low and that's what we did.

23 **CDR Odom:** And did you do that on the port and starboard boiler?

1 **WIT:** I can't get my orientation. So it was just one as far as I recall.

2 **CDR Odom:** Okay, thank you.

3 **WIT:** And I guess I can say with the boiler front, facing the boiler fronts with the turbines
4 behind you I believe it was the boiler to the right.

5 **CDR Odom:** Thank you. So moving on past that what other items would you check in
6 the engine room?

7 **WIT:** That I believe was the majority of what we checked in the engine room. I'll breeze
8 through here real quick just to make sure I didn't forget anything. But from there we
9 would have went to check the CO2 system.

10 **CDR Odom:** Okay.

11 **WIT:** And then after the CO2 system it would have been the emergency generator.

12 **CDR Odom:** And you stated earlier that it was in good condition. I do have one
13 question with regards to the emergency generator. Are you at all familiar with the rule
14 that requires the emergency generator to be used to restart a dead plant within 30
15 minutes of a blackout?

16 **WIT:** Uh ----

17 **CDR Odom:** With the Class.

18 **WIT:** Yes, yes, yes.

19 **CDR Odom:** And in your experience have you ever seen that tested or exercised?

20 **WIT:** Yes. I've seen it in new construction, yes.

21 **CDR Odom:** And that's the only time you've seen it? You've never seen it during – on
22 an operational vessel?

23 **WIT:** I believe we did a blackout test on a cruise ship.

1 **CDR Odom:** Okay. And did you recall in the engine room reviewing any procedures
2 associated with that?

3 **WIT:** No I don't recall anything like that.

4 **CDR Odom:** Okay, thank you. Do you recall testing any bilge pumps? Or you said the
5 ballast pumps, bilge pumps you guys didn't run them you just did a visual. But what
6 about the alarms, bilge alarms?

7 **WIT:** We did the periodic or excuse me, we did not check bilge alarms.

8 **CDR Odom:** Do you know if anybody verified that these bilge alarms alarm on the
9 bridge?

10 **WIT:** No, I don't remember that.

11 **CDR Odom:** Okay, thank you. While you were on board did any of the engineers or
12 anybody express any concern about the condition or any conditions on board the EI
13 Faro?

14 **WIT:** No we never heard any concerns, anything like that. I would say I was mostly
15 with the Chief Engineer and I believe the Port Engineer followed us. So I didn't really
16 have much dialogue with anyone. We did have lunch on board. But I can't – we did the
17 EI Yunque I think it was 3 months later and most of what I think of is probably the EI
18 Yunque. But there was no comments, nobody complained, no nothing like that.

19 **CDR Odom:** In your moving around the vessel did you examine the bulkheads, the
20 watertight bulkheads and the penetrations through them, the water penetrations?

21 **WIT:** Right. So entering and exiting the engine room for the steering compartment and
22 I believe we went back down after lunch so we would have went from the galley down. I
23 did not notice any issues. It usually kind is in of water penetrations that might be up

1 above engine room doors or whatnot. There was nothing like that. Nothing was visible
2 obviously.

3 **CDR Odom:** What about the watertight doors as you went through them opening and
4 closing them, did they all seem to work satisfactory and make good seals?

5 **WIT:** We didn't exercise the door. That is one of the ACP 840 items which I did notice.
6 However, that item is for Class 3 sliding watertight doors. So I made a note about
7 asking the Chief Engineer if they had those, which they did not. But we walked through
8 the doors and I would have been paying attention to the doors as we were walking
9 through them, but as far as exercising the doors no.

10 **CDR Odom:** The knife edges were all in good order, the seating surfaces and stuff like
11 that? Gaskets were all there?

12 **WIT:** Yeah I would have taken a visual look as we were passing through them if there
13 was any rust or anything like that that would have been obvious. But I don't recall
14 anything like that.

15 **CDR Odom:** Did you ever observe or notice in the forward part of the engine room a
16 watertight door that led into the cargo hold number 3 I think it was? Did you ever
17 observe that door left open or being tied open in any way? Are you familiar with which
18 door I'm talking about?

19 **WIT:** Yeah. I know that we had to go through, from the steering through a car deck and
20 I think that brings you out to like a machine shop or something like that.

21 **CDR Odom:** Right. Moving forward from there, there would be another watertight door
22 that would have led into the forward cargo hold.

23 **WIT:** I can't recall.

1 **CDR Odom:** Okay, thank you. And did you take a look at any of the non-metallic
2 stanchion joints in the engine room?

3 **WIT:** We looked through all the piping especially between the boilers and the turbines,
4 turbine generators and down in there. That's something that I would notice if it was
5 there and I don't recall seeing it. I don't recall any issues.

6 **CDR Odom:** Thank you. Was there any other items you wanted to add in your ----

7 **WIT:** If I could just take a look through here real quick?

8 **CDR Odom:** Sure, go ahead.

9 **WIT:** I would say also I did a spot check of firefighting portable extinguishers, whatnot
10 while we were down there. Yeah I think we would have reviewed the oil record book oil
11 transfer procedures. I know for one of them we did that in the Chief Engineer's office. I
12 can't, probably both, but I can't say that for sure.

13 **CDR Odom:** Thank you. Do you recall which Chief Engineer you were doing the exam
14 with?

15 **WIT:** Yes I believe it was Robinson was the last name.

16 **CDR Odom:** Thank you. And did you have any safety management system concerns?

17 **WIT:** No, not – that never came up.

18 **CDR Odom:** Did you participate in the drills?

19 **WIT:** I did. I – the drill on there, the fire drill was in the galley and if I can remember
20 Ms. Weiss in the galley, and when I spoke to her recently she said she had commented
21 about how professional the crew was when they entered the space. Compared to the
22 foreign crews that we're used to seeing.

23 **CDR Odom:** And with regards to the abandon ship drill, can you summarize that?

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1 **WIT:** I don't have a real good recollection. And the El Yunque and El Faro both blend
2 together. I know for one of them we were standing on the port – port deck, boat port
3 deck. I believe we would have – I think they mustered on either side of the pilot house.
4 But as far as anything in particular on that day I don't recall.

5 **CDR Odom:** Do you recall everybody having a survival suit and a life jacket that you
6 observed?

7 **WIT:** Every abandon ship drill that we do everyone has their life jacket on. And this
8 wouldn't have been any different. I can't say for certain that everyone had a survival
9 suit. I think our latitude is for the SOLAS that was not really necessary so. For some
10 ships, so in the orders we wouldn't necessarily see every ship bringing out their survival
11 suits.

12 **CDR Odom:** Do you recall if there were any riders on board in addition to the crew?

13 **WIT:** No.

14 **CDR Odom:** Did you find the crew to be knowledgeable and did they at any time
15 express any concerns during the drills with the condition of the vessel or safety?

16 **WIT:** Like I said the Chief Engineer is the only one I really had a whole lot of dealing
17 with and he was very knowledgeable. I think he noted that he had quite a bit of
18 experience on that vessel. As far as, I forget the second part of your question.

19 **CDR Odom:** Any concerns with the safety culture or any conversations about safety?

20 **WIT:** No, no. Seeing – I don't recall seeing much of the crew. Probably when we did
21 the boat drill they were all very professional, very safety conscience. But again I can't
22 say that's what in my mind is the El Yunque, it could be El Faro. Or vice versa.

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1 **CDR Odom:** And during the time you spent in San Juan at any time did you have any
2 major non-conformities or major issues with the El Faro?

3 **WIT:** I think the El Faro had come recently. I think that was the first exam that we did
4 while it was there. But I can speak for the rest of the Tote ships and we never had any
5 problems with the Sea Star Tote ships. Some of the other ships were not in the same
6 regards. But those ships we rarely had any problems with.

7 **CDR Odom:** So when you said not in the same regard you're not referring to any Tote
8 ships, that's other?

9 **WIT:** Another company.

10 **CDR Odom:** Another company, okay. And were you a qualified marine casualty
11 investigator while you were in San Juan?

12 **WIT:** I was not there.

13 **CDR Odom:** You were not there.

14 **WIT:** But we did – we maintained a duty schedule so and the policy at the unit was
15 pretty much nobody goes along so it was always two person. So if I had duty and
16 something happened I would usually go out with the duty IO.

17 **CDR Odom:** So was there ever a marine casualty that you're aware of with the El Faro
18 that you responded to or were involved in?

19 **WIT:** The El Faro in particular no.

20 **CDR Odom:** With regards to marine casualty and notification for a dangerous condition
21 on board the vessel, just a general question who would be responsible for making that
22 notification to the Coast Guard?

23 **WIT:** I believe it would be the Master.

1 **CDR Odom:** Thank you. And Mr. Schock thank you for your testimony. I'm done with
2 my line of questions. I turn it back over to Captain Neubauer.

3 **WIT:** Thank you.

4 **CAPT Neubauer:** At this time I would like to go to the NTSB. Mr. Young.

5 **Mr. Young:** Good afternoon Mr. Schock. Just a few follow up questions please. Is
6 there a specific check sheet or a book for you to show your evaluations on obtaining a
7 steam qualification?

8 **WIT:** PQS book I guess that's what you're referring to.

9 **Mr. Young:** Yes.

10 **WIT:** Yes there is a PQS book for machinery steam. I might have it here.

11 **Mr. Young:** What does PQS, just for the record?

12 **WIT:** Performance qualification system I guess. Standard.

13 **Mr. Young:** And can you just describe briefly how that system works with the PQS
14 book to obtain your steam qualification?

15 **WIT:** I think the system itself is kind of influx right now. It's not my area of expertise but
16 I know I participated in the rewrite of at least one of the PQS books. But this would be
17 what it looks like and there would be a log in the back for all of your inspections and
18 then pages of the actual PQ – the tasks that you would have to perform. The oldest is
19 still an older one and the older ones are just general items. And what they're
20 transitioning to are tasks or performance specific PQS workbooks so there's actually
21 C.F.R. reference that you would have to complete.

22 **CAPT Neubauer:** Mr. Schock for the record could you read the cover on that PQS and
23 maybe a date?

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1 **WIT:** Yes Captain. This is U.S. Coast Guard Sector machinery inspector steam
2 performance qualification standard revision date 05 October 2007.

3 **CAPT Neubauer:** Thank you.

4 **Mr. Young:** So if I understand it right they are a list of tasks that you would perform and
5 a senior officer would check it off if those had been successfully completed, is that
6 correct?

7 **WIT:** That's correct. A verifying officer.

8 **Mr. Young:** What percentage of those were completed at the time of the El Faro
9 inspection?

10 **WIT:** Of mine were signed off?

11 **Mr. Young:** Yes.

12 **WIT:** None.

13 **Mr. Young:** I'm sorry?

14 **WIT:** Zero.

15 **Mr. Young:** For the steam?

16 **WIT:** Correct.

17 **Mr. Young:** How about for machinery?

18 **WIT:** I have machinery qual. It's complete.

19 **Mr. Young:** Okay. So the steam one had zero percent signed off?

20 **WIT:** Correct.

21 **Mr. Young:** But you were in the process of working on that qual, correct?

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1 **WIT:** I was in the process of working on that qual. I was trying to work on going to the
2 breakouts to get a couple weeks of steam, but budget concerns probably the eliminating
3 factor.

4 **Mr. Young:** And when you are on an ACP inspection on board a vessel you use the
5 840 book as guide. Do you complete an 840 book for each vessel inspection and retain
6 it or do you just visually look at it and then discard it?

7 **WIT:** In San Juan 840 books were generally completed and discarded. That hasn't
8 been the case everywhere.

9 **Mr. Young:** Has or has not?

10 **WIT:** It has not.

11 **Mr. Young:** Has not.

12 **WIT:** Has not. My previous unit 840 books were filled out and filed.

13 **Mr. Young:** Was there any oversight in the completion of the book at the end of the El
14 Faro inspection to verify that each of the areas of your inspection were completed?

15 **WIT:** I did. I pulled it out when we were nearing the completion of the inspection. I
16 pulled my copy out, reviewed it to make sure that we had hit all the tasks or all the items
17 that from the engine room portion we would check. But as far as a group I don't – no,
18 that didn't happen.

19 **Mr. Young:** Thank you. What's involved with a visual of say a bilge and ballast pump?
20 What are you looking for when you look at a pump and motor in an engine room?

21 **WIT:** So this inspection according to the instruction the guidance is states that it's about
22 the scope of a port state control exam. Port state control exams have their own 840
23 books, but there's also a policy letter that said how port state control exams should go.

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1 I think it's been incorporated in the marine safety manual now. But it actually
2 specifically states that the bilge pumps shouldn't be run unless there's objective
3 evidence that there's a problem with it. And for example it wouldn't be unheard of to go
4 find a bilge pump missing. The crew may have had to take it out for service and they
5 don't have one. That's kind of where that's going.

6 **Mr. Young:** So it's a visual inspection that the pump is present?

7 **WIT:** Yes and you know if there were any signs of rust, deterioration, electrical wiring
8 being loose, things like that, correct.

9 **Mr. Young:** Thank you.

10 **WIT:** And I think, I believe in the ACP guide that when I did review that there was no
11 requirement to actually – for the annual inspection to run the pump. And I assume the
12 reason for that is when they made the book they – part of the intent of the program is
13 we don't duplicate efforts and we're not checking things that ABS already checked. So
14 I'm assuming that's why it's not in there.

15 **Mr. Young:** And when you discussed the periodic safety test of the boiler shutdowns
16 with the Chief Engineer did you or he have a copy of a number of test that may have
17 been performed? And if so do you know what the status was?

18 **WIT:** No I don't. Like you're talking a record of the test?

19 **Mr. Young:** Yes, exactly.

20 **WIT:** No. I don't recall anything like that.

21 **Mr. Young:** It's not something you requested?

22 **WIT:** No.

1 **Mr. Young:** And when you did run the emergency generator at the last inspection was
2 it tested in an auto stop function or a manual start?

3 **WIT:** We ran a manual start.

4 **Mr. Young:** And there were no issues with that start?

5 **WIT:** No.

6 **Mr. Young:** Thank you very much. No further questions Captain.

7 **CAPT Neubauer:** Mr. Schock I just have one follow up question. I'm curious about
8 accessed information that you had around the time of the March exam. It's my
9 understanding that the Coast Guard has removed several critical dates for vessel from
10 MISLE system. And that you did not have general access to SAFE NET around that
11 period. Did that ever create an issue for you to do research on a vessel, especially
12 during time periods of unavailability for Mr. McMillan?

13 **WIT:** Captain I can only recall one time when the, I think it was Tote, I actually went
14 through some emails I found the email where Tote had requested an exam for whatever
15 Mr. McMillan wasn't available and I routed that up to the Chief of Inspections. And I
16 believe in that case for whatever reason that the exam fell through, it never got
17 scheduled or cancelled. Or if it did Mr. McMillan usually wasn't gone for very long. So
18 that problem never came up. But yeah if he wasn't there then we wouldn't have access
19 to SAFE NET other than trying to contact Headquarters.

20 **CAPT Neubauer:** Did you have access to SAFE NET at your previous unit, I believe
21 Sector Delaware Bay?

22 **WIT:** Yes, sir, I did.

23 **CAPT Neubauer:** Did you ever ask for access for Sector San Juan?

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1 **WIT:** No, sir. I actually tried to get in and I guess, I don't know if it had to do when I
2 transferred or if it was a problem with the work station or whatever, but I tried to use the
3 password that I had in Sector Delaware Bay and I don't know if it was corrupted or I
4 couldn't get access.

5 **CAPT Neubauer:** Thank you. Mr. Roth-Roffy do you have any questions at this time?

6 **Mr. Roth-Roffy:** No, sir, thank you.

7 **CAPT Neubauer:** I would like to go to the parties in interest and just as a reminder
8 we're only do one round of line of questioning. Tote?

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

10 **CAPT Neubauer:** ABS?

11 **ABS:** No questions, sir.

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

13 **Ms. Davidson:** No questions, sir.

14 **CAPT Neubauer:** Are there any final questions for Mr. Schock at this time? Mr.
15 Schock you are now released as a witness at this Marine Board of Investigation. Thank
16 you for your testimony and cooperation. If I later determine that this board needs
17 additional information from you I will contact you through your counsel. If you have any
18 questions about this investigation you may contact the Marine Board Recorder,
19 Lieutenant Commander Damian Yemma. At this time do any of the PII's have any
20 issues with the testimony that we just received?

21 **Tote Inc:** No, sir.

22 **Ms. Davidson:** No, sir.

23 **ABS:** No, sir.

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1 **CAPT Neubauer:** The hearing will now adjourn and reconvene at 9 a.m. tomorrow
2 morning.

3 *The hearing recessed at 1736, 25 May 2016.*

4