

United States Coast Guard  
Marine Board Investigation  
Commercial Fishing Vessel Destination Casualty  
FORMAL HEARING

Henry M. Jackson Federal Building  
915 Second Avenue  
Seattle, Washington 98174  
August 7, 2017 -- August 17, 2017

REPORTER'S OFFICIAL TRANSCRIPT OF PROCEEDINGS

VOLUME VIII of IX

DATE TAKEN: Wednesday, August 16, 2017  
TIME: 0900-1640

REPORTED BY:  
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**P R O C E E D I N G S**

Start Time 0902

**OPENING STATEMENT**

CDR MULLER: Good morning. This hearing will come to order. Today is August 16, 2017, the time is 0902. We are continuing at the U.S. Coast Guard Thirteenth District, Seattle, Washington.

I am Commander Scott Muller, of the United States Coast Guard, Chief of the Inspections and Investigations Branch, Fifth Coast Guard District, Portsmouth, Virginia. I am the Chairman of the Coast Guard Marine Board of Investigation and the presiding Officer over these proceedings.

The Commandant of the Coast Guard has convened this Board under the authority of Title 46, United States Code, Section 6301 and the Title 46, Code of Federal Regulations, Part 4, to investigate the circumstances surrounding the sinking of the fishing vessel Destination, with the loss of six lives on February 11, 2017 approximately three nautical miles north of St. George Island, Alaska.

This investigation will determine as closely as possible the factors that contributed to the incident in order to develop recommendations aimed at preventing similar casualties.

1           Whether there is evidence that any act of  
2 misconduct, inattention to duty, negligence, or willful  
3 violation of the law, on the part of any licensed, or  
4 certificated person contributed to the casualty. And  
5 whether there is evidence that any Coast Guard  
6 personnel or any representative or employee of any  
7 other government agency or any other person caused or  
8 contributed to the casualty.

9           This Marine Board has planned for at least  
10 one hearing session. The purpose of this hearing is to  
11 collect factual information. The Marine Board will use  
12 the factual information when developing its report of  
13 findings, conclusions, and recommendations.

14           I have previously determined that the  
15 following individual is a Party-in-Interest to this  
16 investigation. Mr. David Wilson represented by Ms.  
17 Spivak of Holmes, Weddle & Barcott. This party has a  
18 direct interest in the investigation, and has  
19 demonstrated the potential for contributing  
20 significantly, or otherwise enhancing the safety of  
21 life and property at sea, through participation as a  
22 Party-in-Interest.

23           All Parties-in-Interest have a statutory  
24 right to employ counsel to represent them, to cross-  
25 examine witnesses, and to have witnesses called on

1 their behalf.

2 I will examine all witnesses at this formal  
3 hearing under oath or affirmation and witnesses will be  
4 subject to federal laws and penalties governing false  
5 official statements. Witnesses who are not Parties-in-  
6 Interest may be advised by their counsel concerning  
7 their rights, however, such counsel may not examine or  
8 cross-examine other witnesses or otherwise participate.

9 These proceedings are open to the public, and  
10 to the media. I ask for the cooperation of all persons  
11 present to minimize any disruptive influence on the  
12 proceedings in general, and on the witnesses in  
13 particular. Please turn your cell phones or other  
14 electronic devices off, or to silent, or vibrate mode.  
15 Please do not enter or depart the hearing room except  
16 during periods of recess.

17 Flash photography will be permitted during  
18 this opening statement and during recess periods. The  
19 members of the press are, of course, welcome. An area  
20 has been set aside for your use during the proceedings.  
21 The news media may question witnesses concerning the  
22 testimony they provided here, but only after I have  
23 released them from these proceedings. I ask that any  
24 such interviews be conducted outside this room.

25 Since the date of the casualty the NTSB and



1 the Coast Guard have conducted substantial evidence  
2 collection activities. And some of that previously  
3 collected evidence will be considered during these  
4 hearings. Should any person have or believe he or she  
5 has information not brought forward but which might be  
6 of direct significance, that person is urged to bring  
7 that information to my attention by emailing  
8 FVDestination@USCG.mil.

9 The Coast Guard relies on strong partnerships  
10 to execute its missions, and this Mariner Board of  
11 Investigation is no exception. The National  
12 Transportation Safety Board provided a representative  
13 for this hearing, Mr. Michael Karr seated to my left is  
14 the Investigator-in-Charge of the NTSB Investigation.  
15 Mr. Karr, would you like to make a brief statement?

16 MR. KARR: Good morning, I am Michael Karr  
17 Investigator-in-Charge for the National Transportation  
18 Safety Board for the investigation of this accident.  
19 The NTSB has joined this hearing to avoid duplicating  
20 the development of facts. I do wish to point out that  
21 this does not preclude the NTSB from developing  
22 additional information separately from this proceeding  
23 if that becomes necessary.

24 At the conclusion of this hearing, the NTSB  
25 will analyze the facts of this accident, will determine

1 probable cause independent of the Coast Guard, will  
2 issue a report of the NTSB findings, and if  
3 appropriate, the NTSB will issue recommendations to  
4 correct safety problems discovered during this  
5 investigation.

6 CDR MULLER: Thank you. We will now call our  
7 first witness of the day, Mr. Hazlett who will be  
8 joining us telephonically. Mr. Hazlett are you there?

9 THE WITNESS: Yes, sir.

10 CDR MULLER: Good, this is CDR Muller.

11 THE WITNESS: Good morning.

12 CDR MULLER: Good to speak with you again.

13 THE WITNESS: Yes, sir.

14 CDR MULLER: So before we get started with  
15 calling you and administering the oath. I just want to  
16 give you a quick rundown of who we have here, present  
17 in the room, at this testimony. So we are calling you  
18 from Seattle, Washington. As you know we are  
19 conducting a Marine Board of Investigation into the  
20 sinking of the fishing vessel Destination.

21 In the room we have members of the Board,  
22 myself as chair, Mr. Jim Gillette, and LCDR Mendoza.  
23 And of course, NTSB, Mr. Karr, and also representatives  
24 of the Parties-in-Interest. This is a public hearing,  
25 and it is being recorded. Also we have a number of

1 people here from the public present, including members  
2 of the family and friends of the fishing vessel  
3 Destination.

4 You counsel LCDR Burby is present. Please  
5 let us know if you would like to consult with him at  
6 any time. I understand that you are calling from  
7 Anchorage, Alaska, is that correct?

8 THE WITNESS: Yes, sir.

9 CDR MULLER: Are you in a place where you can  
10 answer our questions?

11 THE WITNESS: Yes sir.

12 CDR MULLER: Very well, thank you. LCDR  
13 Mendoza, if you would, please administer the oath.

14 LCDR MENDOZA: Please stand and raise your  
15 right hand.

16 THE WITNESS: Yes, sir.

17 **WITNESS**

18 **MR. RUSSELL HAZLETT**

19 **UNITED STATES COAST GUARD FISHING VESSEL EXAMINER**

20 A witness produced on call of the Coast Guard  
21 was duly sworn according to the law, was examined and  
22 testified as follows:

23 THE WITNESS: Yes, sir. I do.

24 LCDR MENDOZA: Please be seated. Sir, could  
25 you please state your full name and spell your last name

1 for the record.

2 THE WITNESS: Russell Hazlett H-A-Z-L-E-T-T.

3 LCDR MENDOZA: Could you state your current  
4 employment and position title.

5 THE WITNESS: U.S. Coast Guard Commercial  
6 Fishing Vessel Examiner.

7 LCDR MENDOZA: Do you hold any professional  
8 licenses or certificates?

9 THE WITNESS: Yes, sir. I have a 100-ton  
10 master's license.

11 LCDR MENDOZA: Thank you, Sir.

12 CDR MULLER: Thank you Mr. Hazlett, Commander  
13 Muller here. So, I'm going to hand you over now to Mr.  
14 James Gillette who will start off with the questions  
15 that we have for you this morning.

16 **EXAMINATION**

17 BY MR. GILLETTE:

18 Q. Good morning Mr. Hazlett, my name is James  
19 Gillette with the United States Coast Guard. Do you  
20 hear me well over that phone?

21 A. Yes, sir.

22 Q. I also hear you very clearly. If at any time  
23 you don't understand a question that is asked, just  
24 request that the question be readdressed or rephrased.

25 If at any time you need to take a recess

1 please ask. Also remember, to speak up loud and clear  
2 to assist the court reporter to transcribe the hearing.  
3 With that said, I would like to start asking questions.

4           Mr. Hazlett, I would like to get a Coast Guard  
5 Fishing Examiner's overview of the work that is  
6 performed at Sector Anchorage. But before we get into  
7 that, I would like to get a little more background  
8 information from you. Can you start by telling us how  
9 long you have been working with the Coast Guard as a  
10 Commercial Fishing Examiner?

11           A. In this same position, I started in 2014.

12           Q. Did you have any prior service in the Coast  
13 Guard or other maritime employment, and if so can you  
14 share that with us.

15           A. Yes sir, I have twenty-seven years active duty  
16 in the Coast Guard. Also served as a commercial  
17 fishing vessel examiner at Marine Safety Office,  
18 Savannah, Georgia, probably 2001 to 2003. I also was  
19 at the North Pacific Regional Fisheries Training Center  
20 as an instructor in 2013 and 2014.

21           Q. Do you hold any qualifications in relation to  
22 marine safety, and if so, can you tell us what they  
23 are?

24           A. I had several. I was Port State Control,  
25 performed (inaudible word) vessel exams, pollution

1 investigator, explosives loading supervisor, facilities  
2 inspector, and also container inspections.

3 Q. Have you ever had any training on stability  
4 and if so can you elaborate about that?

5 A. Nothing official other than probably the best  
6 practices guide to fishing vessel stability that we  
7 hand out. And the video that Mr. Dan Hardin did.

8 Q. Where is that video located?

9 A. Fish Safe.info

10 Q. Okay, thank you Mr. Hazlett. Can you describe  
11 to us the commercial fishing vessel examiner's job and  
12 responsibilities at Sector Anchorage?

13 A. We basically go out, and inspect vessels, or  
14 examine vessels when they call in requesting exams.  
15 Our area of responsibility is kind of hard compared to  
16 other ports due to the fact that we are dealing with  
17 the remote locations that the vessels are in. Most of  
18 the areas that we go to, we have to time it at a  
19 certain point to where the captains and the masters --  
20 give them time to get to the ports, get the vessels  
21 ready, and then do the examinations before they get  
22 under way to go fish.

23 Q. Do you work for a Coast Guard District Office?  
24 If so, which one?

25 A. Say that one more time, please?

1 Q. Do you work for a Coast Guard District Office?  
2 And if so, which one?

3 A. I work with Sector Anchorage, and we fall  
4 under D17.

5 Q. Okay. Can you describe to us your working  
6 relations with District 17 and share with us what they  
7 provide to Sector Anchorage to allow you to do your  
8 job?

9 A. Mostly what they provide is support for  
10 whatever we request. They provide some training,  
11 advice, guidance. They also provide funding for many  
12 of the trips we go out on.

13 Q. Can you talk to us about how many fishing  
14 vessels you are responsible for as well as how many of  
15 them are Bering Sea crab boats?

16 A. That would be a hard one to really put a  
17 pinpoint on. We have about nine hundred, I believe in  
18 our AOR. But a lot of the ones that we also visit are  
19 also vessels down in D13 as well.

20 Q. Out of those nine hundred, how many of those,  
21 do you think are Bering Sea crab boats?

22 A. I would say, I think the last count on our  
23 list that we tracked was somewhere around 70 to 90.

24 Q. Okay, I would now like to shift our focus  
25 specifically to those Bering Sea crab boats. Can you

1 talk to us about how many exams you have completed on  
2 crab boats in an average year?

3 A. Me personally or the unit?

4 Q. How about the office, and then you personally?

5 A. Our office mostly deals with the smaller  
6 vessels throughout the rest of the state. I would say  
7 our office probably would do maybe twenty boats that  
8 were crab boats. Me personally on average I may do 3  
9 or 4.

10 Q. Can you share with us how you schedule exams,  
11 and what type of exams that you schedule with those  
12 crab boats?

13 A. Basically, when we schedule an exam it is due  
14 to the master or the captain calling us and requesting  
15 one.

16 Q. Does Sector Anchorage also perform non-  
17 scheduled exams? And if so, can you share a little  
18 about that with us?

19 A. What we mostly do out of this office, if we  
20 are working out of this office dealing with a local  
21 port like Seward or Whittier, we will go on the  
22 master's request.

23 Other than that, when we go out to one of the  
24 outlying areas that we conduct the exams in, we will  
25 call ahead, speak with the harbor master. We will also



1 talk with the, like tribal people, or fishing  
2 associations, or seafood plant managers, let them know  
3 when we are coming, try to get the word out.

4 And then we will get to the town, and usually  
5 like the harbor master will have a list for us. Or  
6 people will start calling on the phone requesting us to  
7 come to their vessel.

8 Q. After you complete the exam, can you talk to  
9 us a little about the administrative details it takes  
10 to complete the exam, itself?

11 A. Say that one more time, please?

12 Q. When you are finished with the exam itself,  
13 can you talk about whatever administrative details it  
14 takes to get a full completion of the exam?

15 A. As far as entering the case into MISLE?

16 Q. Yes, can you elaborate a little about that?

17 A. Basically, you complete the exam form on the  
18 paper, pen and paper, come back to the office and then  
19 go transcribe the information that you have written  
20 down into the MISLE application. And fill that out,  
21 and scan a copy, that's your pen and ink paper into the  
22 computer. That's pretty much it.

23 Q. Do you send any of those MISLE exams, or any  
24 reports, or notifications to anyone? And if so, can  
25 you elaborate?

1           A.    No sir.

2           Q.    Does District 17 close your exams, or PACAREA,  
3 or do you close your own exams?

4           A.    We close our own.

5           Q.    Okay.  Are there any difficulties in getting  
6 funding to attend fishing exams?  And if so, could you  
7 elaborate on that?

8           A.    There are times where our budget, that is kind  
9 of tight, is depending on, you know, the national  
10 budget, you know, if we have funding or not.

11          Q.    Have you ever had to postpone or cancel exams  
12 due to weather or logistics?  And if so, can you share  
13 with us an example?

14          A.    Yes, weather is always a factor.  There is  
15 many times we've not been able to get to certain  
16 places.  I believe last year we sat in the airport for  
17 a week waiting to get out to Sand Point.

18          Q.    Could you talk to us about how Sector  
19 Anchorage works with Marine Safety Detachment Dutch  
20 Harbor to facilitate exams aboard crab boats?

21          A.    When we are getting our new people in, as you  
22 know Dutch Harbor, they transfer out annually.  So  
23 every year when the new people come through our office,  
24 they check in first with Sector Anchorage, introduce  
25 myself to those folks; let them know that I'm here to

1 support them.

2           They pretty much work on their own throughout  
3 the year. When we have surge ops such as the crab  
4 fishery or whatever, we offer our assistance to go out  
5 and help them the best we can.

6           Q. Can you talk to us about what is performed in  
7 a Safety & Stability Compliance check also referred to  
8 as SCC or spot check?

9           A. Say that one more time, please? You are kind  
10 of echoing.

11          Q. Yes. Can you talk to us about what is  
12 performed in a safety and stability compliance check,  
13 also referred to as a SCC, or spot check?

14          A. And your question, you would like to know what  
15 is done when we do one of those?

16          Q. That is correct.

17          A. Basically, we will get a phone call from the  
18 master requesting us to come down and do an inspection  
19 on his vessel. And we will go down to the vessel,  
20 basically when we first get down there, we walk around  
21 the vessel, take a general overview of what's going on  
22 for safety.

23                 And a lot of times they are loading the crab  
24 pots and stuff at that time, getting the vessel ready  
25 to go. So we will be watching, you know, for any kind

1 of safety issues.

2 Usually we will look at that loadline of the  
3 vessel, where, how the vessel is sitting in the water,  
4 and trying to see how much freeboard they have,  
5 insuring that it's proper. Take a look at the vessel's  
6 lights, anchor, you know, general condition of the  
7 vessel.

8 Once we have gotten the picture we are trying  
9 to get, we will usually have 1 or 2 people with us.  
10 One person will start counting, trying to count the  
11 pots to get a good count in how many pots and the way  
12 they are stacked.

13 We will go on board the vessel, introduce  
14 ourselves to the captain and crew. Start looking at  
15 paperwork and documentation. We will pull out the  
16 stability book, make sure that it's been approved, or I  
17 shouldn't say approved, but it has all the proper  
18 paperwork with it.

19 We will also start checking immersion suits,  
20 EPIRB, some safety gear. Then we will go over how the  
21 vessel is loaded, how many pots are on board, what the  
22 tankage is, what the hold, what conditions the holds  
23 are, and we will try to verify it through the stability  
24 book, with how they are loaded and make sure that they  
25 are following the stability book.

1           Q.    I would like to focus a little on the  
2 stability book and the size and weight of crab pots.  
3 So, can you explain to us how you ensure that the size  
4 and the weight of the crab pots are in accordance with  
5 the size and weight that is allowed in the stability  
6 book?

7           A.    Basically, we will ask the captain what size  
8 crab pots he is using, whether it is 6 x 6, 7 x 7, ask  
9 him the weight. And then we will look in the book, and  
10 figure out what the book was figured with. Many a time  
11 they will have, let's just say a 7 x 7 that is figured  
12 700, 750. He might have a 6 x 6, and then, you can use  
13 that math to generally try to figure out if he is above  
14 or below the weight.

15          Q.    The stability books that you have seen, do you  
16 know if they add the weight of the shots of line and  
17 buoys that are --

18          A.    I have never really seen an actual weight  
19 calculation on that. Most of the time, if you look in  
20 the book, it will say the crab pot is 7 x 7 with the  
21 line and stuff in it weighing "X" amount of pounds.

22          Q.    Okay. Is there any consideration regarding  
23 how many pots that could be loaded in summer or winter  
24 or icing and if so can you elaborate?

25          A.    I couldn't tell you if there was really summer

1 or winter. I know they usually have in the book,  
2 something that will say something during icing  
3 conditions deduct "X" amount of pots. And if you ever  
4 go into the negative, then you are overloaded.  
5 Something to that effect.

6 Q. Can you explain what you mean by going into  
7 the negative?

8 A. If you, let's just say the vessel had thirty  
9 pots on there, and he said that, or they were going out  
10 in icing conditions, and the book said deduct forty-  
11 five, then he would be in the negative.

12 Q. How do you consider icing condition?

13 A. Icing conditions, generally, I would consider  
14 those what the NOAA broadcast, marine broadcast was  
15 broadcasting, and the local weather reports, that, the  
16 weather conditions that they were experiencing at the  
17 time, or where they may be going.

18 Q. Prior to your visits to crab boats, do you  
19 look into the weather updates before doing your exams?

20 A. Yeah. Generally in the morning we will listen  
21 to the weather reports, the NOAA broadcasts, or look  
22 them up on the computer.

23 Q. Can you give us an example, or have you ever  
24 had an example of a scenario where you've had to use  
25 the icing part of the stability book?

1           A.    I have never had to do it to my knowledge, no.  
2    Every time I've been out there it's been October, it's  
3    been usually in the forties.

4           Q.    Have you ever witnessed the weighing of crab  
5    pots?

6           A.    Yes sir.  We have weighed crab pots in the  
7    past.

8           Q.    Can you kind of describe how that's done?

9           A.    When we had them weighed, we were usually at a  
10   facility, such as like Trident Seafood, or something  
11   like that, and they had the scales, and the cranes and  
12   all to do so for us.

13          Q.    When you have done the crab pots, was the gear  
14   inside?

15          A     Yes.

16          Q.    When you weighed it, did it match the  
17   stability books?

18          A.    No.

19          Q.    What did you do after that if it didn't?

20          A.    We recounted all the -- using the new  
21   calculated weight, we counted the crab pots, and they  
22   were still under the calculated weight.

23          Q.    Can you explain a little more into that?

24          A.    Yeah, let's say the crab pot was supposed to  
25   weigh seven hundred pounds and it weight seven-fifty,

1 we took the number of pots on board, times that by the  
2 new weight, and it was still under the calculated  
3 weight that they were, their stability book allowed.

4 Q. Were the exams where you actually measured the  
5 weight, were those --

6 A. Say that again?

7 Q. Yes. When you did the weight tests, did you  
8 generally start, when you came to the vessel did you  
9 normally say hey, let's do a weight test? Or did the  
10 captain of the vessel say let's do a weight test?

11 A. We were asking. We were asking the captains  
12 if they were, if they had the ability to, or the  
13 facility had the ability to weigh some.

14 Q. How often do you guys ask that?

15 A. Mostly we will ask that if we have the  
16 opportunity to weigh them. We will try to get some  
17 weights just to verify. It's pretty random, it's not  
18 an every time thing. A lot of times it's after we have  
19 asked questions, are these the same pots that you had  
20 when you had the stability book done up. If they are  
21 not, have you weighed them, and you know -- and we have  
22 the ability to weigh them right now, if we do, could  
23 we? And the captain is like, sure.

24 Q. How was the response from the captain when you  
25 said they have to carry less pots?





1 them because, essentially you received a phone call  
2 from a vessel master, is that correct?

3 A. Yes, sir. Or we will make contact while  
4 walking the docks.

5 Q. Okay. So you are doing dock walks, and those  
6 dock walks, is it a concerted effort? Back in the day  
7 we would call them pulse ops, or surge ops.

8 A. Yes, sir.

9 Q. Okay. And when you do those, pulse ops, surge  
10 ops, spot checks, dock walks, is it only in the month  
11 of October?

12 A. As far as our office is concerned, that's the  
13 only time that we've, since I've been there, that we  
14 have gone over to help Dutch, and we go to King Cove as  
15 well. And that's the only time of year that we do. I  
16 believe in the past Dutch Harbor has continually done  
17 those checks whenever requested throughout the year.

18 Q. Is there a reason why you go in October? And  
19 this is where I'm going with this.

20 A. Ah --

21 Q. Well, just so you know where I'm coming from,  
22 to be fair, when you go in October, it doesn't  
23 necessarily afford the opportunity to test, or discuss,  
24 or bring up the issue of icing necessarily. So that is  
25 why I'm wondering, you know why not, have you

1 considered going in the colder months, whatever months  
2 that may be?

3 A. I believe, this is my theory as far as why it  
4 was always, we always went over in October. Was that  
5 was the start of the crab fleet's fishing. Everyone  
6 started at one time, and it overwhelms the Dutch Harbor  
7 office, to the point, you know, at times depending on  
8 how many people they had qualified and that window that  
9 you have to get those vessels done. Like I said, you  
10 have to wait 'til the captains get the vessels loaded,  
11 so that you can see them in that loaded condition. And  
12 you only have "X" amount of days, let's say three days,  
13 to try to do as many boats as you can.

14 After that crab boats come in and go at a  
15 pace, you know it's not the start like it is on the 15<sup>th</sup>  
16 of October. So your vessels can come in and come and  
17 go and it is a manageable pace for the Dutch Harbor  
18 crew to handle on their own. Is that kind of what you  
19 were looking for, sir?

20 Q. Yes, thank you. Apologize for my pause.

21 A. No, that's --

22 Q. I'm thinking, and just writing notes down.  
23 Regarding the spot checks, that's typical good practice  
24 for an examiner or a marine inspector as you approach  
25 the vessel to get your overall impression of vessel,

1 and then you take a look at the water line.

2 So, you mentioned, you look at the freeboard.  
3 What constitutes in that process for you and your team  
4 any kind of concern regarding the freeboard?

5 A. Generally, you are going to have a water line  
6 painted on the vessel and that's probably our biggest  
7 indicator that we look at when we are coming up, is  
8 where that water line, painting stripe is and or  
9 (inaudible word) rail. And then also freeing ports are  
10 probably another area you would look to try to gauge  
11 how the vessel is sitting in the water.

12 Q. Right. Okay. So what is your reference  
13 point? The main deck? The freeing ports? And are you  
14 looking at some kind of freeboard, you know?

15 A. Generally, all three, you would probably look  
16 at all three, main deck, (inaudible word) rail, painted  
17 water line. You know, every vessel is a little  
18 different, so...

19 Q. So, I guess what I'm getting at is, is there a  
20 distance, or the amount of freeboard that may be  
21 alarming, or initiate a conversation with the master.  
22 I mean, is that three feet, two feet, six inches?

23 A. Generally, I would say six inches of freeboard  
24 around your water line marking, your (inaudible word)  
25 rail area, or, you know, whatever it would be a

1 standard load. Distance of possibly the stability book  
2 may tell you exactly what you are looking for in that,  
3 right height.

4 Q. Are those spot checks over the years that  
5 you've been there, is it -- are they conducted in  
6 conjunction with the Alaska Department of Fish & Game?

7 A. Not to my knowledge.

8 Q. I apologize if I, in the beginning, you  
9 mentioned some of the quals you held, did it include t-  
10 boats small passenger vessel?

11 A. No sir.

12 Q. By any chance, because you are in the  
13 Inspections Department at your Sector, correct?

14 A. Yes, sir.

15 Q. And how many years have you been at the unit?

16 A. Three.

17 Q. Okay. By any chance, I just want to -- do you  
18 recall about five years now, maybe six years now, there  
19 was the small passenger vessel stability review. It  
20 essentially involved the Reg change to update the  
21 assumed passenger weight? Were you ever involved in  
22 any of those projects in the past?

23 A. No sir.

24 Q. Okay. Have you ever personally done a  
25 commercial fishing vessel exam on the Destination?

1           A.    I could not say for sure.  I was on the trip  
2 out to Sand Point when Petty Officer Brinkley did the  
3 exam in 2014.  I very well could have been on the  
4 vessel with her, but I cannot recall for sure.

5           Q.    Did she work for you, was she part of your  
6 staff, or was she part of a different staff?

7           A.    Yes, she worked with me as my assistant.

8           Q.    Who did the MISLE activity work?

9           A.    I believe she did on that vessel.

10          Q.    Do you recall if anybody reviewed it and  
11 closed it other than her?

12          A.    I do not recall.  No.

13          Q.    What is the practice in your office in terms  
14 of reviewing and closing, activities, in terms of  
15 review?  How many tiers of review?

16          A.    With her being my assistant, she pretty much  
17 opened and closed her own cases.  She was a very  
18 thorough person, and she helped a lot with the training  
19 of the people here at our office.  If we get a new  
20 person onboard, they would do the MISLE and then it  
21 would come to either her or I, whoever was available to  
22 review the case, and then we would close the case after  
23 we reviewed it.

24          Q.    Understood, thank you.  One final question, I  
25 want to get a little bit more understanding about this

1 process regarding the weighing of the pots. In those  
2 occasions when you had an opportunity to weigh them,  
3 when was the last time you weighed them?

4 A. That was probably, me personally, it was 2014,  
5 I believe, maybe 2015.

6 Q. Okay, so a few years ago?

7 A. Yes, sir.

8 Q. Okay. I have no further questions, thank you.

9 CDR MULLER: Mr. Karr, NTSB, do you have any  
10 questions?

11 **EXAMINATION**

12 BY MR. KARR:

13 Q. Mr. Hazlett, have you served under your  
14 license as a 100-ton master?

15 A. No sir.

16 Q. Have you sent Sector Anchorage or Dutch Harbor  
17 personnel to Trident Seafoods to do spot checks and  
18 examine vessels? That's Trident Seafoods on St. Paul?

19 A. Can you say that again? You are echoing.

20 Q. Have you -- we are going to move the  
21 speakerphone down to me to make for better  
22 communication. Have you sent fishing vessel examiners  
23 to the Trident Plant in St. Paul to conduct spot checks  
24 or dockside exams?

25 A. I've been out to St. Paul myself to do exams

1 but most of them were done in the summertime, in May.  
2 I -- I don't believe any of our examiners have gone out  
3 to St. Paul for the crab fleet, no.

4 Q. Based on what you've heard or what you've  
5 experienced, personally, when you speak with the crab  
6 boat captains or crew, what is the most common  
7 knowledge gap that your office has experienced when  
8 examining the crab vessels?

9 A. That's a hard to answer, I mean, every captain  
10 is different, every knowledge base is different. They  
11 are very knowledgeable. I would say most of them are  
12 very professional and have a great knowledge of their  
13 field of employment.

14 Q. When you have spoken to the crab boat captains  
15 or crew, or your, or what you've heard from your folks  
16 that work for you, do you have a sense of what your  
17 perception of the urgency and the stress faced by the  
18 opilio crabbers?

19 A. I wouldn't, no we really don't get to deal  
20 with them during the opilio crab season, as far as  
21 myself, or my office. Like I said, most of the time  
22 that we are interacting with them is at the start of  
23 red King crab season.

24 Q. When you refer to a dock walk, what is the  
25 mission of the dock walk?



1           A.    Basically to get out, gain some visibility,  
2   make sure that we let the captains know that we are in  
3   town, and we are coming out any time they want us on  
4   the vessel to do an examination or a spot check. Try  
5   to get on as many vessels as we can.

6           Q.    And can you describe what you do when you and  
7   your staff are on vessels?

8           A.    Say that one more time, please?

9           Q.    Can you describe what you and your staff do  
10  when you are on vessels? Is your sole purpose and  
11  focus to complete the exam and leave? Or do you  
12  promote any other safety initiatives?

13          A.    Yes sir, we, a lot of times we will take out a  
14  notice, NAVICs, safety bulletins, hand out, we all the  
15  time are handing out different items that we are trying  
16  to get out as far as information, such as flyers  
17  information bulletins, sometimes we hand out books with  
18  stuff that we feel it pertinent to get the information  
19  out to the captains and the crew.

20          Q.    And my last question is, you know, what your  
21  job -- here's the question, in addition to the dockside  
22  exams and spot checks, do your fishing vessel work  
23  tasks involve any other contacts or meetings with  
24  fishermen or the boat owners?

25          A.    We do regular commercial fishing vessel safety

1 exams if that's what you are saying.

2 Q. Are there any other meetings you attend?

3 A. Not so much on that trip there, to Dutch  
4 Harbor, we don't really attend any meetings there. But  
5 in other places, in other fisheries, yes we normally do  
6 attend, if they have a fisherman's meeting we will  
7 attend that. I'm sure Dutch Harbor probably attends  
8 meetings with the crab fisherman's associations. But I  
9 do not believe or recall that we have ever attended one  
10 out at Dutch or King Cove. Mostly because we are  
11 probably not there when that meeting is happening.

12 Q. Well, I'm just talking about in general to  
13 promote fishing vessel safety. Are there any type of  
14 meetings where, specifically, have you been invited to  
15 attend and speak on fishing vessel safety?

16 A. Yes, sir. I've gone to some here in  
17 Anchorage. I go to the Northern Pacific Regional  
18 Fishery Show occasionally.

19 Q. And what's the message that you, you know, can  
20 you specifically tell me what points you want to get  
21 across to those people that you speak or meet with?

22 A. It varies from time to time. Usually it is a  
23 broad spectrum depending on what's going on with our  
24 field. Say a couple years ago when the mandatory exams  
25 were coming out, and all the new changes to the

1 regulations, we were promoting those.

2 We were working with NIOSH several times,  
3 trying to promote the wearing of PFD's, Personal  
4 Flootation Devices. If we are working with the salmon  
5 fisheries, then we are usually dealing with things that  
6 pertain to them, if we are up in (inaudible word) we  
7 are dealing with the open skiffs, and trying to get  
8 those guys in compliance with the regulations that they  
9 are supposed to meet.

10 Q. Thank you Mr. Hazlett. I have no more  
11 questions.

12 CDR MULLER: Thank you Mr. Karr. Ms. Spivak  
13 do you have any further questions?

14 MS. SPIVAK: No questions, thank you.

15 CDR MULLER: Let me check in --

16 MR. GILLETTE: No questions.

17 CDR MULLER: Okay. Mr. Hazlett, this  
18 concludes the question that we have for you this  
19 morning. Before I release you as a witness, is there  
20 any information or issues that you think the Marine  
21 Board should consider? Any topics that, perhaps were  
22 not otherwise raised this morning?

23 THE WITNESS: No sir, not at this time.

24 CDR MULLER: Very well Mr. Hazlett, thank you  
25 for your time. I will now release you as a witness. I

1 just need to read the statement. You are now released  
2 as a witness at this Marine Board of Investigation,  
3 thank you for your testimony and cooperation. If I  
4 later determine that this Board needs additional  
5 information from you, we will contact you.

6 If you have any questions about this  
7 investigation, you may contact the Marine Board  
8 Recorder, LCDR Mendoza. Thank you again.

9 THE WITNESS: Thank you.

10 CDR MULLER: Good day.

11 THE WITNESS: All right.

12 CDR MULLER: Okay, we are going to recess for  
13 ten minutes, thank you.

14 (Whereupon a ten minute recess was taken.)

15 CDR MULLER: Good morning again. This hearing  
16 will come to order. We will now hear testimony from  
17 Ms. Westphal. Ms. Westphal are you there,  
18 telephonically?

19 THE WITNESS: Yes, this is Miranda.

20 CDR MULLER: Yes, good morning Miranda.

21 THE WITNESS: Good morning.

22 CDR MULLER: Commander Scott Muller here.  
23 Pleasure to speak with you again.

24 THE WITNESS: Nice to speak with you too,  
25 Commander Muller.

1           CDR MULLER:  So before we get stated with  
2 administering the oath, I just want to give you a little  
3 awareness of, because you are on a conference call here,  
4 speakerphone and I just want to give you some awareness  
5 of who we have in the room here.

6           So, as you know, we are calling from Seattle,  
7 Washington.  We are conducting the Marine Board  
8 Investigation into the sinking of the fishing vessel  
9 Destination.  In the room we have members of the Board  
10 who, including myself as chair, Mr. James Gillette and  
11 Lieutenant Commander Mendoza.  We also have, from the  
12 National Transportation Safety Board, Mr. Mike Karr.  We  
13 have a representative from the party-in-interest, which  
14 is the vessel's owner.

15           This is a public hearing and it is being  
16 recorded.  Also be aware that we have members also  
17 participating from the public, including family and  
18 friends of the crew of the fishing vessel Destination.

19           I understand you, I think you are calling from  
20 -- well, where are you calling from, ma'am?

21           THE WITNESS:  I am calling from Dutch Harbor,  
22 Alaska.

23           CDR MULLER:  You are, okay, I knew one of you  
24 was perhaps not in Dutch Harbor today.  So you are  
25 calling from Dutch Harbor.  Are you in a place where you

1 can answer our questions?

2 THE WITNESS: Yes, sir.

3 CDR MULLER: All right, thank you. LCDR

4 Mendoza will now administer the oath.

5 LCDR MENDOZA: Ma'am, could you please stand  
6 and raise your right hand.

7 THE WITNESS: Yes, sir.

8 **WITNESS**

9 **MIRANDA WESTPHAL**

10 A witness produced on call of the Coast Guard  
11 was duly sworn according to the law, was examined and  
12 testified as follows:

13 THE WITNESS: I swear.

14 LCDR MENDOZA: Please be seated.

15 THE WITNESS: Thank you.

16 LCDR MENDOZA: Would you please state your  
17 full name and spell your last name, for the record?

18 THE WITNESS: Yes. My name is Miranda  
19 Westphal. My last name is spelled, W-E-S-T-P-H-A-L.

20 LCDR MENDOZA: Could you state your current  
21 employment and position title?

22 THE WITNESS: I work for the Alaska  
23 Department of Fish & Game in the fisheries biology  
24 that acts as the area management biologist for Bering  
25 Sea and Aleutian Islands.



1 Q. Do I sound clear?

2 A. Yes, yes, I can hear you loud and clear.

3 Q. Okay, thank you. You also sound clear.

4 A. Good.

5 Q. If at any time you don't understand a question  
6 that is asked, just request that the question be  
7 readdressed or rephrased.

8 If at any time you need to take a recess  
9 please ask. Also remember, to speak up loud and clear  
10 to assist the court reporter to transcribe the hearing.  
11 With that said, I would like to start asking questions.

12 Can you start by telling us where your main  
13 office is located? Where your --

14 A. My main office, my duty station is Dutch  
15 Harbor, Alaska.

16 Q. Can you share with us how many people you have  
17 working with you?

18 A. We have five full-time staff, year round  
19 staff. And then about fifteen seasonal staff that come  
20 in for the crab season.

21 Q. Can you share, or can you talk to us about  
22 what the Alaska Fish & Game Division of commercial  
23 fisheries do, and what areas are you responsible for?

24 A. Sure. The Alaska Department of Fish & Game  
25 Division of Commercial Fishery is responsible for, there



1 are two facets to the Division of Commercial Fisheries,  
2 one is research, and the other is management.

3 I work on the management side of the Division  
4 of Commercial Fisheries, where we are responsible for  
5 managing any commercial fishing effort that happens in  
6 the state waters of Alaska, which is 0 to 3 nautical  
7 miles of the shoreline of Alaska.

8 My Division, the area of management (inaudible  
9 word) is for the Bering Sea and Aleutian Islands, is  
10 responsible for the commercial fishing that happens  
11 inside the state waters of Alaska.

12 In addition to my job duties regarding state  
13 waters, I'm also responsible for managing the Federal  
14 Crab Fisheries, which is Bering Sea Snow Crab, Bering  
15 Sea Tanner Crab, Bristol Bay Red King Crab, and Aleutian  
16 Island (inaudible word) King Crab. So that is a mandate  
17 from the Federal Government that the state manages the  
18 fisheries on their behalf.

19 Q. Thank you. Does the Alaska Department of Fish  
20 & Game have any work relations with the Coast Guard?  
21 And if so, could you talk about what those are?

22 A. We don't, we don't have daily interaction with  
23 the Coast Guard. We do we have a Marine Safety Detail  
24 here in town, in Dutch Harbor, that interacts with the  
25 same fleets that we do. So we have some, especially for

1 our crab fleet, which are our federal fisheries that we  
2 manage, we have some regulations with regard to  
3 contacting the Coast Guard.

4 But on a day to day basis, we don't have much  
5 interaction with the Coast Guard. Although we know that  
6 they do interact with the same vessels that we do.

7 Q. I am now going to show Exhibit No. 241, page  
8 seven. This is an Alaska Department of Fish and Game  
9 General Provisions. Do you have this Exhibit in front  
10 of you?

11 A. I do, yes sir.

12 Q. Okay. Can you talk to us about what these  
13 provisions are?

14 A. Sure. These provisions actually start on the  
15 page prior to this; it is Alaska Administrative Code  
16 539.760, which is the Bering Sea Aleutian Islands  
17 individual fishing quota, IFQ Fisheries Management Plan.

18 So these are the regulations that outline how  
19 the state is to manage and how -- and run the Federal  
20 IFQ Crab Fishery.

21 Q. Can you --

22 A. So -- yes?

23 Q. Go ahead, please?

24 A. No, no, no, I was pretty much done.

25 Q. If you needed to add anything on there, please

1 add it.

2 A. Okay. I was just going to say, so these are  
3 the rules that we follow for the Federal IFQ Crab  
4 Fishery.

5 Q. Okay, thank you. Could you read out loud  
6 number seven, that's on the right hand side of the page?

7 A. Um-hmm. It says, "An operator of a vessel  
8 participating in an IFQ, CDQ, or ADAC community  
9 allocation crab fishery in the Bering Sea, Aleutian  
10 Islands area must notify the United States Coast Guard  
11 at least twenty-four hours before departing port, when  
12 carrying crab pot gear."

13 Q. Can you first define what IFQ and CDQ are for  
14 us?

15 A. Yes. IFQ is Individual Fishing Quota. And  
16 CDQ is Community Development Quota. They are different  
17 allocations that are given, that are determined by the  
18 state through the stock assessment which -- so the  
19 Federal Stock Assessment go through a state harvest  
20 strategy, which determined the quotas that are given  
21 out. Either to individuals, so the IFQ, or to CDQ  
22 groups, which is Community Development Groups over all  
23 Alaska corporations.

24 Q. Thank you. In reference to number seven, can  
25 you elaborate a little more in detail of what provision

1 seven is about? What are the expectations for the  
2 notification of the Coast Guard?

3 A. I'm sorry Mr. Gillette, I didn't hear the  
4 question.

5 Q. Yes. Can you elaborate a little more in  
6 detail of what provision seven is about, and what are  
7 the expectations of the Coast Guard?

8 A. So, this is a regulation that we have, we  
9 meaning, here in Dutch Harbor our Marine Safety  
10 Detachment that is here, they switch out annually. So  
11 annually meet with the Coast Guard, whoever is in charge  
12 for that year, to determine how they want us to handle  
13 this regulation.

14 Generally our expectation for the vessels,  
15 when we are on the vessels, inspecting them and  
16 registering them, both for their, you know, allowed to  
17 go out fishing. We let them know that if they are  
18 carrying gear they need to contact the Coast Guard.

19 My presumption with this regulation was it was  
20 so that the Coast Guard could ensure that they have an  
21 approved stability plan in place. Or if not, that they  
22 would have an opportunity to visit the boat to make sure  
23 that all their paperwork with the Coast Guard is in  
24 order.

25 Q. Does the Alaska Department of Fish & Game

1 track or verify that the vessel participates, actually  
2 notify the Coast Guard? And if so, can you elaborate  
3 about that?

4 A. Yes. We don't verify it. Our personnel that  
5 go out, directed to the boat, they have a checklist of  
6 things that they need to make sure either -- they have  
7 items where the boat has to (inaudible word) them, prior  
8 to registering, or whether they are just reminder items  
9 for the vessel. And this is one of those items that's a  
10 reminder item, if you have gear on board, please contact  
11 the Coast Guard twenty-four hours before you plan to  
12 leave. Is how we (inaudible word) that regulation.

13 Q. Are you aware if the Coast Guard keeps records  
14 when operators notify them according to the Alaska  
15 requirement?

16 A. I'm not --

17 Q. Go ahead.

18 A. No, I'm sorry, I'm not aware if they keep  
19 records or not.

20 Q. Okay. Can you repeat again, like when you  
21 meet with the Marine Safety Detachment? Is that a  
22 specific time of year? Or do you guys have a --

23 A. It's generally sometime in August or September  
24 it's not a specific time of year. When the, you know,  
25 they switch over their personnel sometime in August,

1 it's kind of staggered.

2           So when we, when, you know, we -- they are  
3 just downstairs from our office. You know, and we find  
4 that there is a new person in charge down there, then we  
5 will arrange for a meeting.

6           For this season we just had a meeting last  
7 week, last Friday. But it can vary. But we do meet  
8 with them before October, before the beginning of our  
9 crab season.

10           Q.    What items are discussed in the meeting with  
11 the Marine Safety Detachment?

12           A.    Well, it is an informal meeting. We usually  
13 go downstairs to their office and sit down with them.  
14 Generally, you know, we explain how -- what we do, and  
15 how our registration process works. We let them know  
16 that they will probably be getting contacted by the  
17 vessels.

18           We explain to them our Regs, the ones that  
19 concern the Coast Guard, and how we handle them. And  
20 see if there is any adjustments they'd like us to make,  
21 or anything additional they would like us to talk to the  
22 boats about. Just sort of getting on the same page for  
23 the season.

24           Q.    In reference to the crab boats, can you talk a  
25 little about your vessel inspection on board, and kind

1 of elaborate in detail what are covered by those  
2 inspections?

3 A. Sure. So with, for our regulations we are  
4 mainly concerned that they have, their gear is in  
5 compliance, and that the vessel has their paperwork in  
6 order, essentially. So before the season opener we  
7 register the boats twenty-four hours before the fishery  
8 opens. But the week prior to that, we do vessel  
9 inspections for the vessels if they'd like.

10 So with those vessel inspections, we will  
11 check to make sure, we will check a certain number of  
12 pots to make sure they are in compliance with the  
13 fishery that they are going to be registering for. If  
14 not we make suggestions, and we need to see that their  
15 pots or their gear is in compliance before they are  
16 allowed to register.

17 We make sure there are no other vessel's gear  
18 on board. So, the vessels are allowed to share gear.  
19 But at the beginning of the season we like to make sure  
20 everybody has their gear.

21 We check to make sure that their CFEC, tribal  
22 (inaudible few word), the CFEC is the Commercial  
23 Fisheries Entry Commission, the limited entry fisheries.  
24 So we make sure their tribal vessel sticker is intact,  
25 and that they have the appropriate cards for the

1 fisheries they are going to be prosecuting.

2           And then we make sure that they have their VMS  
3 on board and it is on. And that the U.S. Coast Guard's  
4 vessel safety decal is current. And then we give them  
5 the reminder to contact the Coast Guard twenty-four  
6 hours before departing port.

7           Q. You mentioned VMS, what is that?

8           A. Yeah, their Vessel Monitoring System. It is a  
9 federal monitoring system that all the vessels  
10 participating in the crab fisheries are required to  
11 have.

12          Q. Can you elaborate a little on detail of what,  
13 exactly, that is?

14          A. Um-hmm. So the Vessel Monitoring System, or  
15 the VMS is mandated by the Federal Government. So this  
16 is a system that is just generally only on the boats  
17 that fish in federal fisheries. It sends out pings at  
18 certain time intervals that can be tracked online. So  
19 we can monitor where that boat is fishing.

20          Q. Are you aware if the Destination had that on  
21 their vessel?

22          A. Yes, I am aware they had that on their vessel.

23          Q. Okay. When you do inspections on board, do  
24 you guys also check the hold tanks as well?

25          A. We do not for the rationalized fisheries. We



1 check the tanks for the non-rationalized fisheries, for  
2 our state water fisheries only.

3 Q. So a vessel like the Destination, you wouldn't  
4 be checking their hold tanks?

5 A. No sir.

6 Q. Okay. How are these inspections scheduled?

7 A. They are scheduled, the -- generally, the  
8 captain or the person responsible for the vessel will  
9 contact our office and schedule a (inaudible word)  
10 inspection, prior to the fishing season.

11 Q. Okay.

12 A. So they will usually to call and schedule, you  
13 know, different vessels at different docks for during  
14 the day, and then we send personnel out to inspect that  
15 boat at the different docks.

16 Q. You mentioned some certificates. Does the  
17 vessel get any type of certificate or permit from your  
18 office after receiving the inspection?

19 A. They do. They get, and it is a -- what do we  
20 call it -- a pre-registration inspection certificate.  
21 And they turn that in to us when they register.

22 Q. Okay. Are your inspectors trained -- go  
23 ahead.

24 A. Oh, I'm sorry. Oh, I was just going to say it  
25 is not required though. The vessels, this is just an

1 optional pre-fishery inspection. We can wait until the  
2 time of registration, and then they don't receive their  
3 certificate if we are just registering them at that  
4 time. This is just sort of to get all the vessels  
5 inspected before we need to register them for the  
6 fishery.

7           We extend that as a courtesy so the vessels  
8 don't have to wait around as long on the day of  
9 registration. But if we inspect them at time of  
10 registration, then they don't receive a certificate. So  
11 it just sort of depends on how the vessel wants to --

12           Q.    What's the gain of getting that certificate?

13           A.    That -- so we can't register the vessel, by  
14 law, until twenty-four hours before the fishery opens.  
15 So if they get inspected beforehand, it saves them time  
16 on registration day, we can register them, and let them  
17 go. Then they can start traveling to the grounds  
18 earlier in the day if they get inspected beforehand.

19           Q.    Do you know if the Destination was pre-  
20 registered?

21           A.    I don't believe they were.

22           Q.    Okay.

23           A.    Let me flip through those, so I can tell you.  
24 Just a second. It appears to me that they were  
25 inspected at the time of registration, for the Red King

1 Crab. For yeah, it looks like both times they were  
2 inspected at the time of registration, so they would not  
3 have received a certificate.

4 Q. When you said both times, you said, one Red  
5 King Crab, what's the other time?

6 A. Um-hmm, when they registered for Snow Crab.

7 Q. Okay.

8 A. (Inaudible word) Snow Crab.

9 Q. Okay, thank you. Are your inspectors trained  
10 to evaluate vessel stability or lifesaving and machinery  
11 equipment? And if so, can you elaborate about that?

12 A. No sir.

13 Q. Okay.

14 A. No sir.

15 Q. Do you guys have any type of enforcement -- if  
16 you guys find any problems on board that, any type of  
17 mechanism to keep the vessel from departing?

18 A. Yes, so we, if they have, if they don't have a  
19 CFEC vessel license, vessel triangle sticker is the  
20 vessel license. If they don't have (inaudible word),  
21 the CFEC card, if their vessel is not compliant, or if  
22 they don't have a valid and current U.S. Coast Guard  
23 safety decal we will not register them for the fishery.

24 So they will need to bring those things into  
25 compliance before we are able to register them.

1 Q. Okay. Thank you Ms. Westphal. These are all  
2 the questions I have for you. Please stay on the line,  
3 others are going to ask you questions.

4 A. All right.

5 MR. GILLETTE: Commander, those are all the  
6 questions I have for Ms. Westphal.

7 CDR MULLER: Thank you Mr. Gillette. Ms.  
8 Westphal, Commander Muller here again? Can you hear me?

9 THE WITNESS: I can, yes Commander Muller.

10 CDR MULLER: Okay.

11 **EXAMINATION**

12 BY CDR MULLER:

13 Q. I just have two follow-up questions regarding  
14 the twenty-four hour notification.

15 A. Sure.

16 Q. Should I call it a rule or Reg?

17 A. Regulation.

18 Q. Okay. So that's an Alaska regulation. Is it  
19 specifically Alaska Department of Fish & Game  
20 regulation?

21 A. Yes.

22 Q. I'm trying to appreciate or get a grasp of the  
23 expected number of calls. When reading this regulation  
24 that the Coast Guard may receive throughout the season,  
25 the crabbing season throughout the winter. As I read it

1 the operators must call the Coast Guard at least twenty-  
2 four hours before departing port when carrying crab pot  
3 gear. That must mean, you know, across so many fishery  
4 harvest seasons.

5 A. Um-hmm.

6 Q. I got, I would imagine that crabbers may  
7 arrive and depart port on several occasions within a  
8 season. Not all the time, but with crab pots on board.

9 A. Um-hmm.

10 Q. So, I mean, did -- can you give me an estimate  
11 let's say of how many times a boat would, in executing  
12 this Reg would have to call the Coast Guard?

13 A. Sure. I can speak in generalities, I can't  
14 put --

15 Q. That would be fine.

16 A. -- any vessel. So generally we have one fleet  
17 of vessels, of about seventy vessels that fishes each of  
18 the crab fisheries. And they fish them in order. So  
19 generally, when the boats are ready to leave for Red  
20 King Crab, on October 14<sup>th</sup> that is generally the first  
21 fishery that gets prosecuted due to marketing.

22 So when all the boats come in, I would say  
23 ninety-eight percent of them are registering for Red  
24 King Crab, and they, all have their gear on board, since  
25 that's the first fishery of the season.

1           Once they are done fishing Red King Crab, if  
2 there is a Tanner Crab season, they will generally  
3 progress to Tanner Crab fishing, then Snow Crab fishing  
4 after that. Generally, most vessels don't bring their  
5 gear back in until they are all done fishing for the  
6 year.

7           So when they are transitioning between  
8 fisheries, the gear is generally left on the grounds in  
9 a storage condition. Which means the doors are open and  
10 it is unbaited.

11           And then they'll come in to town, offload, re-  
12 register, and go back out with no gear on board. So, it  
13 is -- I wouldn't say it is unusual, but it is not common  
14 for a boat to come in, in between fisheries with their  
15 gear on board. It is generally left in the water.

16           Q.    Okay, thank you that was very helpful.

17           A.    Sure.

18           Q.    Does the ADF&G, your office, is there a way to  
19 enforce that Reg? And have you had occasion or  
20 possibility, has it ever been done before? Is there a  
21 penalty associated with it, in other words?

22           A.    For the Coast Guard notification?

23           Q.    Right.

24           A.    No. So my understanding from, so I've been  
25 out here for three years, you know, not in my current

1 position, but working in this office with the crab fleet  
2 for about three years now. It is my understanding that  
3 the Coast Guard has no companion regulations to our item  
4 number seven in this regulation.

5           So generally, you know, we don't -- we work at  
6 the advice of the Coast Guard, seeing (inaudible few  
7 words). So we generally see how they want to handle it.  
8 Most, I would say all of the personnel in charge that I  
9 have dealt with my time out here, have requested that we  
10 really push for the vessels to call in during Red King  
11 Crab, but then not so much afterwards. Just because,  
12 generally, the vessels don't have gear on board.

13           Although we still remind the vessels if we see  
14 gear on board that they need to contact the Coast Guard.  
15 But it is not a gear that -- or it is not a regulation  
16 that we actively enforce. So we don't follow-up to see  
17 if they actually have contacted the Coast Guard. We  
18 just use it as a reminder opportunity.

19           We do though, you know, the regulations that  
20 follows that, number eighty. We do enforce that one.  
21 So we will not let a vessel go out fishing if they don't  
22 have a current safety decal from the Coast Guard.

23           Q.    Okay, thank you.

24           A.    That one will get enforced by us. Sure.

25           Q.    Right, right. Okay thank you. I have no

1 further questions.

2 CDR MULLER: Mr. Karr, NTSB?

3 **EXAMINATION**

4 BY MR. KARR:

5 Q. During the opilio crab season can you describe  
6 how you operate? Do you have a 24/7 operation?

7 A. I'm sorry, I don't understand the question,  
8 what do you mean as far as operation?

9 Q. You have five regular employees plus fifteen  
10 part-time employees during the crab season, so I'd like  
11 to get a feel for what the work day is like. And if you  
12 have like an operations center that is --

13 A. Oh sure, sure I can go over that. So, in our  
14 office we have two different kinds of sampling that goes  
15 on, biological sampling that happens. One are at sea  
16 observers. Our observers are all contractors, so I  
17 didn't count them in the total of how many employees we  
18 have, they are not -- they are contracted by the state.

19 We have (inaudible word), though, that are  
20 state employees that go over their data, and track their  
21 work. And then we also have dockside samplers that  
22 sample, every (inaudible word) vessel may pull in. We  
23 have dockside samplers that are stationed in King Cove,  
24 Akutan, Dutch Harbor and St. Paul, which is where the  
25 main processing plants are. Dockside samplers will



1 sample around the clock. So no matter when a boat comes  
2 in, if it is a boat that needs to be sampled, regardless  
3 of the time, they will go sample it.

4 In general, here in Dutch Harbor, our office  
5 hours are 8 to 4:30, Alaska Time. But if we need to  
6 work outside of that, we do during the season. So we  
7 always have telephones that are, that can be contacted,  
8 we have a contact number on our answering machine. So  
9 we don't -- aren't in the office 24/7, but are available  
10 24/7 should we be needed. Does that answer your  
11 question?

12 Q. It does, thank you.

13 A. Okay.

14 Q. Now you, as the manager for the Federal Crab  
15 Fishery, can you describe how safety plays a role in  
16 managing the crab quotas?

17 A. Sure. So these, in 2005 these fisheries were  
18 rationalized. Prior to that it was a derby style  
19 fishery. Which, you know, I believe was unsafe because  
20 it encourages people to go out -- you know, fisherman to  
21 go out and fish as quickly as they can, and get as much  
22 as they can before the quota runs out.

23 So in 2005 it has gone to a quota system. So  
24 vessel are free to fish -- for Red King Crab they can  
25 fish anywhere from October 15th through January 15<sup>th</sup>.

1 Snow Crabs can be fished, October 15th through May 31<sup>st</sup>.  
2 So the vessels, you know, can fish their quota anytime  
3 they'd like during the season. There's no restrictions  
4 or requirements from our behalf.

5 As far as Fish & Game is concerned, you know,  
6 our main directive is to protect the stock, and manage  
7 for the benefit of the stock, and the people that rely  
8 on that stock for their livelihood, the people of  
9 Alaska. We, you know, as far as vessel safety, as a  
10 concern, that is not really Fish & Game's role in  
11 managing these fisheries.

12 We do our best with the Regs that we have to  
13 rely on other agencies for safety of the vessels. But  
14 as far as we are concerned, we are more concerned with  
15 the biological aspects of harvesting.

16 Q. Thank you. Have you heard concerns from  
17 captains or boat owners, with regard to working within  
18 the current crab management regulations?

19 A. No, sir not that's been expressed to me.

20 Q. Thanks. I have no more questions.

21 CDR MULLER: Than you Mr. Karr. Ms. Spivak?

22 MS. SPIVAK: No questions, thank you.

23 CDR MULLER: So Ms. Westphal that concludes  
24 the questions that we have for you this morning. Before  
25 I release you as a witness, is there any information

1 that you would like to provide for consideration of the  
2 Board? Perhaps elements that were not discussed this  
3 morning?

4 THE WITNESS: I don't believe so, sorry. I  
5 feel like actually it was pretty thorough as to what our  
6 role is, and what we do. I'd be happy if there are  
7 questions later, if needed.

8 CDR MULLER: Okay, thank you. So you are now  
9 released as a witness at this Marine Board  
10 Investigation. Thank you for your testimony and  
11 cooperation. If I later determine that this Board needs  
12 additional information we will contact you. If you have  
13 any questions about this investigation, you may contact  
14 the Marine Board Recorder, LCDR Pedro Mendoza. Thank  
15 you again.

16 THE WITNESS: You are welcome. Thank you  
17 Commander Muller.

18 CDR MULLER: All right, take care. We will  
19 take a five minute recess to prep for our next  
20 telephonic witness, thank you.

21 (Whereupon a five minute recess was taken.)

22 CDR MULLER: Good morning, this hearing will  
23 come to order. We would like to now hear from our next  
24 witness Mr. Prennace. Mr. Prennace are you there?

25 THE WITNESS: Yes sir, I am.

1           CDR MULLER: Yeah hi, good morning, this is  
2 Commander Scott Muller.

3           THE WITNESS: Good morning Commander Muller.

4           CDR MULLER: Yeah. Good to speak with you  
5 again.

6           THE WITNESS: You as well.

7           CDR MULLER: So before we get rolling with the  
8 questions and administer the oath, I just want to give  
9 you some awareness of the environment, who we have in  
10 this room because we have you on speakerphone.

11           As you are aware, we are calling from Seattle,  
12 Washington. And we are conducting a Marine Board  
13 Investigation into the sinking of the fishing vessel  
14 Destination. In the room we have members of the Marine  
15 Board, including myself as chair, Mr. Jim Gillette, and  
16 LCDR Mendoza. The National Transportation Safety Board  
17 is also here, represented by Mr. Mike Karr. We also  
18 have a representative here from the Party-in-Interest,  
19 the vessel's owner is the Party-in-Interest.

20           This is a public hearing and it is being  
21 recorded. Also be aware that we have a number of  
22 persons here from the public including family and  
23 friends of crew of the fishing vessel Destination.  
24 Where are you calling from, sir?

25           THE WITNESS: I am in, currently in Seldovia,

1 Alaska.

2 CDR MULLER: Okay. Are you in a place where  
3 you can answer our questions?

4 THE WITNESS: Yes, I am.

5 CDR MULLER: Okay, thank you. LCDR Mendoza if  
6 you could administer the oath.

7 LCDR MENDOZA: Please stand and raise your  
8 right hand.

9 **WITNESS**

10 **SIMON DANIEL PRENNACE**

11 **SAMPLER ALASKA DEPARTMENT of FISH & GAME**

12 A witness produced on call of the Coast Guard  
13 was duly sworn according to the law, was examined and  
14 testified as follows:

15 THE WITNESS: Yes, I do.

16 LCDR MENDOZA: Please be seated. Would you  
17 please state your full name and spell your last name for  
18 the record.

19 THE WITNESS: Yes. My name is Simon Daniel  
20 Prennace, my last name is spelled, P-R-E-N-N-A-C-E.

21 LCDR MENDOZA: Please state your current  
22 employment and position title?

23 THE WITNESS: My current employment and  
24 position title is Dockside Sampler for the Alaska  
25 Department of Fish & Game, which is a Fish and Wildlife

1 Technician III position.

2 LCDR MENDOZA: Do you hold any professional  
3 licenses or certificates?

4 THE WITNESS: No, I don't.

5 LCDR MENDOZA: Thank you, Sir.

6 CDR MULLER: Okay, thank you. So Mr.

7 Prennace, I will now hand the mic over to Mr. Jim

8 Gillette who will initiate some of the questions we have  
9 for you this morning.

10 THE WITNESS: Okay.

11 CDR MULLER: Mr. Gillette.

12 MR. GILLETTE: Thank you, Commander.

13 **EXAMINATION**

14 BY MR. GILLETTE:

15 Q. Good morning Mr. Prennace, my name is James  
16 Gillette of the United States Coast Guard. Can you hear  
17 me clearly over the phone?

18 A. Yes, I do. Good morning Mr. Gillette.

19 Q. Good morning, and I hear you clearly as well.  
20 If at any time you don't understand a question that is  
21 asked, just request that the question be readdressed or  
22 rephrased.

23 If at any time you need to take a recess  
24 please ask. Also remember, to speak up loud and clear  
25 to assist the court reporter to transcribe the hearing.

1 With that said, I would like to start asking questions.

2 Mr. Prennace can you share with us how long  
3 you have worked for the Alaska Department of Fish & Game  
4 and tell us exactly what it is that your position -- you  
5 hold?

6 A. Yes. I have worked for the Alaska Department  
7 of Fish & Game since 1998. The position that I hold  
8 currently, I have done several jobs with the Alaska  
9 Department of Fish & Game. But currently I work as a  
10 crab dockside sampler, which basically entails  
11 registering vessels prior to the crab fishing season.  
12 And then collecting that data for the actual fishery  
13 which includes statistical information to be used to  
14 manage the fishery.

15 Q. Where is your main office located?

16 A. My main office is located in Dutch Harbor,  
17 Alaska.

18 Q. Can you also share with us the other islands  
19 that you may go to to perform your duties?

20 A. Yes. I am often called to work in remote  
21 ports, which are located in: King Cove, Alaska; Akutan,  
22 Alaska; and St. Paul, Alaska.

23 Q. Okay, thank you. We provided you with some  
24 exhibits, do you have those in front of you?

25 A. Yes, I do.

1 Q. Okay. The first one I'm going to show is  
2 Exhibit 241, Page 1. This is an Alaska Department of  
3 Fish & Game, General Provisions Shell Fish Vessel  
4 Registration. Do you have that in front of you?

5 A. Yes.

6 Q. Can you talk to us about what the purpose is  
7 behind this registration?

8 A. The purpose for the registration is basically  
9 for the Alaska Department of Fish & Game to maintain a  
10 current list of which vessels are registered for each  
11 fishery throughout the season. And that information is  
12 called upon by various entities and agencies to  
13 determine what the current fishing effort is throughout  
14 a season.

15 Q. Can you share with us what items are listed on  
16 the registration?

17 A. Yes. Generally the items listed on the  
18 registration are the permit holder's name, and address,  
19 and contact information, phone numbers for both the  
20 vessel and dockside telephone numbers. The vessel's  
21 length, overall length, the fishery in which, fishery,  
22 crab species which will be harvested, as well as the  
23 location in which it will be, they will be conducting  
24 the fishing.

25 And then at the bottom of the registration is



1 certification of the date that the vessel was registered  
2 for the fishery, signed by myself as well as the permit  
3 holder.

4 Q. On page one, can you tell us which vessel is  
5 listed on this registration?

6 A. On page one, the vessel is the Destination.

7 Q. Okay. And can you also tell us which  
8 effective date and end dates are listed?

9 A. Okay, the date, sorry, I believe this is the  
10 Red King Crab one that we are referring to, is that  
11 correct? In Exhibit 241?

12 Q. That is correct. If you could just tell us  
13 the dates that are listed, and also share with us how  
14 many pots are listed on there. If you could just talk  
15 to us a little about the specific one that you are  
16 looking at.

17 A. Okay. So the date that the registration  
18 occurred was 10-14 of 2016 and the total number of pots  
19 is two hundred pots. And ten of those are indicated as  
20 fishing for bait fish, cod fish pots.

21 Q. Okay. And then also, can you kind of explain  
22 where it talks about the total of pots, can you talk  
23 about that row. And then also, what it is referring to  
24 as far as ground fish pots, can you kind of describe to  
25 us what that exactly means?

1           A.     Sure.  The overall number of pots is listed as  
2 what the vessel intends to actually fish throughout the  
3 season.  It isn't necessarily the amount of pots carried  
4 on board at the time that it is being registered.  It is  
5 what the vessel plans on using for the entire fishery.  
6 So, some of those may be taken out in one trip, and then  
7 they may return and add more pots.  But the overall  
8 amount that they plan to use for the fishery is listed  
9 in first line.

10                     And then, we are trying to keep an accurate  
11 amount of which pots are actually being used to target  
12 crab versus, they are allowed to keep bait in these  
13 fisheries.  So some of their pots can be used as ground  
14 fish pots, to target cod that they can then use as bait  
15 for the fishery.  So that number that, the ground fish  
16 pots is inclusive in the two hundred total pots, it is  
17 not extra to that.

18           Q.     How many pots are listed on this?

19           A.     It shows two hundred total pots, ten of which  
20 are ground fish pots.

21           Q.     Is there any difference in the pots,  
22 themselves as far as what's inside the pots?

23           A.     Yes, there is differences.  Typically with  
24 ground fish pots, they are configured, they are the same  
25 type of pot, but they are configured with triggers that

1 prevent the fish from escaping. Whereas, with crab pots  
2 they just, they are open tunnels without any fingers  
3 that prevent the fish from escaping.

4 Q. Okay, thank you. Now I'd like you to go to  
5 Exhibit 241, Page 3 this is an Alaska Department of Fish  
6 & Game General Provisions Shell Fish Vessel Registration  
7 as well. I'd like if you could just tell us what is  
8 actually listed on the form that you are seeing. The  
9 same thing you just talked about before, which vessel  
10 signed, is this for, and how many pots, and what the  
11 effective dates are.

12 A. Okay. So this is the opilio crab fishing  
13 registration. It is for the fishing vessel Destination.  
14 And the pots listed are two hundred total pots. With  
15 ten of them being configured as ground fish pots.

16 Q. On that top section, there is a date that  
17 says, "Effective date", and then and "End date", can you  
18 tell me what those dates are?

19 A. The "Effective date", is 2-8 of 2017. And I,  
20 I have to apologize, that form is not in front of me.  
21 But that's the -- the "ending date", is typically the  
22 ending date of the fishery, which would be 5-31 of 2017.

23 Q. Okay, thank you. I would like to now go to  
24 Exhibit No. 241, Page 4. This is an Alaska Department  
25 of Fish & Game Co-op Registration, do you have that in

1 front of you?

2 A. Yes.

3 Q. Okay. I'd like to kind of get an  
4 understanding of what is the purpose behind a co-op  
5 registration? And then also if you could kind of lead  
6 into page four, what is listed on it. So, if you  
7 wouldn't mind, kind of tell us what is the co-op  
8 registration?

9 A. So, okay what this co-op form is used for is  
10 it authorizes other vessels to haul the operating  
11 vessel's pots for them. So, in the case of the  
12 Destination Gear Cooperation Form, this authorizes  
13 another vessel, or any vessel that is listed on that to  
14 haul their pots for them.

15 Q. Can you tell us what vessel is listed?

16 Q. The vessel that is listed is the Aleutian  
17 Lady.

18 Q. Okay. Also, right above that there is an  
19 approximate fishing date. Can you tell us what that is?  
20 And then also next to that there it talks about pots,  
21 can you kind of talk about that line?

22 A. Yes. Can you stand by one second. I am kind  
23 of using a cell phone for these forms as well.

24 Q. Sure, no problem, take your time.

25 A. Okay, I apologize, I can't access that right

1 now.

2 Q. Okay, can you read that line?

3 A. No, I can't.

4 Q. Okay. So line says, "Approximate fishing date  
5 2-8-17 to 3-10-17". And then it says, "Number of pots,  
6 200, 10 are Cod". Can you tell us, when they are citing  
7 the dates, which are 2-8-17 to 3-10-17, can you tell us  
8 what that exactly means?

9 A. That basically, the dates are the projected  
10 dates that the fishing vessel plans on harvesting crab  
11 for that fishery. That's always subject to change based  
12 on weather and what, you know, how quickly they bring  
13 that crab in. But that was, those were the dates that  
14 Jeff Hathaway told me that he thought that he would be  
15 fishing for that season.

16 Q. Okay, thank you. I'd like to now go to the  
17 Exhibit No. 241, page five. This is an Alaska  
18 Department of Fish & Game Vessel Inspection Registration  
19 Summary. Do you have that in front of you?

20 A. Again, I have, I have this on my phone, but it  
21 is hard to access at the moment.

22 Q. Okay. On the form itself, there is columns  
23 and rows, and on row two, there is a section that says,  
24 "The Destination", first says, "Inspection 2-8-17", and  
25 then next to it it says, "Q017". Can you tell us what

1 Q017 is?

2 A. Q017 would be the year, 2017.

3 Q. Yes, it says the letter "Q".

4 A. Oh, I apologize. So Q017 is the fishery code  
5 that we use, within the Fish and Game, to describe the  
6 fishery. "Q", being the letter indicating the location  
7 that they are fishing, which is the Bering Sea. "O",  
8 being the species, which is opilio crab. And 17 being  
9 the year that the fishery is (inaudible word).

10 Q. The next column, is under "Dock", and it says,  
11 "Peter Pan", can you tell us what that is?

12 A. Yes. So the Peter Pan is located in, the  
13 Peter Pan processing facility is located in King Cove,  
14 Alaska.

15 Q. Okay, thank you. You also have a row, one  
16 that is listed as "CFEC Card", what does that stand for?

17 A. The CFEC Card number is every permit holder is  
18 assigned a permit card number. And that's what that is  
19 referring to on their permit card that the vessel  
20 operator had.

21 Q. Okay, thank you. Mr. Prennace did you perform  
22 an inspection on board the fishing vessel Destination on  
23 February 8, 2017 in Akutan, Alaska? And if so can you  
24 elaborate in detail what you did, and what you observed?

25 A. It actually occurred at King Cove, Alaska, not

1 Akutan, Alaska. But yes, it was on 2-8 of 2017. At  
2 approximately nine o'clock at night. I was called  
3 earlier in the day by Ron Wickstrom, the fleet manager  
4 for Peter Pan Alaska that the Destination would be  
5 coming in, in the evening to get registered for Snow  
6 Crab.

7 I then was called on VHF approximately at 2100  
8 that evening by Jeff Hathaway, the vessel operator, and  
9 asked to come down to register the vessel. I went down,  
10 the vessel was just coming in to port, and it was just  
11 after sunset and the vessel came into the fuel dock, and  
12 docked up.

13 I boarded the vessel noting that it was full  
14 of pots, which they had just come from Sand Point,  
15 Alaska. And boarded the vessel. I looked at  
16 approximately five pots at the time to make sure that  
17 they were legally configured for the opilio crab  
18 fishery. And noting that they were, I then went into  
19 the wheelhouse of the vessel and met with Jeff Hathaway,  
20 the vessel captain.

21 We then began working on the registration  
22 paperwork, and the gear co-op paperwork. And I checked  
23 to make sure that the vessel had a current Coast Guard  
24 decal sticker, indicating that it did, it had met the  
25 current standards by the Coast Guard for fishing.

1           I checked to make sure that the vessel was  
2 equipped with a Vessel Monitoring System, VMS as we  
3 refer to it. And which allows the National Marine  
4 Fisheries to track the vessel throughout the season.  
5 And it was currently operational and on. And then we  
6 conducted the paperwork for them to start fishing.

7           Q. Did you climb on top of the pots while you  
8 were there?

9           A. Yes, I did. And the pots were approximately  
10 level with the top of the dock. So it would, I  
11 basically, stepped across from the dock to the top of  
12 stack, and then climbed on to all the pots in order to  
13 get to the wheelhouse.

14          Q. While on top of the pots, did you observe  
15 anything else? Was there anything on top of the pots?

16          A. The vessel was in the process of ordering some  
17 bait to take with them for fishing. And so, at the same  
18 time that the Peter Pan employees were moving pallets of  
19 bait to the vessel so that they were conducting that as  
20 well.

21          Q. When you see the vessel coming in, did you see  
22 any pallets or anything on deck prior to the vessel  
23 pulling in?

24          A. I don't recall seeing -- you know, the vessels  
25 have quite a bit of gear, sorting tables and such. So



1 those were on the vessel. And you know, various things  
2 used in fishing operations, buoys and such. But, I  
3 don't specifically remember seeing any pallets on the  
4 boat.

5 Q. Did you witness where the employees were  
6 placing the bait?

7 A. The bait that I saw -- and this was after the  
8 registration had occurred -- was being taken out by  
9 forklift by the plant employees of Peter Pan. So it  
10 wasn't actually on the boat at the time that I was on  
11 the boat. It was being staged on the dock to be craned  
12 over to the boat.

13 Q. Do you remember how many pallets, or can you  
14 kind of talk to us about what you actually saw?

15 A. I believe I saw two pallets of bait as I was  
16 leaving it.

17 Q. Do you have an estimate on how high those  
18 pallets were loaded?

19 A. The pallets were probably, roughly the height  
20 of a human being, probably about five feet or so tall  
21 with bait.

22 Q. Okay. When you were on board, do you guys,  
23 does the Alaska Fish & Game check tanks, like hold  
24 tanks?

25 A. We no longer check the tanks. And the reason

1 for that was that the crab fishery was rationalized.  
2 And prior to the rationalization we used to inspect the  
3 tanks to make sure that there were no crab in those  
4 holding tanks before the fishery started. There was  
5 more of an emphasis on trying to make sure that  
6 everybody started with no crab aboard before.

7 But these days we no longer check inside the  
8 tanks. Just check to make sure that the pots are  
9 legally configured.

10 Q. Prior to leaving the Destination, did you  
11 notice anything in the vicinity of the life raft?

12 A. I did not really look that closely in the area  
13 of the life raft. Typically the life rafts are above  
14 the vessel's wheelhouse. And, you know, that's not  
15 something that we are required to check as part of our  
16 duties. So, I didn't notice that.

17 Q. You didn't notice a life raft, or you didn't  
18 notice anything near the life raft?

19 A. I didn't notice either of those things,  
20 because it is on the actual house of the vessel, it was  
21 kind of where I typically would look. I am more  
22 concentrated at looking at the actual pots, themselves.  
23 And the life raft is in a different location on the  
24 vessel.

25 Q. When you had a conversation with Captain

1 Hathaway, was there any discussion on what his plans  
2 were, what his voyage plans were?

3 A. He really didn't talk much. Basically, it was  
4 planned to head to the opilio grounds, as I understood  
5 it. I had found out later that he had actually made a  
6 trip to Dutch Harbor, but that was unbeknownst to me. I  
7 thought he was heading directly to the fishing grounds,  
8 themselves, up near St. Paul.

9 Q. Did you request that he contact the Coast  
10 Guard prior to departure? And if so could you elaborate  
11 on that?

12 A. Yes, I did. As part of our Standard Operating  
13 Procedure, we inform each captain as we are registering  
14 the vessel that they are required to notify the Coast  
15 Guard prior to leaving port. And that's so that they  
16 have a current idea of who is participating in each  
17 fishery.

18 Q. All right. Thank you Mr. Prennace, these are  
19 all the questions I have for you. Please stay on the  
20 line, others are going to ask you questions.

21 MR. GILLETTE: Commander, I done with all the  
22 questions for Mr. Prennace.

23 CDR MULLER: Than you, Mr. Gillette. Mr.  
24 Prennace I have a few follow-up questions.

25 THE WITNESS: Yes.

**EXAMINATION**

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BY CDR MULLER:

Q. Referring to that form that Mr. Gillette just mentioned, that was Exhibit 241, page 5 of 10. I understand you may not have that in front of you, because it is embedded in your phone somewhere, correct?

A. Yes, that is correct.

Q. Okay. So when you filled out this form, and you, in the process of your, conducting your certification exam, when you -- do you ask, how is the question asked of the vessel master regarding notifications to the Coast Guard? Is it that they have contacted the Coast Guard? Or is that you reminded them to call the Coast Guard?

A. It is the second of the two. Basically, we remind them that they are required to call the Coast Guard twenty-four hours prior to leaving port.

I don't, -- I am never fully aware of whether they do that or not. But, we indicate that they need to do that.

Q. Okay. So when you were on board the Destination, did you have an opportunity to be, to walk on the main deck?

A. No, I didn't. And the reason I wasn't able to was it was completely full of the crab pots that it had.

1 I basically walked on the crab pots themselves, which  
2 were probably about 5 or 6 pots high. I wasn't able to  
3 actually walk on the deck of the vessel.

4 Q. Did you happen to notice a tunnel?

5 A. I didn't notice a tunnel. However, I believe  
6 there was one. They typically do that to access the pot  
7 launcher and pots. Basically, I checked the -- the pots  
8 that I did check were on the top of the stack, as  
9 opposed to going down lower. And then I was able to  
10 access the vessel wheelhouse without actually going down  
11 to where that tunnel would have been.

12 Q. Did you happen to notice any tank overflow  
13 discharges on deck?

14 A. I believe, as the vessel was coming in to the  
15 dock, I could see that it was spilling water as any  
16 normal vessel coming in would have overflow from those  
17 live tanks.

18 Q. That overflow, was it cascading overboard,  
19 most likely through a freeing port in one location? Or  
20 was it disbursed across the deck?

21 A. I -- well we are talking six months back. But  
22 I don't remember, specifically. It -- nothing seemed  
23 out of the ordinary as far as the discharge of the water  
24 coming off the deck, out of the ports.

25 Q. So you saw a discharge. I understand this is

1 six months ago. Can you give, do you recall if that  
2 discharge was concentrated in one location?

3 A. I don't remember -- basically it seemed like  
4 all of the ports that would have water coming out of  
5 them had water coming out of them. I don't recall  
6 seeing, you know, one not, or one discharging all of the  
7 water.

8 Q. Did you see more than one discharge, say more  
9 than one cascade of water?

10 A. I believe so, yes.

11 Q. Okay, thank you.

12 CDR MULLER: I have no further questions.

13 Mr. Karr, NTSB?

14 **EXAMINATION**

15 BY MR. KARR:

16 Q. This is Michael Karr with the NTSB.

17 A. Yes, good morning Mr. Karr.

18 Q. Good morning. Sir, what time did you leave  
19 the Destination that evening?

20 A. I think it would have been approximately a  
21 half an hour that I was on the vessel, I believe I  
22 arrived about 2100, so I would have left about 2130.

23 Q. Did you happen to notice if the vessel was  
24 fueling while in King Cove?

25 A. I know that they were getting bait. I am very

1 sure of that. But where they were getting bait was also  
2 the fuel dock. So it wouldn't surprise me if they were  
3 also getting fuel. I don't recall them doing that, but...

4 Q. Can you recall how many crew you saw  
5 undertaking activities aboard the Destination when you  
6 were on board?

7 A. Yeah, I saw at least three people, three, I'm  
8 sorry, deckhands in addition to the captain. And they  
9 were making, you know, when they were tying up the  
10 vessel I believe there was a whole crew of five  
11 deckhands or so with the captain.

12 Q. After the vessel tied, did you see them again?

13 A. They were working on getting, you know,  
14 getting area, or, you know, clearing out places to put  
15 bait and doing vessel maintenance. But I don't -- they  
16 were on the vessel doing various tasks at the time.

17 Q. And where did you see them doing that work, to  
18 clear room for the bait?

19 A. They were on the stack of the vessel, the crab  
20 pot stack, and they were in the bait freezer, I believe,  
21 down below. And then on the dock, itself, you know  
22 getting ready to load the bait on.

23 Q. Did you, by chance, look in the bait freezer?

24 A. I didn't, no. That was below the area that I  
25 was in.

1           Q.    What's the purpose of counting -- what's the  
2 purpose of the ADFG counting the number of pots, and  
3 listing the number of pots on the permit, is there a  
4 restriction?

5           A.    There currently isn't a restriction on how  
6 many pots a vessel can fish in any fishery. I should  
7 say, with the exception of how many bait pots they are  
8 allowed. And for Snow Crab they are allowed a total of  
9 twenty pots to harvest bait fish.

10                    But the main purpose, my understanding is so  
11 that we have a general idea of what the effort, meaning  
12 the total number of pots, for the entire fleet is being  
13 used to harvest crab at the time.

14           Q.    Can you describe the paperwork that Captain  
15 Hathaway filled out for you?

16           A.    The -- he filled out several forms while I was  
17 on the boat. The first one was the vessel registration,  
18 and then he and I filled out the gear co-op paperwork  
19 allowing another vessel to haul his pots if needed.

20           Q.    Did you have any, did you engage in any small  
21 talk with Captain Hathaway?

22           A.    Not a whole lot, it was, because it was kind  
23 of late in the evening, and the vessel, I think was  
24 ready to get out and start fishing, and he had quite a  
25 bit of things going on with getting bait and possibly



1 fuel. It was a pretty short registration process, I  
2 don't recall talking to him much. I wished him good  
3 luck on the season and which is often the case, and  
4 hoped he did well.

5 Q. Did he make any comment with regard to the  
6 upcoming opilio season?

7 A. Not that I recall. We, it had been kind of a  
8 tough season for boats. We may have talked about it  
9 just seemed kind of a challenging season overall for --  
10 the Destination was a little late on the scene for the  
11 season. And that was due to the fact that they had been  
12 fishing cod prior to switching over to crab. So we had  
13 a small conversation about that, about him, fishing cod  
14 fish prior, and then you know, that it would be a tough  
15 season finding crab this year.

16 Q. Can you tell me more about that conversation  
17 and your thoughts on that too?

18 A. I don't know that it was any different than  
19 any other conversation I've ever had with, you know a  
20 captain. Basically just hoping that the season went  
21 well for the crew and captain and yeah, beyond that  
22 there wasn't any notable thing outside of that.

23 Q. Any specific comments from him? Or your  
24 thoughts on fishing the cod -- on the cod, fishing the  
25 cod season such that they were late?

1           A.    No.  It, they, you know, I think this year  
2 being a low opilio crab season, many of the vessels  
3 were, had opted to fish a longer cod season to try to  
4 make up for the money lost, that they would have had  
5 with the reduced quota.  But I don't, I don't recall,  
6 you know, I don't really recall anything specific that  
7 we had talked about.

8           Q.    Did Captain Hathaway say anything specific  
9 about that reduced cod quota or reduced crab quota?

10          A.    Not that I recall, no.

11          Q.    So tell me, how much more was it reduced this  
12 year?

13          A.    It was approximately reduced by half from the  
14 previous season, which was approximately half of the  
15 season before.  So in two seasons time span it was  
16 reduced to around about a hundred million pound quota  
17 down to about twenty-five million pound quota.

18          Q.    What are your thoughts on how that affects the  
19 crab boat captains?

20          A.    Well, it obviously is tough on them.  I, often  
21 times the price comes up as a result of the reduced  
22 quota.  But I think, obviously it is stressful for them.  
23 And it is also harder for them to find crab when there  
24 is less of them out there, that's been my observations  
25 over the years, that with the reduced quota it gets

1 harder to find crabs.

2 Q. Would this be the first year that captains  
3 would talk about it being harder to find crab?

4 A. No. I would say the past several seasons,  
5 that's been the word that I have been hearing from the  
6 fleet overall, is that it is, they are becoming harder  
7 to find.

8 (Brief pause.)

9 Q. Can you describe how Captain Hathaway appeared  
10 to you when you met with him that night, with regard to,  
11 it was nine o'clock at night, how'd he look? How did he  
12 talk?

13 A. He looked, as I have seen him over the last  
14 fourteen years working with him, he looked capable and  
15 ready to start the season. I don't recall anything  
16 different in the way he looked that night than any other  
17 time I've registered him for any other fishery. I know  
18 he was excited to start fishing crab, and start making  
19 headway on the quota that they had ahead of them.

20 Q. Did he make any comments about -- well let me  
21 ask you this, did he yawn, can you recall if he yawned  
22 at all when you were with him?

23 A. No, I don't recall him yawning at all.

24 Q. Did he comment on how he felt?

25 A. Ah, no he didn't.

1 Q. And any --

2 A. He looked energetic, and ready to start the  
3 season.

4 Q. Did he make any comments about crew, with  
5 regard to how the cod season was on them?

6 A. No, he didn't.

7 Q. Did he make any comments about the condition  
8 of the boat? Any comments about the mechanical  
9 condition?

10 A. No, he didn't.

11 Q. And you commented that you thought he was  
12 going directly to the fishing grounds, can you tell me  
13 why you may have thought that?

14 A. Well, this is largely an assumption on my part  
15 that they -- the crew had worked on switching the pot  
16 configuration in the town of Sand Point. I thought I  
17 was going to be the last port that they were going to be  
18 in prior to starting the actual fishing of the season.  
19 I didn't understand that they were headed to Dutch  
20 Harbor next.

21 Q. Well thank you Mr. Prennace. Hold on. I have  
22 no more questions.

23 A. Okay, thank you Mr. Karr.

24 CDR MULLER: Thank you Mr. Karr. Ms. Spivak  
25 do you have any questions?

1 MS. SPIVAK: No questions, thank you.

2 CDR MULLER: Mr. Gillette?

3 MR. GILLETTE: No questions.

4 CDR MULLER: Okay. Mr. Prennace before I  
5 release you as a witness, is there any other information  
6 that you believe the Board should consider that may not  
7 have been discussed today?

8 THE WITNESS: No, I don't have anything else.

9 CDR MULLER: Thank you. So you are now  
10 released as a witness at this Marine Board  
11 Investigation, thank you for your testimony and  
12 cooperation. If I later determine that the Board needs  
13 additional information we will contact you.

14 If you have any questions about the  
15 investigation, you may contact the Marine Board  
16 Recorder, LCDR Mendoza. Thank you again for your time  
17 and assistance. Good day.

18 THE WITNESS: Thank you as well. And I'd like  
19 to wish my condolences to all the family and friends of  
20 the crew of this vessel. I worked with them for  
21 fourteen years now, and have got to know them  
22 personally. And it is a tragic thing. So I, you know,  
23 my heart goes out to the families and friends.

24 CDR MULLER: Thank you.

25 THE WITNESS: Thank you.

1           CDR MULLER: Okay, we are going to try to keep  
2 on moving along. We still have two more witnesses that  
3 were scheduled for the morning. I'm not sure if we can  
4 get them all in. But we are going to take a ten minute  
5 recess to prep for the next telephonic witness, thank  
6 you.

7           (Whereupon a 10 minute recess was taken.)

8           CDR MULLER: Good morning again, this hearing  
9 will come to order. We would like to call our next  
10 witness, Ms. Buck. Ms. Buck are you on the line there?

11          THE WITNESS: Yes, I am.

12          CDR MULLER: So you can hear me?

13          THE WITNESS: I can.

14          CDR MULLER: This is Commander Scott Muller,  
15 pleasure to speak with you again.

16          THE WITNESS: Good to speak with you too.

17          CDR MULLER: So, before we get started with  
18 some of the questions, and we have to administer the  
19 oath, I just want to give you some awareness. You are  
20 on speakerphone, and you are in, we are in a conference  
21 room, so I just want to mention to you who is in the  
22 conference room.

23                 We are calling from Seattle, Washington, and  
24 as you may be aware, we are conducting a Marine Board  
25 Investigation into the sinking of the fishing vessel

1 Destination. In the room we have members of the Board,  
2 including myself as chair, Mr. Jim Gillette, and LCDR  
3 Mendoza. We also have a representative here from NTSB  
4 Mr. Karr. The Party-in-Interest, the vessel owner, also  
5 has a representative present.

6 This is a public hearing and it is being  
7 recorded. Also be aware that we have members of the  
8 public present in the room, including members of the  
9 family and friends of the crew of the fishing vessel  
10 Destination.

11 I believe you are calling from Juneau, is that  
12 correct?

13 THE WITNESS: That is correct.

14 CDR MULLER: Okay. Are you in a place where  
15 you can answer our questions?

16 THE WITNESS: Yes, I am.

17 CDR MULLER: All right, thank you. LCDR  
18 Mendoza, if you could administer the oath.

19 LCDR MENDOZA: Please stand and raise your  
20 right hand.

21 **WITNESS**

22 **TRACY BUCK**

23 **NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

24 A witness produced on call of the Coast Guard  
25 was duly sworn according to the law, was examined and

1 testified as follows:

2 THE WITNESS: I do.

3 LCDR MENDOZA: Please be seated. Would you  
4 please state your full name, and spell your last name  
5 for the record?

6 THE WITNESS: My name is Tracy Buck, B-U-C-K.

7 LCDR MENDOZA: Please state your current  
8 employment and position title.

9 THE WITNESS: I am a Supervisory Permit  
10 Specialist with the National Marine Fisheries Service,  
11 which is a part of the U.S. Department of Commerce,  
12 National Oceanic and Atmospheric Administration.

13 LCDR MENDOZA: Do you hold any professional  
14 licenses or certificates?

15 THE WITNESS: No, I do not.

16 LCDR MENDOZA: Thank you, ma'am.

17 CDR MULLER: Okay, thank you. This is  
18 Commander Muller again. So I will be leading off some  
19 of the questions that we have for you.

20 **EXAMINATION**

21 BY CDR MULLER:

22 Q. To start off with, if you can just further  
23 explain your role and position, and in particular the  
24 functions that you carry out with the NOAA, National  
25 Mariner Fishery Service.



1           A.     Sure.  So, I am a program manager, for the  
2 Restricted Access Management Program within the Alaska  
3 region of the National Marine Fisheries Service.  And my  
4 office's role is to issue, annually, the quota permits  
5 for the Bering Sea, Aleutian Islands, Crab  
6 Rationalization Fishery.  Our office also manages any  
7 transfers of quota share amongst the participants, and  
8 that is, that is our office's role in regard to the  
9 Bering Sea Fishery.

10          Q.     Okay.  I believe you should have in front of  
11 you Exhibit 156.

12          A.     Yes, I do.

13          Q.     Okay.  So this is a print-out from RAM, R-A-M  
14 Database.  This was printed out March 15<sup>th</sup>, 2017.  There  
15 is a few pages here.  Can you describe what is RAM  
16 database?  What information it contains?

17          A.     So, that is the Restricted Access Management  
18 Database that contains the quota share holdings of each  
19 harvesting and processing participant in the Crab  
20 Rationalization fishery.  Our database also contains  
21 any permits issued to vessels for the crab fishery, such  
22 as the license limitation, crab licenses, ground fish  
23 licenses, and Federal Crab Vessel Permit Licenses.  And  
24 we also have in our database landing information from  
25 the crab fisheries.

1 Q. Okay. If we can go to the second page, it is  
2 page five of Exhibit No. 156.

3 A. Okay.

4 Q. So if -- I see a lot of numbers and columns  
5 here. If you would, if you can give us a quick tour,  
6 especially of the top table. What does this capture?  
7 And specifically does it capture any information for the  
8 last crabbing season, the opilio? And, I'll leave it at  
9 that, thank you.

10 A. So, essentially what this print-out shows is  
11 the quota shareholdings of the Company, Destination,  
12 Inc., as of March 15<sup>th</sup>, 2017, for each of the crab  
13 fisheries listed in the first column. Bristol Bay Red  
14 King crab, Bering Sea Snow King Crab, Eastern Bering  
15 Tanner Crab, Pribilof Island Red and Blue King Crab, St.  
16 Matthew's Blue Crab, and Western Bering Sea Tanner Crab.

17 The second column indicates the quota type  
18 that the company holds. CVO represents Catcher Vessel  
19 Owner Quota Share, so that is the type of quota share  
20 that this Company holds.

21 The Region is regional designation for each  
22 fishery. It indicates the region in which the  
23 historical landings show that the basis for this quota  
24 share was, were made. And it also indicates the region  
25 in which any IFQ landings must be made for each fishery.

1           The next two columns are the start and end  
2 serial numbers. And those numbers are unique  
3 identifiers for this quota share. So if it is  
4 transferred we can, we know exactly which quota share is  
5 held by each person, and in a transfer those shares will  
6 transfer to another person.

7           The next column is the number of units that --  
8 of quota share that is held by the company. You can  
9 kind of think of that as like a stock, this is the quota  
10 share of stock that the company holds in each fishery.

11           And the last column is, of course, the company  
12 name.

13           Q. Okay, a few questions on that. What does the  
14 "U" stand for in the Region column?

15           A. "U" means that is undesignated, it does not  
16 have to be delivered to any specific region.

17           Q. Okay. In the fishery column, WBT, that's  
18 Tanner, right?

19           A. Right. That's Western Bering Sea Tanner Crab.

20           Q. And in other words, otherwise known as Snow  
21 Crab, right?

22           A. Correct.

23           Q. Okay. And I believe -- okay. So was -- all  
24 right, and the last column, The Holder Name,  
25 Destination, Inc., is there a way to determine, I mean,

1 that's the Company, but that Company may have one or  
2 more vessels associated with it, would that be correct?

3 A. That could be correct, yes.

4 Q. All right. If you could just hold for one  
5 second.

6 (Brief pause.)

7 Q. Okay, so getting back to that table. The BSS  
8 in the Fishery column, what does that stand for again?

9 A. That is Bering Sea Snow Crab, that's opilio  
10 crab.

11 Q. Okay. And then there are two columns for, and  
12 I take it is split across two different regions, right?

13 A. Correct.

14 Q. The first one of that species is North, and  
15 the second one is South, I take it, for and "N" and an  
16 "S"?

17 A. Correct.

18 Q. Okay. If we go to the next page, page six of  
19 Exhibit No. 156. Is there any information that you  
20 think would be helpful for us to understand on that  
21 page? Or is this just more administrative information?

22 A. It's basically more administrative  
23 information. It shows that the Destination, Inc. holds  
24 two license limitation program licenses. One is ground  
25 fish license, number #3327. And one is a crab license,

1 3328. The license limitation crab license is no longer  
2 required for participation in the rationalized  
3 fisheries, which are the fisheries that are identified  
4 on page five. Those are quota fisheries under the Crab  
5 Rationalization Program. And so you don't need a  
6 license limitation program license to harvest those  
7 fisheries. But this license would authorize the boat to  
8 fish in other crab fisheries that are not licensed under  
9 the Rationalization Program.

10 Q. Okay. Does your office capture Quota Share  
11 per vessel?

12 A. We do not capture Quota Share per vessel.

13 Q. So what's next in the process? Who does?

14 A. So, well let's just take a step back. So each  
15 harvester is issued, was issued Quota Share, or they  
16 purchased Quota Share, and then annually the National  
17 Marine Fishery Service is given the total allowable  
18 catch from Department, State of Alaska Department of  
19 Fish & Game. And we enter that data into a computer  
20 program that then allocates an Individual Fishing Quota  
21 to each harvester.

22 And many of the harvesters form crab  
23 harvesting co-operatives, where they, basically pool  
24 their Individual Fishing Quota and how that is harvested  
25 is managed by the cooperative manager and the members of

1 the cooperative.

2           So at that point, once the annual Quota, IFQ  
3 is issued, the co-op managers, and the co-op members  
4 will decide which vessels are going to harvest the crab.  
5 Those vessels have to have a Federal Crab Vessel Permit,  
6 which is issued by our office. And then they have to  
7 register with the State of Alaska and do some pre-season  
8 checks there, and do whatever the State of Alaska might  
9 require of them.

10           When the crab, after the crab is harvested, it  
11 is then, generally delivered to a processing facility.  
12 And that processing facility will enter the landing data  
13 into an electronic landing system, called eLanding,  
14 which is a joint statement, Federal electronic landing  
15 database. And at that point in time the vessel is, the  
16 vessel that is landing the crab is recorded into that  
17 eLanding database.

18           Which is then, that data is transmitted to our  
19 Alaska Region RAM Database so that we can account for  
20 the quota that was issued to the harvesters, and ensure  
21 that they are not over harvesting what was allocated to  
22 them.

23           Q. Does your RAM database capture these pools,  
24 where the IFQ's are pooled together?

25           A. Yes, we do. The co-operative's themselves,

1 are required to submit an annual application and tell us  
2 who their coop members are, and who is managing the co-  
3 op. And that each harvester, themselves, must also  
4 submit an application and confirm that they are a member  
5 of a specific co-op.

6 Q. Is that co-op identified in this paperwork in  
7 front of you today? Or is that elsewhere?

8 A. I do not see it identified in this, no.

9 Q. Do you happen to know who the Destination,  
10 Inc. which co-op they belong to?

11 A. So during the 2016/2017 crab fishing year,  
12 they belonged to the Inter-Cooperative Exchange, also  
13 known as ICE. That's one of the larger crab harvesting  
14 cooperatives.

15 Q. Okay, thank you. I have no further questions.

16 CDR MULLER: Mr. Gillette?

17 MR. GILLETTE: I have no follow-up questions,  
18 Commander.

19 CDR MULLER: Thank you. Captain Karr, NTSB?

20 **EXAMINATION**

21 BY MR. KARR:

22 Q. Yeah, this is Michael Karr of the NTSB. What  
23 is the QS unit? How is that related to pound of crab?

24 A. So, it's a mathematical formula. It's the  
25 number of Quota Share units, for example in Exhibit No.

1 5, the first row, the Bristol Bay Crab, the Bristol Bay  
2 Red King Crab Fishery, South Region, Destination, Inc.  
3 hold 2,899,375 Quota Share units. That is then divided  
4 by the entire pool of Bering Sea Crab Quota that is  
5 issued to all harvesters in the fishery. And then that  
6 is divided by, or that is multiplied by the total  
7 allowable catch each year. So there is a ratio between  
8 the number of Quota Shares units, and the TAC. And then  
9 that equates to a number of pounds.

10 Q. Thank you, I have no more questions.

11 CDR MULLER: Thank you Mr. Karr. Ms. Spivak?

12 MS. SPIVAK: No questions, thank you.

13 CDR MULLER: Thank you. Thank you Ms. Buck  
14 that concludes the questions that we had for you this  
15 morning. Before we release you as a witness, is there  
16 any information that you believe the Board should  
17 consider relevant to this investigation that we, perhaps  
18 may not have covered today?

19 THE WITNESS: I don't have any more  
20 information for the Board. But on behalf of National  
21 Marine Fisheries Services I would like to express our  
22 condolences to the family and friends of the captain and  
23 crew of the Destination.

24 CDR MULLER: Thank you. And as you are aware,  
25 they are present in this room, and some are perhaps,



1 even watching via Livestream. And I am very sure that  
2 they appreciate your words.

3 With that, you are now released as a witness  
4 at this Marine Board of Investigation, thank you for  
5 your testimony and cooperation.

6 THE WITNESS: Thank you.

7 CDR MULLER: If I later determine that this  
8 Board needs additional information from you, we will  
9 contact you. If you have any questions regarding this  
10 investigation please contact LCDR Pedro Mendoza.

11 THE WITNESS: All right. Thank you.

12 CDR MULLER: Thank you. Good day.

13 THE WITNESS: Bye.

14 CDR MULLER: Okay, given that testimony, it  
15 has a direct link to our next witness. So we would like  
16 to keep on moving. So, I believe yesterday we broke  
17 early for lunch. Today were are going to keep moving  
18 through. So, I'd like to call our next witness Mr.  
19 Jacobsen. LCDR Mendoza if you would, if you could  
20 please administer the oath.

21 LCDR MENDOZA: Sir, please stand and raise  
22 your right hand.

23 **WITNESS**

24 **ERLING JACOBSEN**

25 A witness produced on call of the Coast Guard

1 was duly sworn according to the law, was examined and  
2 testified as follows:

3 THE WITNESS: Yes, I do.

4 LCDR MENDOZA: Please be seated. Sir could  
5 you please state your full name, and spell your last  
6 name for the record?

7 THE WITNESS: Erling Emanuel Jacobsen, J-A-C-  
8 O-B-S-E-N.

9 LCDR MENDOZA: Would you please state your  
10 current employment and position title?

11 THE WITNESS: I have a number of positions. I  
12 am executive director of Inter-Cooperative Exchange. I  
13 am executive director of the Bering Sea Arbitration  
14 Organization. I am principle marine surveyor, at  
15 Fishermen's Maritime Services, so I am a credentialed  
16 marine surveyor, and third-party fishing vessel  
17 examiner. And that's, those are my current employment  
18 positions.

19 LCDR MENDOZA: Do you hold any professional  
20 licenses or certificates?

21 THE WITNESS: Relating to marine surveying,  
22 yes. I also have an expired 1600-ton inspected master  
23 license.

24 LCDR MENDOZA: Thank you, sir.

25 CDR MULLER: Good morning Mr. Jacobsen.

1 THE WITNESS: Good morning.

2 CDR MULLER: Welcome, thank you for your  
3 participation here this hearing.

4 **EXAMINATION**

5 BY CDR MULLER:

6 Q. Over the course of the last several months,  
7 the Board has, of course, been conducting the  
8 investigation particular to the fishing vessel  
9 Destination. But we also have come to learn and  
10 appreciate, or trying to further appreciate this quota  
11 system. So, I understand that you have a presentation  
12 for us?

13 A. I do.

14 Q. Okay, so if you would like to roll through  
15 that. And what we are particularly interested in, if at  
16 the appropriate time, inform us in particular where the  
17 Destination is particularly involved.

18 A. Yeah, thank you. I guess I should note  
19 additionally to the employment positions I have, I am  
20 also, I've been a member of the Commercial Fishing  
21 Vessel Safety Advisory Committee to the Coast Guard  
22 since 2006. And I'm a current member, a member of the  
23 Pacific Northwest Crab Industry Advisory Committee, a  
24 standard, a standing committee of the North Pacific  
25 Fisheries Management Council. I am chairman of the

1 Alaska Seafood Marking Institute, Shellfish Committee.

2 I served in the past as chairman of the North  
3 Pacific Fisheries Management Council Arbitration  
4 Committee during construction of the Rationalization  
5 Program for crab. I also served as chairman of the  
6 North Pacific Fisheries Management Council Crab  
7 Committee. I was executive director of the Alaskan  
8 Marketing Association from 1994 to 2005, doing the price  
9 negotiations for the fishing fleet. And I have been a  
10 commercial fisherman since about 1966.

11 I first started crab fishing in 1971. And  
12 then gave it up in 1998 to pursue a career in marine  
13 surveying.

14 So I put together a little PowerPoint  
15 presentation to explain what is the most complex  
16 fisheries management system known to man. And the role  
17 of Inter-Cooperative Exchange, and the history of the  
18 Inter-Cooperative Exchange Cooperative.

19 We were organized under the Fisherman's  
20 Collective Marketing Act of 1934. Currently, I believe  
21 we are the only cooperative that is organized and active  
22 under the Fisherman's Collective Marketing Act. And  
23 that is an antitrust exemption, which allows us to  
24 collectively share and negotiate prices.

25 The Crab Rationalization Program was

1 implemented in 2005, and it created rights for  
2 harvesters, processors, and communities. So the crab  
3 fisheries subject on the Rationalization Program or  
4 noted on the next slide, Tracy Buck went over some of  
5 those. There is the Bristol Bay Red King Crab Fishery,  
6 Bering Sea Snow Crab Fishery, Eastern and Western Bering  
7 Sea Tanners, the Golden King Crab Fisheries, and a few  
8 other smaller fisheries that may or may not have quotas.

9           The harvesters were issued Quota Share based  
10 on their catch history during a historical period. And  
11 IFQ, or individual Fishing Quota is issued based on the  
12 total allowable catch and the quota shares held by the  
13 quota share holder, as Ms. Buck explained.

14           The processors were also issued a type of  
15 quota share called a processing quota share. Again, it  
16 was based on their historical participation during the  
17 fisheries. And it results in issuance of a number of  
18 pounds based on the total allowable catch, and their  
19 processor quota share holdings.

20           The communities were protected through this  
21 process by regionalization. The Regionalization Program  
22 was to preserve the offload, the delivery locations, the  
23 -- it was also based on crab fishing history. And so if  
24 a community had deliveries during the historical period,  
25 which is during the decade of the '90's, they, there was

1 a certain amount that was, has to be landed in that  
2 regionalized area.

3           So, for example Ms. Buck noted that there was  
4 a North and South Region to the Bering Sea Snow Crab  
5 Fishery. This does not refer to regions of fishing, it  
6 refers to regions of delivery. So the North Region of  
7 the Bering Sea Snow Crab Fishery includes the islands of  
8 St. Paul and St. George. The southern region is the,  
9 anything south of, along the Aleutian Islands.

10           So in 2005, when Rationalization was  
11 implemented, inter-cooperative exchange was formed as an  
12 inter-cooperative with twelve member cooperatives. Each  
13 of these twelve cooperatives functioned as an  
14 independent cooperative, but they shared price  
15 information through the inter-cooperative. Price and  
16 delivery term information and they also were qualified  
17 under the Fishermen's Collective Marketing Act to do  
18 that through the Inter-cooperative Exchange. So they  
19 were independent, but shared information.

20           In 2009 ICE reorganized as a super-  
21 cooperative, and it became one cooperative. And so each  
22 of the twelve cooperatives that came together to form  
23 ICE were, became known as voting districts of ICE. And  
24 they still have managerial authority over the IFQ that  
25 was, that is brought into ICE by the voting district

1 members.

2           And -- I'm sorry, I had a repeat slide there.  
3 So the next one, see the same thing. But today, ICE  
4 currently has a 183 member entities, residing in ten  
5 voting districts, and we harvest around seventy percent  
6 of the IFQ for each of the rationalized crab fisheries.

7           In the program, there are a total of 481 Quota  
8 Shareholders and 29 Processing Quota Shareholders as of  
9 the 2016/2017 fishing season.

10           So where does the Destination fit in this  
11 Program?

12           Vessels are not members of cooperatives. The  
13 IFQ holding entities are members of cooperatives, and  
14 vessels are hired through the cooperative to fish the  
15 quota. And so the Destination was a member of Alaska  
16 Fisherman's voting district, a voting district of ICE.  
17 And they are typically, or there is six vessels related  
18 to the Alaska Fisherman's Voting District.

19           The top three vessels, Aleutian Lady, American  
20 Lady, and Constellation are affiliated with Shelford  
21 Fisheries, which is one of the primary components of the  
22 Alaska Fisherman's Voting District. The bottom three  
23 are the Destination, the Determined, and the Akita, are  
24 vessel that are associated with David Wilson, and he is  
25 the other half of that voting district.

1           Some of the voting districts in ICE have  
2 managers that manage their voting districts. Some of  
3 them are, have, will have 30 or 40 vessels in their  
4 voting district, and so they hire a manager that is not  
5 me, I manage ICE at the executive level. And so the  
6 voting district manager will arrange for deliveries and  
7 transfers of IFQ between other ICE cooperatives, and  
8 outside of ICE, and do other administrative work related  
9 to the operation of the co-op.

10           But in the Alaska Fisherman's Voting District,  
11 the top three boats and the bottom three boats are  
12 generally managed by their owners. So, they are kind of  
13 a, they don't have a specific voting district manager.

14           The Destination harvested Bristol Bay Red King  
15 Crab for ICE, and these are the statistics from that  
16 harvest. And so listed on the slide in very small print  
17 that can't be seen by anyone else unless they are right  
18 next to the projector lists all the types of quota, the  
19 amounts that were delivered by the Destination during  
20 the Bering Sea Red Crab season, and how much they  
21 initially -- well it doesn't say how much they had to  
22 start with, but it lists their deliveries.

23           So the next slide shows the quota holdings of  
24 their voting district within ICE. Part of the program  
25 involves a matching process where pounds of Class A, IFQ



1 are matched with IPQ. So there is kind of a one to one  
2 correspondence between IFQ and IPQ. And there is a  
3 website that we use as a utility for matching. And that  
4 website is called Sharematch.com. And it is, has been  
5 described as the Match.com of the fishing industry. The  
6 fisherman will propose matches to the IPQ holders, and  
7 they will either accept them or not. And then there's a  
8 certain period where they have to accept them.

9           So for the Alaska Fisherman's Voting District,  
10 and each voting district within ICE has the ability to  
11 match their own designated IFQ with an IPQ holder. And  
12 so for the opilio season they matched their North IFQ  
13 with Peter Pan and Trident. And they matched their  
14 South IFQ with Trident and Westward. And the amounts  
15 that they had that were delivered are in the Totals  
16 column.

17           The next slide shows the Destination's IFQ  
18 account at a management software program that we use, it  
19 is a utility online app that has been designed  
20 specifically for managing cooperatives. And so it shows  
21 their Bristol Bay Red King crab quota. And this has a  
22 lot of the same information that you have seen before.  
23 But that's a screenshot of what my management program  
24 looks like.

25           The next slide shows the Alaska Fishermen's'

1 Voting District status on February 11<sup>th</sup> of 2017. Their  
2 initial assignment of opilio quota was a little over a  
3 million pounds. They transferred in an additional  
4 47,000 pounds, and transferred out almost 131,000  
5 pounds.

6 On 2-11 they had a total between the two boats  
7 that were fishing at the time of 914,118 pounds. They  
8 hadn't delivered any of that crab prior to the  
9 Destination sinking. I mentioned there are two vessels  
10 that fished, or that were delegated IFQ to fish during  
11 2016/2017 Bering Sea Snow Crab season. And those were  
12 the Destination and the Aleutian Lady. After February  
13 11<sup>th</sup>, the voting district transferred out 234,000  
14 pounds. And the remainder were caught and delivered by  
15 the Aleutian Lady, and that was 774,293 pounds.

16 Feel free to stop me if you have questions  
17 along the way. Or if I am going too fast, tell me to  
18 slow down.

19 CDR MULLER: Okay. Mr. Karr?

20 MR. KARR: Yeah.

21 CDR MULLER: We have a question from Mr. Karr.

22 **EXAMINATION**

23 BY MR. KARR:

24 Q. So going back to page seventeen, and Mr.  
25 Jacobsen if the answer will be in a future slide just

1 let me know that, and I'll wait for that slide. So the  
2 bullet that says, "Pounds transferred out after 2-11",  
3 what does that mean? And what is the significance to  
4 the quota holder?

5 A. The IFQ is fairly fluid in the Rationalization  
6 Program. So cooperatives can transfer IFQ to other  
7 cooperatives. Or within ICE we can transfer IFQ within  
8 the ICE voting district through a utility that we have.  
9 If we are going to transfer between cooperatives we go  
10 through the RAM division that Tracy Buck administers.

11 So they transferred out quota because -- well  
12 I don't know all the reasons, but most likely the  
13 Aleutian Lady didn't think they could catch that much  
14 crab in the time they had allotted to catch it. So they  
15 transferred it to other vessels, other cooperatives or  
16 voting districts, just to reduce the number of pounds  
17 that they had to catch to make sure that they got it all  
18 in by the end of the season.

19 Q. Is there any cost to the Destination, Inc. for  
20 doing that transfer? Do they lose revenue? Does it  
21 cost them to transfer it?

22 A. There is no cost for the transfer process.  
23 But there is an opportunity cost for -- in that they  
24 won't be able to catch the crab. They can lease the  
25 crab. And most of these transfers are accompanied with

1 some kind of financial arrangement. But it would not be  
2 as much money as if they caught the crab themselves. So  
3 they would say, I'll lease you this crab. And you pay  
4 me sixty-five percent of its value.

5 Q. All right. Does the -- that, in that opp --  
6 in that arrangement does the captain or crew benefit  
7 from any of that?

8 A. The captain and the crew would benefit from  
9 transfers in, they would not benefit from transfers out.

10 Q. So when it comes to captain and crew, it's all  
11 -- their pay is just based on the amount of crab that  
12 they have hauled on board and sold.

13 A. Yeah. Their pay is based on their catch. And  
14 how much of it was leased, and how much of it they --  
15 may have been owned by the boat, itself. And so there's  
16 a lot of different arrangements. The financial dealings  
17 are fairly complex.

18 Q. Well what you just mentioned there, so if --  
19 well, this is a good example on that pounds transferred  
20 out for the Aleutian Lady crewmembers, how would they  
21 receive any pay from that 234,000 pound transfer out?

22 A. I don't know that they would. It just depends  
23 on what arrangements are made in their contracts.

24 Q. And how about the owner of the boat?

25 A. The owner of the boat may or may not be the

1 owner of the IFQ that's caught. The owner of the IFQ  
2 would receive a lease payment.

3 Q. And do you know how that lease payment is  
4 calculated?

5 A. The lease payment -- that's a real complex  
6 issue too.

7 Q. Okay.

8 A. The, and I'm not saying you wouldn't  
9 understand it, you would. But the typical lease payment  
10 for opilio crab is fifty percent. There are some  
11 arrangements where it is more or less than that,  
12 depending on certain circumstances. But it is usually  
13 around fifty percent.

14 Q. So, the boat that catches -- or the boat that  
15 actually catches that 243,000 dollars (sic) would get,  
16 keep half the price, or half of what they got for the  
17 crab that they sold. And then the leaseholder would get  
18 the other half.

19 A. Yes.

20 Q. All right. Thanks.

21 THE WITNESS/MR. JACOBSEN: Okay, so the next  
22 slide we were on was that one, "Bar Chart". This shows  
23 the number of pounds delivered by the Destination since  
24 2009, when ICE became a co-op. And the 2015/2016  
25 fishing year is the last bar there. So that would be

1 the year before they sank, and that was 269,000 pounds,  
2 the amount of crab they caught.

3 But what, probably, is a better example of how  
4 much they catch is the next slide, which shows the  
5 percentage of the TAC, because the TAC can vary widely  
6 from year to year. And so this slide shows that the  
7 Destination typically caught between 1.2 %, and 1.8 % of  
8 the TAC.

9 So, in the 2016/2017 fishing year, the TAC  
10 was, for IFQ was a little over nineteen million pounds.  
11 And if we take 1.8 percent of that, it's around 350,000  
12 pounds, that would be an estimate of what the  
13 Destination would have been expected to catch during the  
14 2016/2017 Snow Crab season.

15 So the last slide shows a legal document that  
16 we negotiate with IPQ holders. And this is called a  
17 Share Match and Lengthy Season Arbitration Agreement.  
18 Price and delivery terms under this agreement are  
19 subject to arbitration.

20 And so if a vessel has a delivery date that is  
21 incompatible with their operations, or can't be met --  
22 and we try to work with processors as much as we can --  
23 but if there are delivery terms, or pricing terms that  
24 we don't agree with, we have recourse to negotiation and  
25 arbitration. And so the fishing year, actually, for

1 Bering Sea Snow Crab, ends on the last day of May.

2           And so there is actually a lot of time for the  
3 Destination to deliver its crab. But some boats have  
4 tendering obligations, or other fisheries that they'd  
5 like to be involved in, and so they have their own dates  
6 where they want to be done by.

7           Trident Seafoods operates the only crab  
8 processing facility in the North Region for Bering Sea  
9 Snow Crab. And so they like to get that crab in and  
10 done. And so it is a common practice for ICE members to  
11 trade North for South Quota if they don't think they  
12 will be able to make all their deliveries to the North  
13 by the time the plant wants to close.

14           A review of my emails with Ray Nomura suggests  
15 that they close their plant by February 20<sup>th</sup>. And the  
16 actual last delivery was made there by an ICE boat on  
17 February 23<sup>rd</sup>. But, they would have had to stay open  
18 longer if we hadn't been able to deliver all their, all  
19 the crab. We try to work with them as much as we can to  
20 get the crab into St. Paul, so we can close their plant  
21 there.

22           And there is a number of reasons for this.  
23 One is that the later you get into the year, into the  
24 winter months, especially in late February and early  
25 March there are icing issues in the harbor, and

1 sometimes even in January. But the harbor will ice up  
2 and it will make passage very difficult if not  
3 impossible. Sometimes the harbor is closed because of  
4 ice.

5           And so we try to get, concentrate our North  
6 IFQ deliveries. In 2014 we started -- there was a  
7 regulatory change, which allowed us kind of a safety  
8 valve for deliveries to the North, and it is called a  
9 regional, it's a Regional Landing Exemption. So we can  
10 apply for an exemption to landing crab in the north if  
11 weather conditions, or any other conditions make it  
12 impossible, or very difficult, or hazardous to land crab  
13 there.

14           So, if, for example, the harbor in St. Paul  
15 iced up on the 15<sup>th</sup> of February, and it didn't look like  
16 it was going to be clear any time soon, we would  
17 activate our Regional Landing Exemption, and we would  
18 land that crab in the South. And then there would be  
19 some compensatory landings later on, like the next  
20 fishing season, or the next couple of fishing seasons,  
21 whatever we negotiate with the processors and the  
22 communities. So, there are options for landing. A boat  
23 doesn't have to be -- strand quota, or if he can't enter  
24 the harbor, there are options available.

25           The landing exemption is complex. We have



1 never done it, we don't want to it, we don't want to do  
2 it just because it is so complicated, and so many  
3 different aspects to whole program, that we, hopefully  
4 we never have to use it. But it is a tool that's  
5 available if we can't land it in the North.

6           One example of what we do to avoid having to  
7 use the Regional Landing Exemption, and to get all the  
8 crab delivered into St. Paul as fast as we can is  
9 transfers. So we trade North and South. There is a  
10 vessel in the pacific sound area that was in Seattle,  
11 delayed in the shipyard, and they were going to be late  
12 for their Snow Crab season, and so they traded all their  
13 North for South Region IFQ with other boats. And so  
14 they actually made their last crab delivery on April the  
15 17<sup>th</sup>. But it was all Southern, delivered in the South  
16 because St. Paul was closed at the time.

17           So we make those arrangements, and we are very  
18 good about helping other co-ops and each other, and  
19 making sure we can deliver everything into St. Paul in a  
20 timely manner and get, let them shut the plant down and  
21 be able to get all our quota in all together.

22           So, it is a cooperate experience. We do have  
23 a lot of options for boats that have problems, either in  
24 the North or South. We are very willing to work with  
25 boats, and other co-ops, and voting districts within ICE

1 to make sure everybody has an opportunity to lands their  
2 crab.

3 So that concludes my presentation. So if you  
4 have questions I would be happy to give an answer.

5 CDR MULLER: Well thank you, that was very  
6 informative. I hope you are not going to issue a test  
7 now. Earlier, you mentioned you were a third-party  
8 examiner.

9 THE WITNESS/MR. JACOBSEN: Yes.

10 CDR MUELLER: I would like to bank that, and  
11 get to that eventually. So this first round of  
12 questions to the Board, do you have any questions that  
13 focus on the Quota topic?

14 (No audible response.)

15 CDR MULLER: So I have a few follow-up  
16 questions, mainly for my own understanding.

17 **EXAMINATION**

18 BU CDR MULLER:

19 Q. You mentioned earlier on in the presentation  
20 that prices are negotiated. Is it possible that the  
21 profit, or the market value of a product may fluctuate  
22 during the season? And would that be cause for a vessel  
23 to deliver their catch by, or at a certain point in the  
24 season?

25 A. So the answer is, to your last question is no.

1 The answer to the first question is yes. Prices  
2 fluctuate throughout the season. And sometimes they can  
3 fluctuate quite a bit. At the start of the season, we  
4 negotiate what we call an advance price. And an advance  
5 price is a dock price. It's, I generally try to make it  
6 80 to 90 % of what I think the final price will be.

7 But the final price isn't negotiated until  
8 after all the crab is delivered. So when the crab is  
9 delivered, and most of it is sold, then, I will initiate  
10 negotiations with the processors. And through  
11 negotiation we will arrive at an agreed final price. If  
12 we can't arrive at a final price, we have recourse  
13 through the arbitration system. And so we would have a  
14 price arbitration.

15 Q. Okay. So a vessel master really wouldn't have  
16 the details while he is involved, engaged in the fishing  
17 season about the prices. Although there might be talk  
18 about it, there is nothing he really can do about it.  
19 It depends on what actually happens in the market at a  
20 later time?

21 A. That is correct.

22 Q. Okay. I believe you explained it quite well.  
23 But I want to just check in and make sure I understand  
24 it. So there is this match share. So there is a, so  
25 the vessels, or the individual quota, and then there is

1 the processor quota. So let's call it 100 units, a 100  
2 %.

3 So, like you said, the plant cannot close if  
4 they are waiting for somebody to deliver their share of  
5 the quota. So a plant cannot close if they are still  
6 waiting for somebody that is still fishing?

7 A. The plant can close. But if they did they  
8 would -- there would be an arbitration.

9 Q. Okay. And before it gets there, they are  
10 going to try to exchange shares to a different region,  
11 or with other vessels?

12 A. Yeah, the plants can have other plants process  
13 for them as well. So, the fact that during the  
14 2016/2017 fishing season, the Trident plant in the  
15 North, in St. Paul, processed all of the North IPQ, all  
16 of the processing quota was Trident, from all of the  
17 other processors in the North was processed in St. Paul,  
18 at the Trident plant.

19 So, you saw there that, in one of the slides  
20 that some of the Alaska Fishermen's Voting District crab  
21 was matched with Peter Pan. Well Peter Pan has a plant  
22 in King Cove, they do not have a plant in St. Paul. So  
23 they pay a fee to Trident Seafoods to process that for  
24 them.

25 So there used to be more plants in St. Paul,

1 but through the consolidation of the fishery harvesters  
2 and processors, the -- what we have now is one plant in  
3 St. Paul, and just a few in the South Region. There is,  
4 five operating plants. There is really only three  
5 plants, three companies that own plants that process  
6 crab now.

7 Q. So did the Destination ask to adjust the  
8 delivery dates, or adjust the, any of their shares  
9 because they didn't believe they would meet the delivery  
10 date?

11 A. I don't know if they asked to have the  
12 transfer done. There was no transfer or switch from  
13 North to South prior to the Destination sinking.

14 Q. At least for your company. They might have --

15 A. Right, they might have just adjusted it within  
16 their, within the Alaska Fishermen's Voting District. I  
17 wouldn't have knowledge of that.

18 Q. Is it fair to say vessel operators may just  
19 consult with the plant directly first about that date.  
20 And then, perhaps through your company, or through the  
21 exchange?

22 A. So you are talking about a delivery date?

23 Q. Right.

24 A. Yeah. So it, for many of the voting districts  
25 within ICE, they have a manager who sets up the delivery

1 date. But for the Alaska Fishermen's Voting District,  
2 they kind of did it themselves. So, I'm thinking that  
3 Jeff Hathaway probably contacted Ray Nomura at Trident,  
4 and set up date for offload. And he is perfectly within  
5 his rights and responsibilities to do that.

6 Q. Okay, you mentioned a Regional Landing  
7 Exemption, as a tool that was an application process.  
8 But you also mentioned -- it sounds like you haven't  
9 done, that hasn't been initiated. But you also  
10 mentioned that's very complex, to the point where you  
11 try to ignore it, or avoid it, rather, avoid it. Can  
12 you describe what makes it complex, or what are the  
13 ramifications of, if you submitted it, and who do you  
14 submit it to?

15 A. We submit it to the National Marine Fishery  
16 Service. And there is an application process for  
17 getting the exemption. And it is actually filed, I  
18 think, in September or October. We have to have a  
19 framework agreement in place. We have a coordinating  
20 committee that meets together and talks about landing  
21 dates, and plant openings and closings. And mitigation  
22 factors that we can use to avoid having to use the  
23 Regional Landing Exemption.

24 The communities are heavily involved in these  
25 talks. If we were to use the Regional Landing

1 Exemption, the most complex part of it, and that thing  
2 that makes it something that we really don't want to  
3 have to use, is compensation for crab that wasn't  
4 delivered in the region.

5           Because the community is going to suffer if  
6 they don't have their, the crab delivered in that  
7 region. They won't be able to take, to collect taxes on  
8 the crab. They will have missed opportunity income from  
9 sales of fuel and water, and stores. And so there are  
10 some costs to the community if we were to employ the  
11 Regional Landing Exemption. And they would expect some  
12 kind of compensation. And so that would be a negotiated  
13 thing at the time.

14           And we are just kind of leery of wandering  
15 down that path without really a strong need to do so.  
16 Just because there would be a lot of questions that we  
17 just wouldn't be able to answer at the time we did it.  
18 And we don't, I'm not sure what we could expect in the  
19 way of compensation to the community. So there would be  
20 a cost in using the Regional Landing Exemption.

21           The one benefit that it has provided to the  
22 fleet is that we communicate a lot better now on  
23 mitigating the need to use the Regional Landing  
24 Exemption. And we are concentrating our initial  
25 deliveries to the St. Paul plant, and getting them,

1 getting all their, all the North IFQ delivered as soon  
2 as we can.

3           There is still Southern deliveries that take  
4 place during that time. But we concentrate on the  
5 North. And so we file a plan that is part of our  
6 application process. And we state how we intend to  
7 mitigate the circumstances that might cause the need for  
8 a Regional Landing Exemption.

9           Q. Okay, final question from me. And I believe  
10 you kind of already answered this. But conceivably,  
11 when you have a pool of vessels in the voting district,  
12 in this case, six of them across, basically two  
13 different operators. It sounds like arrangements could  
14 be made where you say, okay -- and just for  
15 demonstration purpose -- you can say, you three you  
16 concentrate on the North. You three, you deliver to the  
17 south. Now of course, the fishing grounds vary  
18 throughout the year depending on the species. But  
19 essentially that's one -- you could conceivably break it  
20 down that way.

21           A. Yes, that is correct. Yeah, we have a lot of  
22 options available to us through this system. So, the  
23 Rationalization Program has been a huge boon to safety,  
24 fishing vessel safety and it's a, it really has been a  
25 great blessing to the fleet from when I was fishing.





1 understood the PowerPoint. Was there a transfer of  
2 quota share between the Destination and the Aleutian  
3 Lady before February 11<sup>th</sup>, 2011(sic) (2017).

4 A. No, there, there are no transfers that occur  
5 within a voting district. Now, they can talk to each  
6 other and say, hey can you catch this crab for me. But  
7 you wouldn't, they wouldn't need to initiate either an  
8 inter-cooperative transfer or an intra-cooperative  
9 transfer. There would be no need to transfer crab. It  
10 is all in their voting district. And so, whoever  
11 catches it, catches it.

12 Q. Okay, thank you.

13 A. It's kind of a gentlemen's agreement, and a  
14 hand shake. So, yeah, I'm going to catch this amount,  
15 you are going to catch that amount. There is a utility  
16 for assigning IFQ to a vessel within a boating district  
17 on our website. But the Alaska Fishermen's Voting  
18 District didn't use that utility. It was more just, we  
19 are a small voting district, we've got two principal  
20 owners here, and so we are going, you fish yours, and  
21 I'll fish mine, and we will be happy.

22 Q. Okay, thank you.

23 MR. GILLETTE: No follow-on questions.

24 CDR MULLER: Thank you. Mr. Karr, NTSB?

25 **EXAMINATION**

1 BY MR. KARR:

2 Q. Mr. Jacobsen, with regard to North A, and  
3 North B, is there any restriction as to where you can  
4 catch crab?

5 A. No, there is not. And in fact, in North B,  
6 crab can be delivered in any location, there is no  
7 landing requirement for any B Shares, or C Shares.  
8 It's just, the landing requirement only applies to A  
9 Shares.

10 Q. So what's the value of publishing the price  
11 that varies during the season if you don't know what the  
12 final price is until when the season's over?

13 A. The advance price helps the boats pay their  
14 bills. So there will be a payment made, usually within  
15 two weeks after delivery, sometimes sooner. And so the  
16 boats can issue draws to the deckhands. They can pay  
17 for their bait, and fuel, and other expenses that they  
18 have. And it's -- basically helps them to pay their  
19 operating expenses during the season. Because some of  
20 the seasons can be quite protracted.

21 Q. Were you the person that negotiated the  
22 Trident plant staying open until the 23<sup>rd</sup>?

23 A. There was no negotiation necessary on that.  
24 They just stayed open until all the North was delivered,  
25 and that is their typical practice.

1 Q. Well, were you the person that called them and  
2 said you need to stay open?

3 A. No. That was just done between the boats and  
4 Ray Nomura.

5 Q. Okay. The community with these laws that are  
6 passed to benefit the community, does that mean that all  
7 of the employees at Trident are from St. Paul?

8 A. Not unless there is a city in Mexico names St.  
9 Paul.

10 Q. All right, thank you.

11 MR. KARR: All right. That's all I have on  
12 the quota questions.

13 CDR MULLER: Thank you Mr. Karr. Ms. Spivak?

14 MS. SPIVAK: No questions, thank you.

15 CDR MULLER: Okay. We are going to take a one  
16 minute huddle. So we are just going to recess for one  
17 minute.

18 (Whereupon a brief recess was taken.)

19 CDR MULLER: Good morning again. Sorry for  
20 the break. The hearing will come to order. Mr.  
21 Jacobsen we still have a few questions for you. I just  
22 want to remind you that you are still under oath.

23 **EXAMINATION**

24 BY CDR MULLER:

25 Q. So earlier on in your testimony, you mentioned

1 you have a background and certification with a third-3<sup>rd</sup>  
2 party examiner??

3 A. Yes.

4 Q. As a third-party examiner.

5 A. Yes.

6 Q. Okay. Can I ask, how often do you conduct  
7 third-party exams, and when was the last time you have  
8 conducted them on behalf of the Coast Guard?

9 A. Ah, let's see, the last time I conducted one  
10 was probably 2 or 3 weeks ago. I don't do a lot. I do  
11 mostly the certificate of compliance examinations. I  
12 try to have the Coast Guard do as many of the regular  
13 fishing vessel exams that they can do. I try not to do  
14 those. Sometimes I'll do them in conjunction with a  
15 survey. But, usually what I do is the certificate of  
16 compliance that is required by vessels that process.

17 Q. All right. So have you done a third-party  
18 exam on a non-processor vessel, a vessel that doesn't  
19 require a COI?

20 A. Oh yes, many, yeah.

21 Q. Okay. So, my basic question, and you also do,  
22 it sounded like you do surveys, is that for the  
23 insurance companies, or the banks, a condition  
24 assessment? Not Coast Guard exams, but --

25 A. Yes, that is correct.

1 Q. Okay, so my question is basically about  
2 stability. In the course of doing those surveys, both  
3 the condition assessments, and then the Coast Guard  
4 third-party exams, do you assess, do you verify that the  
5 vessel complies with Coast Guard stability requirements,  
6 namely that it holds a valid or stability information  
7 booklet?

8 A. Yes, I do.

9 Q. For both the insurance condition survey, and  
10 the Coast Guard?

11 A. Yes.

12 Q. Okay. No further questions on that part,  
13 thank you.

14 CDR MULLER: Mr. Karr?

15 **EXAMINATION**

16 BY MR. KARR:

17 Q. Mr. Jacobsen have you been on board the  
18 Destination recently?

19 A. No, I have not.

20 Q. Were you -- could you tell me if you knew that  
21 the Destination was going to be late in arriving to the  
22 crab fishery?

23 A. I -- well no, I didn't.

24 Q. Or I should say, when did you become aware  
25 that the Destination was going to arrive to fish the

1 opilio season?

2 A. I didn't regard their arrival as late. I  
3 mentioned earlier that the season doesn't get over until  
4 the end of May. So they, there was plenty of time. A  
5 lot of boats fish cod before they go to crab. So I --

6 Q. Was --

7 A. -- in my mind they weren't late.

8 Q. They weren't late. What -- what about the  
9 factor that the Trident Seafood was going to shut down  
10 on February 20<sup>th</sup>, how did that play into your thoughts?

11 A. Well so, we get these dates a lot from Trident  
12 Seafoods. They say we want to shut down this date. And  
13 they -- say well, let's hope so, or maybe not. There's  
14 not, there's nothing written in stone there. They stay  
15 open, usually, until everybody delivers their north.  
16 But sometimes towards the end, when they want to shut  
17 down, they are getting close to shutting down, we will  
18 transfer IFQ around, North for South, just to make that  
19 possible to help them do that.

20 So there are options within ICE, and  
21 transferring to even other co-ops outside of Ice to make  
22 that happen. And so some years, where you get pretty  
23 busy in transferring Quota around, and working with Ray  
24 and the others at Trident to try to get -- allow their  
25 plant to shutdown as soon as possible.

1           But, so depending on fishing conditions, you  
2 know, they just, they gauge their estimated shutdown  
3 date based on the TAC size and performance in other  
4 years. The problem is when the TAC is significantly  
5 lower, like it was this year, they are, the crab are  
6 generally harder to catch.

7           This year, there was a lot of crab around, but  
8 there were so many Bairdi Crab out on the grounds that  
9 it took a lot of time to sort through all the crab. So  
10 the fishing trips were a little longer than they might  
11 have been. And so the crab doesn't get quite delivered  
12 on schedule.

13           But they were close to it, and the 23<sup>rd</sup> was  
14 the last day. If the Destination had had another trip  
15 coming in say on the 25<sup>th</sup>, they would have stayed open  
16 and taken it. But you know, or they could have traded  
17 some quota with somebody else.

18           Q. If they would have traded a quota with someone  
19 else, would that have cost the crew any income?

20           A. Oh possibly, not a lot. There is -- if you  
21 are delivering to St. Paul, your fuel expenses are less.  
22 So there is a little savings there in time and fuel  
23 expense by delivering to St. Paul.

24           On the other hand, there is a lot of boats  
25 that prefer to deliver South, because they might need



1 engine parts, they might need to get other supplies, or  
2 make some repairs. And so there is, typically, plenty  
3 of boats that are willing to trade North for South.

4 Q. Well when I asked you that previous question  
5 about that slide with regard to the fact that they  
6 didn't deliver 234 and they had to lease that to someone  
7 else. Would that have occurred -- that's why I asked  
8 the question, if the crew was going to lose any money.

9 A. Yeah, there is a different price paid for  
10 deliveries into St. Paul and deliveries South, so you  
11 get a little less money for delivering into St. Paul.  
12 But then you save some fuel. So, I don't know what the  
13 exact calculation would be if there is, depending on the  
14 price of the crab, and price of the fuel. I guess it  
15 could be calculated. But, we pretty much consider it a  
16 wash.

17 I don't know of any cases where somebody is  
18 saying, yeah, sure, I'll trade North for South but you  
19 have to pay me in additional monies.

20 Q. Right. But what if the, what if the Trident  
21 didn't stay open? You know, for instance what happened  
22 here, with -- what happened in 2017 on page -- where it  
23 says that, so the Aleutian Lady and the Destination had  
24 to transfer out 234,000 pounds, because the -- I take  
25 is, because the Aleutian Lady was not able to catch all

1 that.

2           So, what if the Aleutian Lady and the  
3 Destination had failed to catch everything that they  
4 were going to catch. Would, you know, I'm looking, I  
5 guess I'm just doing the -- I'm looking at this equation  
6 as if the Destination had done the entire season. And  
7 so, I'm looking at what that would have meant for their  
8 crew if they didn't catch what they were supposed to  
9 catch, would they have come home with less money in  
10 their pockets?

11           A. I don't know that there is an instance that we  
12 haven't caught all of the quota, or close to all of it.  
13 I mean, they, within a couple thousand pounds this year,  
14 we went around nine hundred pounds over our quota. But  
15 usually we are within a few thousand pounds of reaching  
16 our quota.

17           St. Paul has always stayed open until we got  
18 our North deliveries in. I can't think of any instance  
19 where they stranded quota.

20           Q. This slide seventeen, is this for all of the -  
21 - is for the North A and B?

22           A. Right, yeah.

23           (Brief pause.)

24           Q. Thanks Mr. Jacobsen, I don't have any more  
25 questions.

1 CDR MULLER: Thank you Mr. Karr. Ms. Spivak?

2 MS. SPIVAK: No questions, thank you.

3 CDR MULLER: Checking?

4 MR. GILLETTE: No questions.

5 CDR MULLER: Okay. I have no further  
6 questions. Mr. Jacobsen, thank you for your  
7 participation. Before I release you as a witness, is  
8 there any information that you feel the Board should  
9 consider that was not otherwise captured in our  
10 discussion this morning?

11 THE WITNESS: No, I think you covered my  
12 aspects of it. So thank you very much.

13 CDR MULLER: Thank you. So, Mr. Jacobsen you  
14 are now released as a witness at this Marine Board of  
15 Investigation, thank you for your testimony and  
16 cooperation. If we later determine that the Board needs  
17 additional information we will contact you. If you have  
18 any questions regarding the investigation please contact  
19 LCDR Mendoza. Thank you.

20 THE WITNESS: All right. Thank you.

21 CDR MULLER: Now for all, thank you for your  
22 patience, it's been a long morning, but certainly very  
23 helpful from our witnesses. I have, the time is one  
24 o'clock we will recess for one hour and return at two  
25 o'clock, thank you.

1 (Whereupon a luncheon recess was taken.)

2 CDR MULLER: Good afternoon. This hearing  
3 will come to order. We would like to call our next  
4 witnesses, Captain Lincoln and Mr. Woodley. If you  
5 would, if you can approach the witness table, and LCDR  
6 Mendoza will administer the oath.

7 LCDR MENDOZA: Please raise your right hand.

8 **WITNESSES**

9 **DR. LINCOLN and MR. WOODLEY**

10 A witness produced on call of the Coast Guard  
11 was duly sworn according to the law, was examined and  
12 testified as follows:

13 THE WITNESS: DR. LINCOLN: I do.

14 THE WITNESS: MR. WOODLEY: I do.

15 LCDR MENDOZA: Please be seated. Sir, could  
16 you please state your full name, and spell your last  
17 name for the record?

18 THE WITNESS/MR. WOODLEY: My name is  
19 Christopher J. Woodley, W-O-O-D-L-E-Y.

20 LCDR MENDOZA: Ma'am, could you please state  
21 your full name, and spell your last name for the record?

22 THE WITNESS/DR. LINCOLN: Yes, my name is  
23 Jennifer M. Lincoln, L-I-N-C-O-L-N.

24 LCDR MENDOZA: Sir, could state your current  
25 employment and position title?

1 THE WITNESS/MR. WOODLEY: Yes. I am currently  
2 the Executive Director of Ground Fish Forum.

3 LCDR MENDOZA: Ma'am, could you state your  
4 current employment and position title?

5 THE WITNESS/DR. LINCOLN: Yes. I am an  
6 officer in the U.S. Public Health Service. I am the  
7 Associate Director for Science for the Western States  
8 Division of the National Institute for Occupational  
9 Safety and Health.

10 LCDR MENDOZA: Sir, do you hold any  
11 professional licenses or certificates?

12 THE WITNESS/MR. WOODLEY: I do not.

13 LCDR MENDOZA: Ma'am, do you hold any  
14 professional licenses or certificates?

15 THE WITNESS/DR. LINCOLN: I am a CSP, a  
16 Certified Safety Professional.

17 LCDR MENDOZA: Thank you both.

18 CDR MULLER: Thank you. Captain, Mr. Woodley,  
19 thank you for your presence here today. Thank you for  
20 your contribution and support to this Marine Board of  
21 Investigation. I just wanted to mention Mr. Woodley,  
22 when we first started this investigation back in late  
23 February, I am still very appreciative for the early  
24 coaching, and counseling that you provided me, and I  
25 think it is going to bode very well for this team as we



1 BY THE WITNESS/MR. WOODLEY:

2 Commander Muller, members of the Marine Board  
3 of Investigation, I thank you for inviting me to testify  
4 as part of this investigation. My name is Chris  
5 Woodley, I am a retired Coast Guard Captain who served  
6 twenty-four years on active duty before retiring in  
7 2014.

8 For most of my career I had a fairly unique  
9 assignment history which allowed me to bounce back and  
10 forth between units in D17, and D13 for nineteen years  
11 in a row.

12 CDR MULLER: Excuse me, sir?

13 THE WITNESS/MR. WOODLEY: Yes.

14 CDR MULLER: Bring the microphone a little  
15 closer.

16 THE WITNESS/MR. WOODLEY: Speaker a little bit  
17 closer, okay sorry about that.

18 CDR MULLER: They are very sensitive.

19 THE WITNESS/BY MR. WOODLEY:

20 There was go, I'll try not to shout over it.  
21 It was during that time that I developed a considerable  
22 expertise in the Alaska Fishing Industry, fishing vessel  
23 safety, and the Bering Sea crab fishery, in particular.

24 From 1993 to 1997, I was assigned to Marine  
25 Safety Office Anchorage, and later I was a supervisor at

1 Marine Safety Detachment, in Alaska. I was a fishing  
2 vessel examiner, where I was on hundreds of fishing  
3 vessels of all sizes and gear types throughout the  
4 Bering Sea and Western Alaska.

5 I was also an investigating officer and  
6 conducted, or supervised over a half a dozen  
7 investigations involving the sinkings of Bering Sea crab  
8 boats during the 1990's.

9 I followed that tour by serving as a District  
10 13 Fishing Vessel Safety Coordinator from 1997 to 2001.  
11 While at that assignment, I concurrently earned my  
12 masters' degree at the University of Washington School  
13 of Marine Affairs, with my thesis being on developing  
14 regional strategies for fishing vessel safety, focusing  
15 specifically on the Bering Sea crab fleet.

16 In 2001 I went back to Anchorage as the Chief  
17 of Port Operations. And while the Chief of Port  
18 Operations usually doesn't spend much time on fishing  
19 vessel safety, I continued to work extensively with the  
20 Bering Sea crab fleet from 2000 to 2005. And I also led  
21 the Formal Investigation into the sinking of the fish  
22 processing vessel. So the theme being as I, you know,  
23 continue stay very, very involved in the fishing  
24 industry.

25 Following that tour, I transferred to D13



1 Marine Safety Staff, where I developed the Alternate  
2 Compliance and Safety Agreement for the non-Pollock  
3 trawler, catcher processor fleet, and the freezer  
4 longline fleet.

5           And then finally, at the end of that nineteen  
6 year run, I was a Prevention Chief, at Sector Puget  
7 Sound. I spent considerable less time in the field, but  
8 continued to be involved in the Alaska fishing vessel  
9 safety issues, working with the Coast Guard and the  
10 National Transportation Safety Board investigators on  
11 the sinking of the Alaska Ranger, as well as the fishing  
12 vessel Cat Mine.

13           I also began writing analysis documents with  
14 Doctor Lincoln for the North Pacific Fishery Management  
15 Counsel's review of the Bering Sea Crab Rationalization  
16 Program. The Vessel Replacement Program for the  
17 Amendment 80 Fleet, and Vessel Replacement Program for  
18 the Freezer Longline Fleet.

19           While I am no longer in the Coast Guard, I am  
20 currently a member of Coast Guard's Fishing Vessel  
21 Safety Advisory Committee, and continue to promote  
22 fishing vessel safety by advocating to the Coast Guard  
23 the need for practical and effective safety programs,  
24 policy, and regulations.

25           Again, thank you for this opportunity to

1 discuss the historical perspective on safety issues  
2 within the Bering Sea Crab Fleet. All of what you will  
3 hear today is based upon my professional experience as a  
4 Coast Guard officer, and all of which was documented and  
5 published in various Coast Guard publications, academic  
6 journals, and North Pacific Fishery Management Council  
7 documents over a ten year period.

8           So today what I hope to cover with the Board,  
9 was to review the Bering Sea crab fishery casualty  
10 history. I would then like to discuss the development  
11 of the at the dock stability and compliance checks for  
12 the Bering Sea Crab Fleet.

13           I want to specifically go, in talking about  
14 that program, talk about how the Coast Guard exercised  
15 leadership in developing that Program. And where that -  
16 - how that may be adjusted today, given the changes that  
17 have occurred over the last seventeen years since that  
18 program was developed.

19           And then finally, I want to discuss the, just  
20 briefly the role of the changes in fishery management to  
21 the crab fishery, and how that played a role in  
22 affecting safety. (Next slide please)

23           Fatalities, and vessel loss within the Bering  
24 Sea Crab Fleet played an important role in the  
25 development of the National Fishing Vessel Safety

1 legislation and regulations. As featured in Patrick  
2 Dylan's book, Lost at Sea the capsizing of the Anacortes  
3 based Amicus/Altair in February 1983, figured  
4 substantially in the development of vessel stability  
5 provision of the Commercial Fishing Vessel Safety Act of  
6 1988.

7           However, despite the importance that the  
8 capsizing of these vessels had in requiring stability  
9 standards, capsizing and sinking events continued to  
10 plague the Bering Sea Crab Fleet throughout the 1980's,  
11 and through the 1990's.

12           A full accounting of these accidents began in  
13 the early 1990's when the National Institute of Safety  
14 and Health, an agency within the Center of Disease  
15 Control opened an office in Anchorage, Alaska, and was  
16 tasked, among other things, with a mission to conduct  
17 epidemiological surveillance on this fishing fleet.

18           Their data capture combined with information  
19 compiled in the Coast Guard's Marine Safety Information  
20 System, revealed a horrific safety record. (Next  
21 slide.)

22           From 1990 to 1999, twenty-two Bering Sea crab  
23 vessels sank. I am going to briefly review those events  
24 that led to the fatalities, and discuss early Coast  
25 Guard initiative to address this issue.

1           In 1990 Pacific Palo sank with three  
2 fatalities. In 1991 the Barbarossa sank with six  
3 fatalities. Also in 1991, the Harvey G sank with four  
4 fatalities. 1992 the St. George sank with four  
5 fatalities. 1993 the Massacre Bay sank with three  
6 fatalities. 1993 again, the Netty H sank with five  
7 fatalities. In 1994 the St. Matthew sank with one  
8 fatality. In January 15, 1995, the Northwest Mariner,  
9 which was a highline boat from Seattle sank with six  
10 people on board.

11           After the Northwest Mariner sinking, the Coast  
12 Guard began to assign two 378's to the Bering Sea during  
13 the fall and winter crab seasons, and to increase search  
14 and rescue capabilities within the region.

15           But however in the beginning of 1996, the  
16 Pacesetter, another Seattle based crab boat capsized  
17 with all seven hands on board, and this was the single  
18 worst fatality event since the sinking of the Americus  
19 and the Altair in 1983.

20           The Coast Guard continued to add resources to  
21 the Bering Sea by beginning to pre-stage helos in Cold  
22 Bay and St. Paul prior to the start of the fall and  
23 winter crab seasons. By January 1999 the Coast Guard had  
24 never had so many resources in the Bering Sea for a  
25 single fishery. Two 378's, H60's in St. Paul and Cold

1 Bay depending on the crab season.

2           Despite all these resources, tragedy struck  
3 again in March 1999 when the Lynn J capsized, fully  
4 loaded in icing conditions. The Coast Guard Cutter  
5 Hamilton arrived on scene fifty minutes later after the  
6 mayday, and despite the remarkably short response time,  
7 found no survivors. (Next page.)

8           This is a graphic which shows the number of  
9 fatalities that occurred within the Bering Sea crab  
10 fishery during the 1990's. This includes fatalities  
11 caused by capsizing events, man overboards and  
12 industrial type accidents. During this period, there  
13 were seventy-five fatalities, from 1990 to 1999.

14           When the calculations were developed to  
15 further quantify fatalities by adjusting for annual  
16 variations in the population at risk which meant, days  
17 at sea, number of participating vessels, the fatality  
18 rate was determined to be 350 fatalities per 100,000  
19 workers. This fatality rate was fifty times the  
20 national average, and three times the rate of the rest  
21 of the fishing industry. Even worse, the rate was  
22 rising.

23           By the end of the 1990's, the Bering Sea crab  
24 fishery was, without a doubt the deadliest catch. It  
25 was a problem that the Coast Guard struggled with. And

1 for the next part of this presentation, I will briefly  
2 discuss how the Coast Guard began to address this  
3 problem and how a solution was arrived at. (Next slide,  
4 please.)

5           So the key things I'm going to talk about in  
6 the development of the Coast Guard's working with the  
7 fishing industry, was just kind of the key principles  
8 that were followed. We had a clear objective, we were  
9 trying to develop a solution for a very specific safety  
10 problem for a very specific fleet. We had the issue of  
11 on scene initiative, and that this was a locally  
12 developed, as opposed to a nationally developed program.

13           We had a unity of effort. This was a  
14 collaboration between the fishing industry, between the  
15 Coast Guard, between vessel safety organizations, naval  
16 architects, safety professionals. So it wasn't just a  
17 Coast Guard program. There was the element of effective  
18 presence, that we were, it was a kind of just in time  
19 delivery of a safety intervention during a specific part  
20 of the year, for a specific fleet.

21           And then I'll talk a little bit about the  
22 concept of restraint, and again going to the  
23 collaboration and cooperation with the fleet as trying  
24 to be, as opposed to being a law enforcement agency.  
25 (Next slide please.)

1           So the first component was a clear objective.  
2 The problem was clear, we were losing an awful lot of  
3 boats in the Bering Sea crab fishery. However, the  
4 solution was not as clear. Fatalities and vessel losses  
5 were occurring at an alarming rate, but there was  
6 dueling approaches within the Coast Guard ranks as to  
7 what to do.

8           And those approaches broke down along Coast  
9 Guard programmatic lines. The operational, or response  
10 side of the Coast Guard house was to continue adding  
11 SAR resources to the region. However, it was becoming  
12 clear that capsizing events often happen too quickly,  
13 and as a result, unprotected people going into the water  
14 had very little chance of survival. The Lynn J was a  
15 graphic example of this, where Coast Guard assets were  
16 on scene within less than an hour, but there were still  
17 no survivors.

18           Solutions from the prevention side of the  
19 house weren't much better. Senior marine safety  
20 leadership had become convinced that only a nationally  
21 implemented vessel inspection and licensing program  
22 could solve the Bering Sea crab fishery safety problem.  
23 Many of the recommendations generated from casualty  
24 investigations surrounding this fleet had become  
25 recitals of these boats need to be inspected, they need

1 to be licensed, but there wasn't necessarily any  
2 supporting evidence to those policy positions.

3           Furthermore, it was problematic that those  
4 kinds of solutions would likely never gain industry or  
5 political support. And the example I used was, here was  
6 the 1999 Coast Guard study, living to fish dying to  
7 fish, where those kinds of solutions were proposed but  
8 just, you know, honestly not very realistic. (Next  
9 slide.)

10           During this time I was the 13<sup>th</sup> District  
11 safety vessel coordinator. I was going to graduate  
12 school, and I was writing my master's thesis on  
13 developing regional strategies, and fishing vessel  
14 safety. As somebody who had been involved in doing  
15 these casualty investigations, who had been out in  
16 Dutch Harbor for a year, I felt that I had some good  
17 insights, into the fishing industry at that point.

18           And that's when I got into the world of  
19 casualty data analysis. As I reviewed all of these, all  
20 of these accidents, all of these cases, several patterns  
21 began to emerge. The boats were departing en masse from  
22 a very limited number of ports in western Alaska after  
23 completing their tanks check with the Alaska Department  
24 of Fish & Game.

25           The boats in these casualties all had



1 stability letters. The boats were typically sinking on  
2 the first day of the January opilio season, when they  
3 were fully loaded. And despite the establishment of the  
4 Coast Guard Marine Safety Detachment in Alaska 1992, the  
5 fact was that the boats were overloaded from that port.  
6 And while fishing vessel safety people were conducting  
7 dockside exams, there was not much attention being paid  
8 to the stability letters that were on the boats.

9           So while the Coast Guard was involved, there  
10 wasn't a real strong preventative aspect at this point.  
11 Based on my experience at MSO Anchorage, it seemed that,  
12 and having been involved in these investigations, it  
13 seemed that instead of trying to determine how many pots  
14 were being carried after the fact, that a better  
15 approach might be to get on board the boats before they  
16 left port, and make sure that they weren't overloaded by  
17 evaluating the stability reports. (Next slide.)

18           So the next leadership component was the  
19 concept of on scene initiative. In contrast to the  
20 national program for vessel inspection and licensing,  
21 this locally developed program was much narrower in  
22 focus, could be managed locally, and was addressed to --  
23 or designed to address a specific safety hazard  
24 associated with a specific fleet.

25           At the time, the Chief of Marine Safety in

1 D13, the Chief of Marine Safety in D17, and the Captain  
2 of the Port for Western Alaska were all very concerned  
3 with this problem, and were all willing to try out of  
4 the box solutions to solve it.

5           And so they were interested in developing this  
6 local kind of program. They trusted their fishing  
7 vessel safety experts, the district coordinators, the  
8 fishing vessel examiners to execute this program. They  
9 provided a top cover, and direction, but the reality was  
10 they, you know, they were very interested in this kind  
11 of ground-up approach. (Next slide please.)

12           Unity of effort. To make our vision work, we  
13 needed buy in from multiple stakeholders, working  
14 together with the crab industry leadership, individual  
15 owners and captains, local safety, vessel safety  
16 institutions like AMC, and North Pacific Fish, or North  
17 Pacific Fishing Vessel Owners Association, Alaska  
18 Department of Fish & Game, naval architects, and the  
19 National Institute for Occupational Safety and Health  
20 were all critical in developing what we, you know,  
21 ultimately would be a very simple program.

22           And the program was that the week prior to the  
23 start of the season, 15 October for Red King Crab, and  
24 15 January for opilio crab. The crabbers would arrive  
25 in their respective ports in Western Alaska to load

1 gear, take on provisions and fuel, and conduct tank  
2 checks with the Alaska Department of Fish & Game.

3           Prior to their departure from port, every boat  
4 in the fleet had an ADF&G representative come on board  
5 to ensure, at the time, that there were no crabs in the  
6 vessel's tanks, and that ADF&G would also examine crab  
7 pots to ensure the gear was legal, and the buoys, pot  
8 tags, et cetera were properly marked.

9           The idea of our safety intervention was to  
10 have Coast Guard personnel accompany the ADF&G personnel  
11 on tank checks. While the ADF&G personnel were checking  
12 tanks, Coast Guard personnel would climb on the boats,  
13 examine stability letters, and verify the pot loads met  
14 the loading requirements.

15           Going a little bit more into depth on how we  
16 looked at the stability letters, you know, you learn  
17 more over time. And we did this for a number of years,  
18 but the, you know, we would look at the number of pots  
19 that were onboard, whether or not they had pots in their  
20 tanks, some people put pots in their holds. Sometimes  
21 the pots were stacked higher than the tiers that were on  
22 the stability letter. Sometimes the pots were of  
23 different size. So these were all kinds of things that  
24 we would look at.

25           Although we were not, in ourselves, vessel

1 stability experts, we had reached out extensively to the  
2 naval architects, predominantly here in the Puget Sound  
3 Region who provided most of the stability reports of  
4 these boats. Talked to them about our initiative and  
5 made sure that they would be available when we were  
6 doing these at the dock stability checks. So if there  
7 was a question about how it was loaded that they could  
8 immediately get back, you know, get back to the Coast  
9 Guard, get back to their customer. And that way they  
10 could be, you know, as responsive as possible. And we  
11 could, you know, if there was any problems that arise,  
12 we could turn it around in fairly short order. (Next  
13 slide please.)

14           To have an effective presence, we positioned  
15 our teams in Dutch in October of 1999, the first time we  
16 tried this we positioned our team in Dutch Harbor four  
17 days before the start of the season. Our teams were  
18 handpicked, and well qualified in fishing vessel safety  
19 and specifically trained in how to read crab vessel  
20 stability books.

21           For Dutch Harbor our goal was to get on board  
22 at least half of the 150 vessels that were departing  
23 from there for the October fishery. We didn't really  
24 know what to expect that first day, but we quickly  
25 learned a couple of lessons.

1           The first lesson that we learned is this is  
2 very hard work, it is arduous. Climbing up and down  
3 the 20 and 30 foot faces of rebar crab pots from one  
4 boat to another when the boats were at the time rafted 6  
5 to 7 deep at the dock, in windy, rainy, snowy and  
6 sometimes dark conditions, that's -- it is tough.

7           It's not -- it's a -- and when it is dark out,  
8 and it -- or you know, it is kind of raining and you are  
9 looking out at that last boat you have to go out to it's  
10 like oh man, here we go, this -- it's hard work. So it  
11 is not something that -- it is not a quick compliance  
12 check. You know, you really have to kind of like work  
13 yourself up for it. You have to be trained for it, in  
14 my view.

15           The second point is, is that as difficult as  
16 the work was of climbing out on the boats, in no way  
17 compared to the excitement in the wheelhouse when we  
18 first detected an overloaded vessel. Captains get  
19 upset, very upset if they think they are going to have  
20 to remove gear. You could have, you know, a lot of  
21 yelling, language not suitable for children. If you  
22 have ever been at the receiving end of a blustering  
23 tirade from a Bering Sea crab captain, you won't forget  
24 it.

25           But, after working through that, though, you

1 know, we would get on the phone, call the naval  
2 architect, talk to the owner and say, okay this is what  
3 we have, is this a problem. Maybe it is, maybe it  
4 isn't.

5           The first day, on the first season, we found  
6 two boats that were overloaded where the naval architect  
7 said, yeah, you are going to have to pull pots off, no  
8 way around it.

9           The third thing we learned is that word  
10 travels fast. By the end of that first afternoon, we  
11 were seeing other boats in port removing pots before  
12 We even got to them. (Next slide please.)

13           Within three days we climbed on board fifty  
14 percent -- and when I say we it was a half dozen people  
15 -- we had climbed on board fifty percent of the fleet in  
16 Dutch Harbor, and reviewed seventy-five stability  
17 letters with vessel masters. Problems detected were  
18 overloading, they were all corrected in a timely matter,  
19 and the fleet departed without delays.

20           A report was put together and made available  
21 to the North Pacific Fishery Management Counsel's  
22 December meeting in Anchorage. Leaders in the crab  
23 industry were extremely supportive, and praised the  
24 Coast Guard's effort on the dock presence because they  
25 thought it significantly deterred overloading behavior.

1           Because we worked with the crab fleet  
2 leadership beforehand and obtained their buy-in,  
3 individual isolated complaints didn't register much  
4 sympathy. Nobody could really make an argument that  
5 their pots weighed only six hundred pounds when we could  
6 easily weigh them and show that they weighed 750 or 800  
7 pounds.

8           And furthermore, because the activity was  
9 occurring at the dock prior to the start of the season,  
10 vessels could correct deficiencies in a way that didn't  
11 impact their ultimate operations or deadlines. (Next  
12 slide please.)

13           Based on the success of the first attempt in  
14 October 1999, the Coast Guard continued the practice and  
15 expanded the activities. We went from just doing this  
16 in Dutch Harbor to expanding activities in Akutan, King  
17 Cove, and St. Paul. We also, when we were on board  
18 noted that there was a problem with sometimes how the  
19 rafts were installed, they may not be properly, or had  
20 not been properly installed, or similar problems with  
21 EPIRBs, and so we also spot checked that primary  
22 lifesaving equipment.

23           We expanded crew training opportunities at the  
24 local pool. And we -- and so it kind of started taking  
25 on a life of its own.

1           Another thing that happened in those first  
2 couple of years is we found that we couldn't keep up  
3 very well with ADF&G, their process was faster than ours  
4 was. So while, in the initial year of going out with  
5 Alaska Department of Fish & Game it became clear that we  
6 would just be out there together and see each other  
7 together, but trying to do each boat together was  
8 probably not going to work, it just wasn't a very  
9 efficient use of time.

10           So for the first five years, from October 1999  
11 until October 2004 the at the dock stability and  
12 compliance checks had remarkable results. You can see  
13 from this graphic the arrow in the center there, where  
14 the stability checks started, and we did not, in 2001,  
15 2002, or sorry, 2000, 2001, 2002, 2003, and 2004 seasons  
16 were capsize and sinkings free despite the shortest,  
17 most competitive seasons on record for the opilio crab  
18 fishery. At the time, the five-year period was the  
19 longest run in the history of the crab fleet where a  
20 boat did not sink.

21           A strong partnership had been formed between  
22 the crab fleet and the Coast Guard and the pulse  
23 operation became a fixture of the crab season. As I  
24 said already, there was an increase in life raft and  
25 survival suit training, naval architects were holding



1 seminars in Seattle on stability, at -- through NPFVOA,  
2 where, you know, different stability reports were being  
3 brought in and we could all learn, you know, how to  
4 better read these things, and what did these stability  
5 reports actually mean, and you know improve the  
6 operator's instructions.

7           Coast Guard started working with Alaska  
8 Department of Fish & Game to consider weather delays for  
9 the season starts. There was a year where we had very,  
10 very bad weather, and so the Coast Guard worked with  
11 Department of Fish & Game to impose a weather delay for  
12 the start of the season.

13           We also began working closer with the National  
14 Weather Service, Bering Sea Ice Forecasting Desk. So  
15 cooperation and collaboration were very much the name of  
16 the game at this point.

17           While all this was going on, by January 2005,  
18 the North Pacific Fishery Management Council had cleared  
19 the final hurdles to allow the Bering Sea crab fleet to  
20 transition to a quota based fishery management system.  
21 You've heard all about this from experts on this from  
22 Alaska Department of Fish & Game, the National Marine  
23 Fishery Service, and Jake Jacobsen. I'm not going to go  
24 into any more detail on that.

25           But at the start of 2005, in January of 2005,

1 we still had one more open access season to get through.  
2 It was going to be an insanely short opilio season, and  
3 so the Coast Guard was very invested in making sure a  
4 lot of, you know, that we were doing as best we could  
5 with these at the dock stability checks in hopes of  
6 having a casualty free season. But that, it didn't turn  
7 out that way. (Next slide.)

8           On January 15<sup>th</sup>, the first day of the last  
9 Olympic opilio crab season the Big Valley, a 92-foot  
10 crab boat out of Kodiak sank west of St. Paul Island  
11 with six people on board. A helo launched out of St.  
12 Paul and arrived on scene, found a debris field, and  
13 recovered a single crewmember in a survival suit from  
14 the raft.

15           Given the facts that the boat had departed  
16 loaded from Dutch Harbor for the start of the opilio  
17 season, and given that there was no mayday, the Coast  
18 Guard immediately suspected that the boat had capsized.  
19 This chain of events was confirmed in an interview with  
20 the only survivor.

21           Following the loss of the vessel, a review of  
22 the Coast Guard's at the dock stability checks, and  
23 fishing vessel safety dockside exams from previous  
24 years, had revealed two Coast Guard interactions with  
25 the Big Valley, related to vessel stability issues.

1           The first time the Coast Guard went on the Big  
2 Valley for a stability check, the stability letter on  
3 board lacked basic information and adequate instructions  
4 for the master. At that time, the Coast Guard wrote the  
5 owner a letter requiring, or directing the owner that he  
6 needed to get an updated stability letter with the  
7 required information, which the owner did. (Next slide  
8 please.)

9           After the new stability letter was issued, the  
10 owner then significantly altered the vessel by adding a  
11 salon after the wheelhouse. You can see it marked there  
12 in the red square. This addition to the vessel did not  
13 escape Coast Guard detection. The amount of weight  
14 associated with the addition invalidated the newly  
15 issued stability letter and he was again directed by the  
16 Coast Guard to get a new stability letter, which showed  
17 the actual configuration and construction of the boat.  
18 This was done in May of 2004.

19           With this new stability letter in hand, the  
20 boat was limited to load 31, 600 pound pots, and carry  
21 2,000 pounds of bait. Despite the new stability letter,  
22 the boat departed Dutch Harbor with 56, 780 pound pots  
23 and 13,000 pounds of bait, more than double the deck  
24 load of what he was authorized. The boat capsized the  
25 next day, and it was the first sinking, again, in the

1 crab fleet in five years. (Next slide please.)

2 In August of 2005 is when the Rationalization  
3 of the Bering Sea crab fishery began. The changes in  
4 fishery management, known as Crab Rationalization  
5 represented monumental changes. Instead of racing for a  
6 common pool of quota, owners, captains, and processing  
7 companies were allocated quota, which could be bought,  
8 sold, traded, or leased. And again, Mr. Jacobsen  
9 spelled this out in great detail, I won't go into any  
10 more.

11 From a safety perspective, as a result of Crab  
12 Rationalization, a number of things happened. The  
13 fleet severely contracted in the first year, from 270  
14 vessels in the Red King Crab fishery, to approximately  
15 80 vessels. Less econ -- and Doctor Lincoln will go  
16 into this some more -- but the less economically  
17 efficient vessels, and smaller vessels dropped out of  
18 the fishery and because there was no longer a race to  
19 fish they could avoid poor weather. Because there was  
20 less emphasis on catching power, vessels were carrying  
21 fewer pots, and the overall pace of the fishery while  
22 still rigorous, was much slower than under open access.

23 The change to Rationalization also very much  
24 impacted how the Coast Guard looked at working with this  
25 fleet. Again, we had been working for several years in

1 a row with a concept of a race start, where we could  
2 bring in people just prior to the start of the season,  
3 and have an intensive effort in Dutch Harbor and the  
4 various ports.

5           Because it was now a rationalized fishery and  
6 people could start whenever they wanted to start, after  
7 a certain date, we thought it was going to be much more  
8 difficult to keep, to have that interaction with the  
9 fishing fleet.

10           As a result, MSO Anchorage moved their fishing  
11 vessel safety billet to Dutch Harbor in 2005. This  
12 would facilitate dockside exams for the fleet, as well  
13 as ensure the fishing vessel safety persons would be  
14 available to support the departure checks, and reporting  
15 requirements. (Next slide please.)

16           So in conclusion, the combined effects of the  
17 -- when we look at the casualty data, I think there is  
18 two phases here. The first phase from 1999 to 2005,  
19 where the Rationalization of the fishery began, clearly  
20 the capsizing events stopped. With the outside, with  
21 the exception of the Big Valley, which, you know,  
22 something that was, you know, the Coast Guard  
23 specifically designed a program for that kind of issue.  
24 And it just goes to show you can't catch everything.

25           But that that safety program clearly had an

1 impact, and started improving, you know, overall safety  
2 within the fleet. With Crab Rationalization, and the  
3 operational changes, in how that fishery was managed,  
4 that very much reinforced what the Coast Guard was  
5 already doing. Vessels didn't need to carry -- have as  
6 much catching power, they didn't need to carry as much  
7 gear, they did not have to leave, you know, in a -- with  
8 a race start.

9           So, I see it as those two programs very much  
10 dovetailing, and supporting each other. And maybe one  
11 becomes more important over time than the other. But  
12 clearly together, the combined effects of those programs  
13 were quite remarkable.

14           Ironically, while Rationalization  
15 significantly changed operations which allowed for a  
16 safer fishery, Rationalization also limited the impacts  
17 of the Coast Guard safety net that had been in place for  
18 so many years. Again, without the race start it was  
19 hard to do stability checks in an efficient manner.  
20 Because the seasons were longer, and D17 in 2013, they  
21 discontinued pre-staging a helicopter in St. Paul.

22           And overall, due to the drop in vessel  
23 sinkings and fatalities, there was, and this is just my  
24 opinion, there was less focus and emphasis on this  
25 fleet. And partially, as a result of that in 2012 the

1 fishing vessel safety examiner billet in Dutch Harbor  
2 was moved back to Anchorage.

3           So overall the turnaround in safety  
4 performance of the crab fleet is nothing short of  
5 remarkable. And the improvements can be directly tied  
6 to these two programs. And again, with the start with  
7 the Coast Guard and NIOSH, and the collaboration with  
8 the fishing industry, and later with rationalization  
9 programs.

10           Speaking specifically to the Coast Guard  
11 programs, these efforts were far more than simple  
12 compliance programs. The safety programs were  
13 predicated on the Coast Guard working together in  
14 Seattle, Anchorage, and Dutch Harbor to actively engage  
15 with the fleet, and that included developing personal  
16 relationships with the fleet leadership, individual  
17 owners and operators, and taking the extra effort to  
18 both promote and execute this program.

19           And in order to continue to hold on to the  
20 safety gains brought about over the years, through the  
21 Coast Guard and through Rationalization, it is my view a  
22 strong Coast Guard engagement remains necessary. And  
23 that is all I have.

24           CDR MULLER: Okay. Thank you Mr. Woodley. I  
25 will open it up to just a few questions, you know for

1 the Board if you don't mind.

2 THE WITNESS: Sure.

3 CDR MULLER: But I would just ask that you  
4 keep it specific to the topic presented by Mr. Woodley,  
5 because we also look forward and want to save time for  
6 Captain Lincoln's presentation. So, just one or two  
7 questions.

8 **EXAMINATION**

9 BY CDR MULLER:

10 Q. So when you initiated the initial spot checks  
11 safety and stability compliance checks, so it was -- one  
12 of the objectives was to verify compliance or of the  
13 number of pots to the stability book, correct?

14 A. Correct.

15 Q. Was there also -- did you examine the effects  
16 of icing, and also make sure they were compliant with  
17 icing at that time? And perhaps that was also when you  
18 did these in the early fall, so icing may not have been  
19 present.

20 A. Right. Yeah, icing is not typically an issue  
21 in the Red King Crab Fishery in October. So the first  
22 time we, you know, we caught a little bit of a break in  
23 that we didn't really have to look at those icing loads,  
24 because that is just typically a lower number of pots.

25 When it came to the January opilio fishery



1    though, yes we did have to look at that.  The challenge  
2    was then, and I don't know to what extent forecasting  
3    has improved, but at the time it could, you know, it  
4    could be difficult to predict where you were going to  
5    have icing.  The Bering Sea Ice Desk that I mentioned,  
6    we worked with them quite a bit to help, you know,  
7    further refine that.  But it was something that we were  
8    certainly aware of.

9                   And in terms of enforcement, though, I think,  
10   you know, we did have the one year where there was a  
11   weather delay because of severe weather and icing.  
12   But honestly, I think those next couple of years were  
13   pretty much ice free.  I know that the opilio season for  
14   January 2005 when the Big Valley went down, there was no  
15   icing.  It was a very, very warm year there.

16                   And again, the opilio fisheries in those years  
17   were very, very short, just couple of days.  So it is,  
18   you know, and so I think, I mean honestly we got lucky  
19   probably those years, and we just didn't have those  
20   kinds of icing conditions.

21                   Q.  And that's something, I think, for the Board  
22   to consider.  Maybe I will make a statement, and then  
23   you can see if you agree with it.  I would think that  
24   icing, from that we gathered over the last week and a  
25   half of testimony, it's not like it's applied when icing

1 conditions exist.

2 A. Right.

3 Q. So then the next question is, when does it  
4 exist?

5 A. Right.

6 Q. Is it a particular moment in time when you  
7 step on board in Dutch Harbor, which can be thirty-five  
8 degrees out, constantly, for days on end, with -- or are  
9 we projecting situational awareness out to an  
10 operational area that could be 3, 4 days away.

11 A. Right.

12 Q. Three hundred miles away, you know. So, I  
13 think what I am getting at, the discussion of icing as  
14 it applies to stability, imagining, I would imagine  
15 would involve a conversation, a dialogue, perhaps a  
16 little push and pull between the Coast Guard vessel  
17 examiner and the vessel master to say let's talk about  
18 this.

19 A. Right.

20 Q. And that takes additional time.

21 A. Right. You have hit on the issue exactly. I  
22 mean, and those were the issues that we struggled with  
23 there, what's the quality of the forecast, how many days  
24 out are we talking about, what area are you fishing,  
25 those are all things that, you know, you -- it's

1 important to have the conversation with the master, and  
2 the master is aware of, you know, the potential for  
3 icing and aware of what the potential conditions could  
4 be.

5 I mean, I think -- and once they get out on  
6 scene then maybe they -- they may have to get rid of  
7 pots. And then, you know, certainly heard many  
8 anecdotal stories over the years about when, you know,  
9 icing would happen that you may have to dump pots, you  
10 may have to turn around or any number of options.

11 I think the key thing though, is just making  
12 sure that the stability letters are accurate and that  
13 the -- if there is an icing situation that the captain  
14 knows, you know, how he needs to address that.

15 Yeah but to -- I mean, if you do a tank check  
16 in Sand Point and the boat is going to transit around  
17 and the Coast Guard goes on board in Sand Point, you  
18 could have, you know, says before you get into icing  
19 conditions. So it doesn't make much sense to require it  
20 at that point. That is -- it's a tough issue, and I,  
21 it's, I don't think it is one that we ever really  
22 resolved, when I was involved, anyways.

23 Q. Okay, Thank you Mr. Woodley. I might have a  
24 few questions, but they may be more appropriate for the  
25 -- collectively, the both of you. So but I will

1 consider that later. Anybody else from the Board. Mr.  
2 Gillette?

3 MR. GILLETTE: Yes Commander, thank you.

4 **EXAMINATION**

5 BY MR. GILLETTE:

6 Q. Good afternoon Mr. Woodley.

7 A. Afternoon.

8 Q. You mentioned a pattern of loaded vessels  
9 sinking and capsizing. The vessels that you mentioned,  
10 was this primarily during King Crab season or opilio  
11 season?

12 A. Opilio season. That's, if you look at the  
13 casualty data, that is where, typically the major  
14 capsizing events with fatalities occur.

15 They were all, back in the earlier 90's up  
16 through, I think 1996, there was also a November Tanner  
17 Crab Fishery that went on from, I want to say, the first  
18 week in November through around Thanksgiving. And that  
19 fishery tended to occur out west. So west of St. --  
20 west of the Pribilofs. And I believe there was also  
21 some incidents there that happened in later November  
22 that were stability related, or loading related.

23 But for the most part, and again, that fishery  
24 stopped in 1996. But for the most part, it is an opilio  
25 crab January, February, and March issue.

1 Q. Thank you Mr. Woodley. No more questions,  
2 Commander.

3 CDR MULLER: Thank you Mr. Gillette. Mr.  
4 Karr, NTSB?

5 MR. KARR: No Questions.

6 CDR MULLER: Thank you Mr. Karr. Ms. Spivak?

7 MS. SPIVAK: No questions, thank you.

8 CDR MULLER: Thank you. Okay, Captain  
9 Lincoln.

10 THE WITNESS/DR. LINCOLN: I need to adjust  
11 this so I can sit up straight.

12 **PRESENTATION**

13 BY DR. LINCOLN:

14 Hi everyone, my name is Jennifer Lincoln. I  
15 am an injury epidemiologist. And what that means is  
16 that I study patterns of injuries in populations. I  
17 started working at NIOSH in 1992. And that was right  
18 after NIOSH established the office in Anchorage, Alaska  
19 to look at workplace fatalities among all worker in the  
20 State of Alaska, because of the high rate of fatalities  
21 that that State had.

22 It was very quickly identified that the  
23 fishing industry was an industry that we needed to  
24 engage with, and understand more regarding hazards and  
25 solutions to improve safety in that industry.

1           So we grew the fishing research project in  
2 Alaska during the 1990's. I met Chris in the mid-  
3 1990's, and feel like we kind of grew up in the -- I  
4 grew up learning about the fishing industry from going  
5 with the Coast Guard on dockside examination, sitting in  
6 wheelhouses, and listening to captains tell me about  
7 their concerns. And I realized that the way that I  
8 analyze data, the way that I collect information and  
9 analyze it was very powerful, and very informative to  
10 base decisions on.

11           The NIOSH program in the 1990's, was -- we  
12 started by tailoring the -- this information by what  
13 types of hazards were specific for salmon, for the  
14 salmon fleet, or for the crab fleet.

15           In 2002 I was fortunate enough to pursue a PhD  
16 at Johns Hopkins University. I graduated in 2006, and  
17 my dissertation topic was evaluating the Commercial  
18 Fishing Vessel Safety Act, and showing how the emergency  
19 gear that the Coast Guard required saves lives. I also  
20 looked at how marine safety training effected whether or  
21 not, how likely someone was to survive an event whether  
22 or not they had marine safety training.

23           After returning from John's Hopkins, I went  
24 back to the Anchorage Office, and expanded the research  
25 program from a State specific program to a national

1 program.

2           At this time, our research -- we have active  
3 research projects in every coast of the country. I have  
4 been asked to get involved in marine safety issues in  
5 Guam, in American Samoa, and also in Rome, Italy. NIOSH  
6 is recognized, both nationally and internationally as a  
7 very important player in fishing safety research.

8           Today, what I would like to talk about is a  
9 few of the research projects that we have conducted with  
10 the Bering Sea crab fleet. And I think that we can go  
11 ahead and get started.

12           So although I wear a uniform, I don't work for  
13 an organization that has regulatory authority. NIOSH  
14 and OSHA were created at the same time, but NIOSH and  
15 OSHA are not the same organizations. NIOSH is under the  
16 Department of Health and Human Services. It is part of  
17 the Centers for Disease Control and Prevention, or the  
18 CDC and we conduct research, training, and we make  
19 training and prevention recommendations.

20           OSHA, on the other hand, is a regulatory and  
21 enforcement agency. And they are under the Department  
22 of Labor. We were created by the same Occupational  
23 Safety and Health Act, but we are not the same  
24 organization.

25           I also list the U.S. Coast Guard up here

1 because many times when people see my uniform they think  
2 that I'm in the Coast Guard, and I am in the Public  
3 Health Service. When you start working at the  
4 Department of Health and Human Services, you have a  
5 choice to be a civilian or to be an active duty officer.  
6 And I chose to be an officer in the Public Health  
7 Service.

8           NIOSH doesn't have a mandate to do research in  
9 commercial fishing, on the commercial fishing industry.  
10 Our mission is to ensure a safe and healthy workplace  
11 for all workers in the United States. The reason that I  
12 got involved in fishing vessel safety, is because of my  
13 initial job for NIOSH was at the Alaska field office.  
14 And as I stated earlier, it was obvious that we had to  
15 engage the fishing industry to improve safety in that  
16 State. (If we go to the next slide.)

17           So the NOISH Commercial Fishing Safety  
18 Research and Design Program is a research, we do  
19 scientific research on safety problems in the fishing  
20 industry, and we work with industry to identify  
21 solutions for those hazards. Our information is high  
22 quality, it is relevant information.

23           And I have a few of those documents, I think,  
24 that I have shared with -- whether it is a descriptive  
25 epidemiology on all workplace fatalities for each region



1 of the country, or something as specific as what we did  
2 for the Bering Sea crab fleet.

3 Our research findings are used by the fishing  
4 industry, government agencies, and marine safety  
5 trainers to guide their programs and policies. (Next  
6 slide please.)

7 So unfortunately, when the PowerPoint was  
8 converted into a PDF, I lost the animation on the slide.  
9 So what I typically do with this slide is I talk through  
10 these things one at a time. This slide illustrates the  
11 number of lives lost in the fishery industry in Alaska  
12 from 1990 to 2006. Now this is for any fishery in  
13 Alaska, this is not just the crab fleet.

14 The first thing that NIOSH evaluated to see if  
15 they -- it had an impact on safety was the Commercial  
16 Fishing Industry Vessel Safety Act Regulations. So that  
17 is the box, that's the bar that's at the beginning of  
18 the 1990's. So at that time, that's when those  
19 regulations were being implemented. And what NIOSH is  
20 showing is that there was a significant impact on  
21 fishing safety in the 1990's because of those  
22 regulations.

23 The next boxes that I typically show are where  
24 the stability checks started in 1999, and ACSA, the  
25 Alternate Compliance Safety Agreement, which started in

1 the mid-2000's. Those two programs are U.S. Coast Guard  
2 tailored interventions for specific fleets. NIOSH has  
3 evaluated both of these programs to show an improvement  
4 in safety, a reduction in risk for the fleets that those  
5 particular programs were developed for.

6 Other things that NIOSH has evaluated are  
7 changes in fishery management practices. So those three  
8 arrows show in 1995, in 1999, and in 2005 there were  
9 changes in the way that specific fisheries were managed.  
10 The first being the halibut, sable fish fleet in 1995,  
11 changed to a quota based management system. The  
12 American Fisheries Act was the change in 1999. And then  
13 of course with the Bering Sea, Aleutian Island Crab  
14 Rationalization Program in 2005. All three of these  
15 NIOSH has evaluated and shown a reduction in risk after  
16 those fisheries management policies were put into place.

17 Other things that have happened over this time  
18 period is that there has been an improvement and more  
19 marine safety training that takes place in Alaska and  
20 the Pacific Northwest. I was pleased to see that you  
21 had invited AMSEA and NPFVOA to be part of the panel  
22 next. But these two organizations continue to train  
23 fishermen in the Pacific Northwest and Alaska.

24 There is also corporate safety programs that  
25 were developed that -- and have been enhanced, and are

1 more robust over this time period. And I know that by,  
2 that my experience listening to captains that they are -  
3 - and in talking to crew is that there has been an  
4 improved, there has been a change in the safety culture.

5           Now these things, as far as safety culture and  
6 corporate safety management programs, aren't something  
7 that we have evaluated. But it is something that can't  
8 be ignored if you want to look at all of the things that  
9 happened in the fishing fleet in Alaska over this 27  
10 year period to reduce risk in the fishing industry. (I  
11 think if we go to the next slide. Oh, go to the next  
12 slide.)

13           Still speaking in general and not about --  
14 (Not that far yet.) Just still speaking about in  
15 general, not about the Bering Sea crab fleet  
16 specifically. I wanted to talk a little bit about quota  
17 based management systems and safety.

18           So, about ten years ago, I was at an  
19 international conference where the issue of fisheries  
20 management and safety came up with the safety scientists  
21 there. And it is -- and typically, when this comes up  
22 they, people say if -- everybody just needs to change to  
23 a quota based management system and everything will be  
24 safer.

25           And I wanted to talk a little bit about the,

1 my thinking about this, and what I have published on  
2 this. Because it is not -- a quota based management  
3 system does provide risk reduction measures. But it is  
4 not a silver bullet. And I wanted to explain, just a  
5 little bit, about what that means. So whether we are  
6 talking about IFQ's, rationalizations, quota systems, it  
7 is when an allocation is given to a person, a vessel, or  
8 an entity.

9           It usually consolidates the fleet, and the  
10 most efficient vessels are left harvesting. There is  
11 fewer overall number of crew fishing. And typically  
12 they are fishing for more days per year than they were  
13 prior. It lengthens the total period of time fish are  
14 caught, and it ends the race for fish. Which means that  
15 it ends the race to catch fish before somebody else  
16 does. But there are still choices that are made by the  
17 -- by people that participate in the fishery. And it  
18 doesn't end the drive for efficiency, there is still a  
19 drive to -- for vessels to be efficient and catch their  
20 seafood as fast as they can.

21           These quota based management systems allows  
22 for operators to choose to avoid bad weather and they  
23 improve economic stability within the fleet. So that  
24 they are, it allows for the investment in the vessel,  
25 the investment in the crew, and the overall operation of

1 the boat.

2           So there is a variety of reasons why quota  
3 based management systems can enhance safety, but there  
4 are still choices that go into these day in and day out  
5 activities of fishing. (If you go to the next slide.)

6           The next section at the top, talks about the  
7 safety impacts of the Bering Sea, Aleutian Islands Crab  
8 Rationalization five-year review. So the -- any quota  
9 based system, and quota based management system has to  
10 be reviewed every five years. And this five-year  
11 review, Mr. Woodley and I wrote the safety section for,  
12 and then the, and then there is a, we did another -- we  
13 wrote the safety section for the ten-year review as  
14 well. And I will talk about that in a moment. (You go  
15 to the next slide.)

16           The first thing we did, was we looked at the  
17 fatalities -- if there had been any fatalities occurred  
18 in the first five years of the -- after rationalization.  
19 And what we found was that there was one fatal fall  
20 overboard that occurred in 2009 after Crab  
21 Rationalization.

22           So then we had to think about what other  
23 things can we try to measure to show that there is a  
24 reduction in risk, a quantitative reduction in risk.  
25 (So we go to the next slide.)

1           We thought about these, this fishery still  
2 takes place in the winter with cold temperatures and  
3 icing, high winds and seas, poor weather. The vessels  
4 prior to rationalization were, some were vessels that  
5 were under 85 feet sometimes, and some were greater than  
6 125 feet.

7           We knew that the season lengths were  
8 shrinking, and that there was a race to fish prior to  
9 rationalization. These vessels are crewed with 5 to 7  
10 people and the pots weigh 750 to 850 pounds empty, and  
11 they are loaded 3 to 5 tiers high.

12           So looking at the situation that we had, we  
13 were trying to see what can be reduced, what can -- what  
14 information is collected that we could see and measure a  
15 reduction in risk. So a couple things that we  
16 identified -- go to the next slide -- this table shows  
17 two, shows two fisheries, the Bristol Bay Red King Crab  
18 and the Bering Sea opilio crab fishery.

19           And across the top you will see the vessels  
20 and the lengths. So vessels less than 85 feet, vessels  
21 85 to 100, vessels 101 to 125 feet, and vessels great  
22 than 125 feet. After rationalization, the immediate  
23 thing that happens is the number of vessels that  
24 participate shrink. And what we showed is that the  
25 smaller the vessel, the more reduction happened after

1 rationalization. So if you look at vessels that are  
2 less than 85 feet there was a 93 to 100 % reduction.  
3 Those vessels just weren't fishing, they weren't  
4 participating anymore.

5 And vessels 85 to 100 feet, there was a 77 %  
6 reduction, or a 71 % reduction. So we saw, so we could  
7 show the smaller the vessels the higher the reduction,  
8 they dropped out of the fishery after rationalization.

9 The other thing that we looked at -- if you go  
10 to the next slide -- was looking at the average days  
11 fished. So the season, this -- the 2001 to 2005 season  
12 leading up to rationalization you will see that for  
13 Bristol Bay Red King Crab, they were fishing for just a  
14 few days. And then for the last three years, for opilio  
15 they were fishing for a, just a few days.

16 After rationalization those average days  
17 fished increased. And that now we are looking at -- at  
18 that time we were looking at more like 2 to 3 to as many  
19 as five weeks fishing depending on which fishery. So it  
20 changed dramatically. So number of vessels shrunk a  
21 lot, number of days that the vessels that stayed in,  
22 that were fishing increased. (Next slide please.)

23 Another thing that is measured, that we looked  
24 at, was the average pot lifts per vessel day. What we  
25 say was that for Red King Crab, there was a 32 %

1 reduction in the average pot lifts per vessel day. And  
2 a 17 % reduction for the opilio fishery. So if you  
3 allow that pot lift per vessel day indicates the pace at  
4 which a fishery is executed on deck, then we show that  
5 the pace decreased after rationalization. So they were  
6 fishing just a little bit slower. (Next slide.)

7           Other things, so as far as a delayed  
8 departure, so a quota based management system allows you  
9 to choose when you fish, and can avoid bad weather. I  
10 couldn't figure out, we couldn't figure out a way to  
11 measure a delay in departure. We, but we know  
12 anecdotally that operators did choose to do that.

13           The other thing that we identified, and Jake  
14 talked about quite extensively, was the vessel  
15 cooperatives, and the way that they, that they are a  
16 great tool to reduce risk.

17           And then as far as fewer pots, the -- when the  
18 -- during the stability checks something that we noted  
19 was that after rationalization you saw that the number  
20 of overall pots that were being carried out to go fish  
21 decreased. They didn't need the catching power that  
22 they needed when they were racing each other to catch  
23 fish. (You can go to the next slide, please.)

24           Other things that we noted in the report, was  
25 that there was still, there continued to be a desire to



1 minimize the days at sea to reduce operational costs,  
2 even after rationalization.

3           We also noted that it was a very complicated  
4 program, and it requires scheduling, and that schedules  
5 -- and then a schedule prevents everything, everyone  
6 from delivering at once. But these schedules are very  
7 important for this complicated management system. (Next  
8 slide, please.)

9           In the report we made several recommendations.  
10 One of which, involved stability letters. And this was  
11 based on our discussions with the naval architects. So,  
12 we said that the stability letters -- that owners should  
13 evaluate stability letters every five years and update  
14 as necessary. And that incline tests should be  
15 conducted at intervals no longer than ten years. I  
16 can't find this written down anywhere, this was based on  
17 conversations with naval architects at the time. (Next  
18 slide.)

19           So this slide, this information I included  
20 because NIOSH has -- as I said before, NIOSH is not a  
21 regulatory agency. We have very few NIOSH policies that  
22 we -- most of our recommendations aren't at the level of  
23 a NIOSH policy, except when we publish a Current  
24 Intelligence Bulletin.

25           So back in 1997 we published a Current

1 Intelligence Bulletin and made eleven recommendations on  
2 how to improve fishing vessel safety in the State of  
3 Alaska. And our number one recommendation was a  
4 requirement for a periodic stability reassessment and  
5 vessel inspection for all vessels, and that that should  
6 be seriously considered. And, because equipping and  
7 retrofitting can substantially affect the stability of  
8 the vessels. (we go to the next slide.)

9           So the -- to summarize this five-year review  
10 we found that the fishing season length increased, but  
11 there were fewer smaller vessels participating in the  
12 crab fisheries. That the vessel cooperatives were an  
13 effective way to reduce risk. That the number of pots  
14 that were carried, decreased, and there were -- and that  
15 the pot lifts per day rate also decreased.

16           So if we go to -- I think the next slide is a  
17 time -- the timeline again. So in 2015 NIOSH was asked  
18 to write the safety section for the next review of the  
19 Crab Rationalization Program. There were no fatalities  
20 at the -- during this time interval. So this takes us  
21 through the 2014/2015 season.

22           So what -- Devon Lucas and Samantha Case, who  
23 I work with, what they did instead was to review the  
24 marine casualties that had been reported by the Bering  
25 Sea crab fleet to the U.S. Coast Guard. (So if you go

1 to the next slide.)

2           This is a picture of the document that we  
3 published that discussed these marine casualties. So,  
4 as you know, marine casualties can either be personnel  
5 casualties, or something that happens to a vessel,  
6 vessel casualties. The report contains information on  
7 both. The report contains information on these non-  
8 fatal injuries that were reported to the Coast Guard  
9 that were experienced by this fleet.

10           The second half of the document talks about  
11 the vessel casualties that were reported by the fleet.  
12 And that's the only part that I summarize for this  
13 presentation. Everything else is in the document. (If  
14 you go to the next slide.)

15           I wanted to explain, just a little bit, about  
16 how NIOSH gets its information. So when a marine  
17 casualty is reported to the Coast Guard, and that's  
18 either a vessel casualty or a personnel casualty, the  
19 U.S. Coast Guard does the investigation.

20           But, what happens then, we have a Memorandum  
21 of Agreement with the Coast Guard, and we then read your  
22 investigation reports. And we read them and we code  
23 them for information, and enter them into our database,  
24 the Commercial Fishing Incident Database. So therefore,  
25 the information -- so we don't analyze Coast Guard data,

1 we read your investigations, we code them, and then we  
2 analyze the data that's in our database. (Next slide.)

3           So just to summarize, when I talk about a  
4 vessel casualty, I'm talking about things like loss of  
5 propulsion, grounding, collisions, loss of power,  
6 flooding, fire, loss of steering. And when we, when we  
7 read the reports, we also then categorized them by  
8 severity.

9           So a disaster, what we would call a vessel  
10 disaster is something that resulted in the crew having  
11 to abandon the vessel. And so, in these eight seasons  
12 that we looked at, there were no events like that in the  
13 Bering Sea crab fleet.

14           A serious event, is when a casualty occurs and  
15 the vessel needs assistance getting back to port. And  
16 the problem is resolved at port. 26 % of the vessel  
17 casualties that occurred in the Bering Sea crab fleet  
18 were in this category. Moderate means that the vessel  
19 did have to go back to port to resolve the problem, but  
20 they did so under their own power. Minor, means that  
21 something happened at sea, but the crew was able to  
22 address it at sea. But still, there was a casualty that  
23 occurred that needed to be reported to the Coast Guard.  
24 Most of these vessel casualties that occurred in the  
25 Bering Sea crab fleet were due to the loss of

1 propulsion. (next slide, please.)

2           We made several recommendations in this  
3 document and the ones that pertained to vessel  
4 casualties, we recommended that vessels continue to  
5 participate in the Coast Guard at the dock Stability and  
6 Safety Compliance Check Program, each year prior to the  
7 crab season. We suggested that periodically, that they  
8 periodically consult a naval architect to refresh  
9 knowledge of safe loading limits, and adhere to  
10 stability instructions.

11           We also made a recommendation to update and  
12 formalize maintenance procedure for propulsion, power,  
13 steering, and other critical systems, and closely follow  
14 the established schedule. And we also, the other  
15 recommendation we made is that all crewmembers should  
16 take an eight hour marine safety class at least every  
17 five years to maintain the skills needed in an  
18 emergency. (So if you go to the next slide.)

19           So in conclusion, the Bering Sea crab fleet  
20 has experienced a huge decline in fatalities, and in the  
21 rate of fatalities. And this had occurred since 1999.  
22 The development and implementation of the stability  
23 checks was challenging and a change from the fishery  
24 rationalized. The quota based management systems can  
25 reduce risk. This fishery, this Bering Sea crab fishery

1 occurs in the winter with huge, vessels have huge  
2 variations in loading conditions, and there is  
3 definitely competing priorities out there in the fishing  
4 grounds.

5           The evaluation of the Bering Sea, Aleutian  
6 Islands Rationalization Program showed many risk  
7 reduction attributes. And the -- when we look at vessel  
8 casualties that didn't result in a fatality, most of  
9 them are moderate, and most of them were due to the loss  
10 of propulsion.

11           So if we look at the timeline with the  
12 addition of the 2016/2017 season, we see now, that the -  
13 - there hasn't been a -- if we go to the next slide --  
14 this is the first time that there has been a fatal event  
15 in the Bering Sea crab fleet since 2009. The first time  
16 that we've lost a vessel, and the first time a vessel  
17 is, was lost with lives lost since 2005. (Next slide  
18 please.)

19           So, you know, as a safety scientist, I can't  
20 sit here and say that this is a safe way to make your  
21 living. But we've described a variety of things like  
22 stability checks, rationalization, weather reporting,  
23 good mariner practice that the, helps reduce and  
24 contain, contain the risks. And I think that the  
25 Fishing Vessel Safety Act, the training to practice good

1 -- the training to know how to react to an emergency at  
2 sea, maintaining and following stability instructions,  
3 participating in safety and stability checks,  
4 participating in dockside exams that are now mandatory  
5 for this fleet, rationalization that exists that  
6 provides for economic stability, options to avoid bad  
7 weather, and no more racing to fish, to catch fish  
8 before the next guy, all these things combined help  
9 reduce the risk in the fishery overall. (Next slide.)

10 That's the end, so great, thank you.

11 CDR MULLER: Thank you Captain, that was  
12 certainly most informative, and enjoyable. Again, I  
13 think the Board will very much benefit from that report.

14 **EXAMINATION**

15 BY CDR MULLER:

16 Q. I have just one follow-up question. And some  
17 of it is a little bit self-serving because of my, at  
18 some point segue to our next segment, which is regarding  
19 AMSEA and North Pacific Fishing Vessel Owner's  
20 Association, essentially training program possibilities.

21 A. Um-hmm.

22 Q. So with that in mind. I sort of gravitated to  
23 your presentation, you mentioned a few times, marine  
24 safety training.

25 A. Yeah.

1 Q. And perhaps, I guess that is related to the  
2 training to better enable crew and the vessel master to  
3 work together to react to emergency situations at sea.  
4 So, in your presentation you emphasized a few times, not  
5 only the need to have it, encouraging that all  
6 crewmembers have it. But the one, in particular was  
7 refresher training, or at least every five years.

8 A. Yes.

9 Q. Can you explain, perhaps through research, or  
10 why you, why NIOSH or your office came to that  
11 conclusion.

12 A. Sure, yes, I am happy to. I should also  
13 mention that I am a member of the AMSEA Board so I will  
14 be listening to Jerry speak later, since I am his boss,  
15 sort of.

16 Q. Okay. So, and I look forward to your talk,  
17 Jerry.

18 A. So, sure. So the first time -- my  
19 dissertation was looking at victims and survivors of  
20 vessel losses that occurred in Alaska over a ten-year  
21 period. And so what I had, what I did is I looked at  
22 whether or not each person involved used an immersion  
23 suit, used a life raft, whether or not an EPIRB was  
24 involved, and whether or not the person had marine  
25 safety training. I also looked at how recent that





1           A.    If you could back up to -- I don't know what  
2 the slide number is, but it is before this second  
3 section. This one. So to prepare for this presentation  
4 I went back to things that are already published. So I  
5 didn't, I needed to keep my comments and my  
6 presentations to things that NIOSH has previously  
7 published. This is part of the five-year review that  
8 Chris Woodley and I did for the North Pacific Fishery  
9 Management council.

10                   And in that report, there were different  
11 sections. And we had a section of -- I don't remember  
12 if we called it exactly, competing priorities and  
13 choices, but it was other issues that came up as we were  
14 talking to fishermen about rationalization. And then  
15 just, just observations. So this isn't a quantitative  
16 thing. I didn't measure anything. But it is -- talking  
17 to, talking to fisherman, listening to fishermen about  
18 rationalization, there -- it's obvious that there is a,  
19 there is a continued desire to minimize days at sea, to  
20 reduce operational costs. And this has come out before.  
21 Before even today, it's come up today.

22                   As far as the, the scheduling, it's just to  
23 mention that it is a complicated program. And we did  
24 mention scheduling in that report -- not as a, oh my  
25 goodness, something has to be done about it. But as an

1 observation. This is a very complicated program, and  
2 the scheduling prevents everyone from delivering all at  
3 once.

4 Q. So the scheduling you are talking about is  
5 arranging to get your --

6 A. Right.

7 Q. -- crabs to the processing facility.

8 A. Right, um-hmm.

9 Q. That was a good explanation. Anything else  
10 you'd like to add?

11 A. No.

12 Q. Thanks.

13 CDR MULLER: Ms. Spivak, do you have any  
14 questions?

15 MS. SPIVAK: I don't have any questions, but  
16 if I may, Doctor Lincoln, Mr. Woodley, I think your  
17 names are well known in the industry and I just want to  
18 thank you for taking such personal interest in the  
19 crabbing industry. And for all your efforts to improve  
20 the safety.

21 You showed us so many numbers and statistics  
22 on how many people have been lost at sea during this  
23 past twenty-seven years. There is no numbers of how  
24 many have been saved because of your efforts, but I  
25 don't think there is any doubt that as a result of you

1 efforts many lives have been saved, thank you.

2 CDR MULLER: Thank you Ms. Spivak. And you  
3 know, with that. I recommend we close, because that it  
4 difficult to follow-up with, thank you.

5 So, I think we will wrap up the questions that  
6 the Board, or that we have for you. But before we wrap  
7 up and your presentations so we can make room for next  
8 panel. Is there anything else that you would like to  
9 add for the Board to consider, as we move forward with  
10 our investigation, and/or some other factors that  
11 perhaps were not address today?

12 THE WITNESS/MR. WOODLEY: I don't have  
13 anything, no.

14 THE WITNESS/DR. LINCOLN: I don't either.

15 CDR MULLER: Okay, thank you. So with that,  
16 thank you again. You are now released as a witness to  
17 this Marine Board Investigation, thank you very much for  
18 your testimony and cooperation. If I later determine  
19 that this Board needs additional information from you we  
20 will contact you.

21 If you have any questions on this  
22 investigation, please feel free to contact LCDR Mendoza,  
23 thank you again.

24 We will take a fifteen minute recess, thank  
25 you.

1 (Whereupon a fifteen minute recess was taken.)

2 CDR MULLER: Good afternoon, this hearing will  
3 come to order. We would now like to call our next  
4 witnesses, Ms. Conrad and Mr. Dzugan. Please approach  
5 the witness table, and LCDR Mendoza will administer the  
6 oath.

7 LCDR MENDOZA: Please raise your right hand.

8 **WITNESS**

9 **MS. KAREN CONRAD/NPFVA**

10 **MR. JERRY DZUGAN/AMSEA**

11 A witness produced on call of the Coast Guard  
12 was duly sworn according to the law, was examined and  
13 testified as follows:

14 THE WITNESS/MR. DZUGAN: I do.

15 THE WITNESS/MS. CONRAD: I do.

16 LCDR MENDOZA: Please be seated. Sir, could  
17 you please state your full name, and spell your last  
18 name for the record?

19 THE WITNESS/MR. DZUGAN: My name is Jerry, J-  
20 E-R-R-Y, Dzugan, D-Z-U-G-A-N, don't bother pronouncing  
21 the "Z".

22 LCDR MENDOZA: Ma'am, if you can state your  
23 full name and spell your last name for the record.

24 A. MS. CONRAD: My name is Karen Conrad, C-O-  
25 N-R-A-D.

1           LCDR MENDOZA:  Sir, can you state your current  
2 employment and position title?

3           THE WITNESS/MR. DZUGAN:  I am the Executive  
4 Director for the Alaska Marine Safety Education  
5 Association, or AMSEA, based in Sitka, Alaska.

6           LCDR MENDOZA:  Ma'am, could you state your  
7 current employment and position title?

8           THE WITNESS/MS. CONRAD:  I am the Executive  
9 Director for North Pacific Fishing Vessel Owners  
10 Association, here in Seattle, Washington.

11          LCDR MENDOZA:  Sir do you hold any  
12 professional licenses or certificates?

13          THE WITNESS/MR. DZUGAN:  For twenty years I  
14 had a OUPV license, expired now.  I have a number of  
15 education certificates and licenses, I don't think you  
16 need to go through the whole list.  Been an educator for  
17 forty years, both in public schools, and a number of  
18 specialty courses related to fishing vessel safety.

19          LCDR MENDOZA:  Ma'am, do you hold any  
20 professional certificates?

21          THE WITNESS/MS. CONRAD:  No, I don't.

22          LCDR MENDOZA:  Thank you very much.

23          CDR MULLER:  So good afternoon, again, Mr.  
24 Dzugan, Ms. Conrad.  Thank you very much for your  
25 participation and for your assistance to this Marine

1 Board. So with this panel, I thought we, it would be  
2 appropriate to have industry representatives such as  
3 yourselves, who are very much involved in support of the  
4 fishing vessel fleet and the crewmembers, and the  
5 operators.

6 So, I want to include that for the  
7 consideration of the Board as we move forward, as we  
8 develop our report. So without further adieu, if --  
9 I'll ask a question, and then you know, if you could  
10 take turns answering it. And then, you know, work with  
11 each other if there is some additional information you  
12 want to address. And then, I think we will find a  
13 natural solution there.

14 **EXAMINATION**

15 CDR MULLER:

16 Q. So my first question is, if you would, please  
17 describe the association, or organization that you are  
18 part of, generally, what its mission or purpose is, and  
19 your role and capacity in that organization.

20 A. MS. CONRAD: Okay, so I am the Executive  
21 Director for NPFVOA, the vessel safety program. NPFVOA  
22 has been around since 1961, but it started out as a crab  
23 lobbyist type group, and work on government affairs.

24 In 1984 it was created into a safety program.  
25 We are non-profit and run by a board of directors, and

1 then, of course myself. We created it to be a member  
2 based program, so then when the fishing boats would join  
3 us they had ownership into the courses. Most of our  
4 courses were volunteer at the time it started, there  
5 were no required courses, and that has changed over  
6 time.

7           We have created safety materials, we do safety  
8 DVD's, we sell placards, we do drill logs, all the  
9 materials that a fisherman may need to have his life be  
10 a little bit easier in complying with regulations. Our  
11 main goal is to promote safety for fisherman. And my  
12 goal is to try to create an environment where fishermen  
13 can come to us and they can get answers to regulations,  
14 or what kind of training they need, or where they can  
15 get a license, or how they should train their crew.

16           We have Coast Guard approved courses, we have  
17 STCW approved courses, we do OSHA training, we have  
18 created individual courses just for whatever the vessel  
19 needs are.

20           So let's see, my board of directors are a  
21 mixed group throughout the industry. I have marine  
22 architects, I have marine attorneys, I have marine  
23 adjusters, brokers, I have crab fisherman, I have crab  
24 fishing vessel owners, I have factory trial (sounds  
25 like) safety advisors.



1           And then we do a quarterly newsletter to keep  
2 our members up on what new regulations are coming out,  
3 new safety programs, new safety items, something that,  
4 you know -- and we try to bring those items into our  
5 organization so anyone can stop by and see what's new  
6 and improved in the safety field. Thank you.

7           Q. Thank you. Mr. Dzugan?

8           A. MR. DZUGAN: Our founders started in the  
9 1970's in Alaska, trying to address some of the safety  
10 issues of the Kodiak King Crab Fishery in that area  
11 which suffered a high fatality rate.

12           So two people, one from the Coast Guard and  
13 one from the Marine Advisor Program, with no money. The  
14 Coast Guard guy said well I have a helicopter, I can fly  
15 around to rural ports. And the marine agent said, well  
16 I can talk.

17           So they went around and did a road show to  
18 remote fishing villages in Alaska, and developed some  
19 seminal materials from the Coast Guard rescue, well,  
20 what became the rescue swimmer school in Kodiak, Alaska.  
21 They had a number of meetings, until around 1984/1985  
22 when we actually, officially, for our name, Alaska  
23 Marine Safety Education Association and became a regular  
24 non-profit.

25           Really quickly after that, we still keep

1 Alaska in our name, but we are really a national program  
2 now. About sixty-six percent of our training is outside  
3 of Alaska on the East Coast, Gulf of Mexico, and West  
4 Coast.

5 But the basic, you could say business plan is  
6 the same, which is to develop a network of qualified  
7 marine safety instructors that are port based, so they  
8 can provide training in their own port communities. And  
9 where there weren't instructors, to be able to send  
10 instructors to the next nearest, from the next nearest  
11 port to go to those needed areas.

12 And in order to create that instructor  
13 network, we developed a marine safety instructor  
14 curriculum, we do train the trainer classes to teach  
15 people the marine fishing vessel safety instructors. We  
16 provide them with gear, to do hands-on training with:  
17 DVD's, books, training materials that they can use in  
18 their classes.

19 And we give out Coast Guard accepted and  
20 approved certificates depending on the type of course.  
21 The course that we are most known for is our drill  
22 conductor course, and our marine safety instructor  
23 training course, which teaches, it is a 40-hour, 44 hour  
24 train the trainer course. But we also do stability  
25 courses, and many other courses, about 40 or 50 other

1 courses, shorter workshops than that.

2           And our board is also made up of marine safety  
3 advocates, mostly from Alaska, but some from outside.  
4 From relevant agencies, who are interested in marine  
5 safety, like has been mentioned already by NIOSH, the  
6 Coast Guard, and by fishermen themselves, so it is a  
7 mixture of private and public members of the board of  
8 directors. I think that says -- that pretty much wraps  
9 it up.

10           Q.    So Mr. Dzugan, would you say for AMSEA is the  
11 core of training program the drill instructor?

12           A.    I would say the core of our program is that  
13 instructor training class, where we teach people to be,  
14 to train drill conductors, that's what drives the whole  
15 program, what's what expands it. To provide training  
16 infrastructure for parts of the country that don't have  
17 it.

18                    Because we realize that if -- fishermen need  
19 the access to training, and if there is areas of the  
20 nation that don't have access to training, they are not  
21 going to be able to, number one, meet requirements, and  
22 number two they are not going to get the protective  
23 effects of training.

24           Q.    Okay. So Ms. Conrad, does your association  
25 provide similar type qualified training to meet the

1 drill instructor requirements?

2 A. Yes, we do. We have a drill instructor  
3 course. And then our other course -- well we have a  
4 couple courses that were invented just for the fishing  
5 side of things: marine weather, we do a stability  
6 course, we do a navigation/collision avoidance course,  
7 first aid/CPR, and then we do a safety equipment and  
8 survival procedures course.

9 Q. Okay, thank you. Ms. Conrad I will start this  
10 one with you. Are there specific, or a key manual, or  
11 document, or textbook that your organization implements  
12 in this training?

13 A. MS. CONRAD: We worked with the Coast Guard  
14 back in the 80's and developed a fishing vessel safety  
15 manual, and it is on its fifth edition right now.

16 Q. Okay. Mr. Dzugan do you have a similar type  
17 document?

18 A. MR. DZUGAN: We have a book called, "Beating  
19 the odds on Northern Waters", now it is just called  
20 "Beating the Odds". And we give this to every person  
21 who has taken the drill conductor course. So that's  
22 sort of the text book for that student.

23 For the instructor, we have a Marine Safety  
24 Instructor Training Manual which is a collection of  
25 lesson plans with objectives, and outlines, and other

1 resources for the instructors to use. Plus, you know, a  
2 thumb drive with relevant video clips and lesson plans.

3 Q. Ms. Conrad, I understand -- well I think for  
4 both of you, but checking, does your manual and your  
5 organization, I want to talk more stability. So does  
6 the manual in your organization, can you speak a little  
7 bit more about the stability training you provide?

8 A. MS. CONRAD: Well, in our manual we do have a  
9 section on stability. But we do have a Coast Guard  
10 approved stability course for fishermen, and it lasts  
11 six hours. And they come in, and I have an approved  
12 instructor, usually someone from Jensen Maritime, or  
13 Jensen Architects come in and teach the course.

14 And we try to make it, the first two hours is  
15 usually pretty much textbook. And after that, it is  
16 more hands on. We have a big tank of water, and we have  
17 a boat, and we load and unload and play around with it  
18 to make our points on stability.

19 Q. Okay, Mr. Dzugan, does your organization have  
20 a specific stability course?

21 A. MR. DZUGAN: We do have a stability course as  
22 well. It is about six hours in length, and there is a -  
23 - I think an important part of it is there is a hands on  
24 component to it as well. It is not so much doing math  
25 formulas as it is emphasizing the basic principles of

1 stability, and operational considerations that a  
2 crewmember or master can use. And then we have a number  
3 of models to demonstrate a number of different things.  
4 Matter of fact if District 17 is missing its stability  
5 vessel we have it in our inventory. So, you can always  
6 call me back for it.

7 Q. Well there is it, it is on record. Okay.  
8 What are the key aspects discussed in those stability  
9 courses? And in particular, is icing a topic?

10 A. MS. CONRAD: We do cover icing, and we cover  
11 all the key elements of the stability -- I don't teach  
12 the course, so I can't get into exactly what they teach  
13 but, yeah, we, there is a session on icing.

14 Q. Mr. Dzugan?

15 A. MR. DZUGAN: The same, I'm the main instructor  
16 for that course, so I know for a fact that we cover  
17 icing with a video that we produce on, specifically on  
18 stability. And there is a session on this in the  
19 Beating the Odds books that we give every drill  
20 conductor. And there is a session just on icing, and  
21 another one on stability.

22 As a matter of fact, this is the Fifth Edition  
23 that was done in 2005, this is the book that was given  
24 to the crew of the, we had several people from the  
25 fishing vessel Destination who went through the class,

1 the drill conductor class, but they got this book.

2 Q. Okay. Since you mentioned that, do you recall  
3 when they -- how many crewmembers, and when they last  
4 attended one of your drill conductor courses?

5 A. MR. DZUGAN: It was -- there were four  
6 crewmembers, it was June 3<sup>rd</sup>, 2005.

7 Q. We actually have that as an Exhibit, Exhibit  
8 No. 245, it is in your book there under table.

9 A. MR. DZUGAN: There is a correction on that if  
10 I might, I think I was a little careless with my yellow  
11 marker, but the people who were in the class were the  
12 master and the engineer, Jeff Hathaway and Lawrence  
13 O'Grady. I accidentally highlighted Todd, the first  
14 person there, but that -- the highlighter should have  
15 been on Jeff Hathaway. Bad aim on my part.

16 Q. Understood.

17 A. MR. DZUGAN: Yeah.

18 Q. So this is -- can you just quickly describe  
19 this document? Is this a register, or course  
20 completion?

21 A. MR. DZUGAN: This is our, the roster form that  
22 we use, or we used at that that time. So the first  
23 column is the card number -- every certificate, we have  
24 -- our certificates are in the form of our wallet sized  
25 card, like you might get a first aid card. But each one

1 of those cards is individually numbered. And we did  
2 that to protect the integrity of the card, so it  
3 couldn't be counterfeited, and just spread around the  
4 internet. So everybody gets a specific card number, and  
5 then their name, and the fishing vessel, and all the  
6 rest of the information you see in the headers.

7 Q. Okay. Do your records indicate there had been  
8 any other Destination crewmembers took one of these  
9 courses since 2005?

10 A. MR. DZUGAN: No, we haven't found any others.

11 Q. Okay. While we are here, if you could flip to  
12 page 202 of Exhibit No. 245. This is the MC (sounds  
13 like) Skills Checklist. So can you confirm that this is  
14 associated with the same training 2005?

15 A. MR. DZUGAN: Exactly. That's the one that we  
16 make every instructor fill out and sign.

17 Q. Okay.

18 A. MR. DZUGAN: It's -- there is no written test  
19 for drill classes in terms of an evaluation. They are  
20 basically skill based courses. So, and that follows the  
21 NAVIC instructions and the way most of the national  
22 standard model is set up also. The idea was not to test  
23 somebody's ability to take a test, or understand the  
24 English language. But, can they do the skills that are  
25 mostly found being incorrectly done during an



1 investigation in an emergency. And it is things like  
2 doing a proper mayday, launching the life raft properly,  
3 things like that. It was focused on emergency  
4 procedures and being able to do those.

5 Q. Okay. And that list there, the Skills  
6 Checklist.

7 A. MR. DZUGAN: Yes.

8 Q. Is that, essentially, consistent with these,  
9 what is required for commercial fishing vessel in the...

10 A. MR. DZUGAN: The National Standard Model lists  
11 fifteen skills. And our -- what we've sent to the Coast  
12 Guard for, is acceptance of the course is 16 out of 18  
13 skills. If the vessel doesn't have, for example an SCVA  
14 or they are not likely to ever have one, because they  
15 are a small vessel, we will usually delete that skill.

16 As well as, sometimes it is impossible to go  
17 into the water, because if we do a class in Western  
18 Alaska in the wintertime there is no water to be had,  
19 to go into. So those are the two things that are  
20 sometimes left out. And that would be an impediment to  
21 the class being done if they were required, actually.  
22 Because you can't travel by air, for example to get to  
23 Tulia, Alaska with an SCVA or any kind of contained gas,  
24 or flares or things like that. Yeah, go ahead.

25 Q. Okay. Ms. Conrad on the same line of

1 questioning regarding the Destination, other nexus to  
2 this marine casualty investigation, Marine Board  
3 Investigation, do you recall if any crewmembers  
4 participated in any of the training courses your  
5 organization provided?

6 A. MS. CONRAD: Yeah, none of the crewmembers on  
7 the Destination participated in any of our courses.

8 Q. Okay. Just a general sense, if you will, how  
9 is the participation rate over the years regarding your  
10 stability course?

11 A. MS. CONRAD: We hold our stability course in  
12 the fall, because the majority of the fishing fleet is  
13 home. And we always put it on the calendar, and we are  
14 lucky to get one maybe two people to come in. Once in a  
15 while we will get a whole boat come in, four people, and  
16 they will bring their stability book in, and we will  
17 work with them, and work with their stability book.  
18 But, normally we are lucky to get one, maybe two people  
19 to do that course.

20 Q. Okay, Mr. Dzugan?

21 A. MR. DZUGAN: We have done twenty-seven courses  
22 in approximately ten years, so that's about, almost  
23 three a year. We could do a lot more with finding. But  
24 for us to put on a course, and not know if it is going  
25 to go or not, and spend three thousand dollars, we want

1 to make sure there is a corpus there to be able to  
2 deliver the course to. And with the requirement for  
3 drill conductors being immediate, we are definitely  
4 spending our resources on getting drill conductor  
5 training out to those who need it, because there are  
6 still a lot of people who haven't had it, need it  
7 refreshed.

8 Q. Okay. Apologize for the question, it can't be  
9 the instructors or the people, but again, I just wanted  
10 to make sure that the, for the record, for our  
11 consideration as we move forward that, indeed these  
12 courses are available.

13 A. MS. CONRAD: Yes.

14 A. MR. DZUGAN: If I can add to that question.

15 Q. Yes.

16 A. MR. DZUGAN: Our bottom line is any -- and I  
17 think you are the same -- but if there is any group of 6  
18 or 8 or more people who want it, we will do everything  
19 we can to deliver the course to them, if we get a call.

20 A. MS. CONRAD: And we will deliver it for just  
21 one person, if somebody called and just one person, I'd  
22 hold the course. I will hold drill, stability, any of  
23 that for just one person.

24 Q. Okay. In that same kind of line query in  
25 terms of course participation, do perhaps, and this is -

1 - and if you can provide an anecdotal answer that's fine  
2 too -- but a general sense with the vessels that you  
3 interact and know of, what percentage of the crew have  
4 participated in some of the courses that, either the  
5 drill instructor, or the stability, and so on. Is it  
6 usually just one person per vessel?

7 A. MS. CONRAD: I would say it is normally two  
8 for the drill instructors. Only because we really  
9 iterate, that if the captain is not on board, and you  
10 have the relief on board, somebody has the  
11 certification. And then also for medical first aid, CPR  
12 we iterate that should be two people. Because if the  
13 person that has the training has the heart, you need  
14 somebody to take over.

15 Another requirement is we do drug test  
16 collection, specimen collection that is required. And  
17 that is required every five years and we, they don't  
18 necessarily have to have two people, but we, here again,  
19 suggest they have two people take the course, because if  
20 one of them has to be tested, he can't test himself.

21 Q. Okay, Mr. Dzugan, in your experience, what's  
22 the percentage of crewmembers participating in these  
23 courses?

24 A. MR. DZUGAN: We, most of our, the people that  
25 we teach are the small to midsized fleet, under 79 feet.

1 So if they are taking any training at all, it is at  
2 least one person. But it depends on the vessel, some of  
3 the masters will want all of their crewmembers to go  
4 through it. So, it could be 2, 3, 4 people. Sometimes  
5 it is just a couple people. So it is all over the  
6 place, it can be from one person to the whole crew.  
7 Again, depending on the master.

8 I know there are some captains who every year,  
9 when they get a new crewmember, let's say for salmon  
10 trolling, they will always have their new crewmember go  
11 through the class, so that there is at least two drill  
12 conductors on the boat. And the captains have seen the  
13 value of their green crewmember going through the course  
14 as well, so he or she knows what to do in an emergency  
15 to help the captain get out of the water.

16 Q. I think the number five keeps on popping up.  
17 And I am referring to recency, reassessment, or  
18 refresher training, I just heard five --

19 A. MS. CONRAD: Five years.

20 Q. It is five years for drug testing collector.

21 A. MS. CONRAD: Um-hmm.

22 Q. Is there a five-year refresher training for  
23 drill instructor courses? Or is it just once in a  
24 career, and you make -- so is there a refresher training  
25 requirements, per the Reg? And then, likewise, I'd like

1 to hear is that important to have, otherwise, and why?

2 A. MS. CONRAD: So the drill instructor became  
3 required in 1990's?

4 A. MR. DZUGAN: One.

5 A. MS. CONRAD: One?

6 A. MR. DZUGAN: The requirement by September of  
7 1994.

8 A. MS. CONRAD: 1994.

9 A. MR. DZUGAN: Yeah.

10 A. MS. CONRAD: And a lot of the fleet came in,  
11 they took a drill instructor course, and it does not  
12 expire. There is no regulation that makes it expire.  
13 So we will not see those people again. And there is a  
14 lot of changes that occurred between 1994 and 2017. We  
15 strongly suggest that there is a five hour, or a five  
16 year expiration for the drill instructor card. It is  
17 written in the 2010 Authorization Act, but it has not  
18 been written into a regulation so we can't enforce it.

19 Q. Mr. Dzugan anything further on that? Or, I  
20 mean, I would imagine refresher training is important  
21 because retention of skills, otherwise, it dissipates.

22 A. MR. DZUGAN: I'm having a flashback. I have  
23 been on the Commercial Fishing Advisory Committee off  
24 and on since its origin in 1990. And I remember in the  
25 early 1990's when we were discussing drill conductor

1 training, and if it should even be required. I remember  
2 discussing refresher training. And industry and others  
3 who were sitting at the table at the time, felt that  
4 refresher training was not needed because, after all  
5 fishermen were going to be doing their drills once a  
6 month. Therefore the industry was going to self refresh  
7 themselves every month.

8           Some of us had doubts about that. And thought  
9 that, and we knew technology changes and that for the  
10 person leading the drill, they should probably have that  
11 refresher training. And five years is a pretty accepted  
12 standard for a lot of refresher training courses. But  
13 that did not get recommended out of the committee  
14 because of opposition at the time.

15           In -- we did a study just before -- in 2009  
16 with the University of Washington, some researchers  
17 there, and we were interested in the, what they call the  
18 skills decay time is. Once you learn a skill, how long  
19 does it take for you to get rusty in that skill. So we  
20 did a two-phase study. And we looked at a group of  
21 sixty fisherman at random.

22           And in the first group what we did -- in phase  
23 one, we trained them in seven skills that mostly are  
24 part of the skill checklist: how to do a mayday, how to  
25 put on a suit, following the correct steps, how to do it

1 in sixty seconds, how to launch a life raft I think was  
2 in there. And we took seven of those skills, and we  
3 trained these fishermen in those skills to the hundred  
4 percent level. We just trained them until they could  
5 show us that they could do them properly.

6           And then we brought those fishermen back a  
7 month later. And we had them do those skills again.  
8 And we had a score card where we could objectively  
9 measure those skills being done. And we found out that  
10 after a month the skills, they scored 86 % on the skill  
11 from their base of 100 %, of doing all the steps  
12 correctly.

13           And then we measured them again three months  
14 later and found out that they scored about 87 %,   
15 basically about the same. With a plus or minus of about  
16 ten points in either direction. So within the first  
17 month there was already a skills decay about 15 %.

18           So it was interesting to us in that study that  
19 the skills decay was the same rate after, from one month  
20 to three months. In other words, they had forgotten  
21 some steps in the skill in a month, but they kept  
22 repeating those same mistakes thereafter. In other  
23 words, if there was nobody there to correct them --  
24 there is a maximum in education that what you remember  
25 is the last thing you did. So even if it wasn't right



1 originally. So that kind of proved that maximum.

2 In phase two of the study, we looked at the  
3 decay of skills from 1 1/2 to 2 years out. And we found  
4 out that there was a 76 % score on skills at that point.  
5 So the skills had further degraded after that be about  
6 another 10 %.

7 And this is the first time I know of that any  
8 study of skills decay in specific marine survival skills  
9 had taken place. And that was done by a couple  
10 epidemiologists who work for that -- or statisticians, I  
11 should say, who worked for the University of Washington.

12 Q. You mentioned something just, something about  
13 the notion that we don't need to put a, there is no  
14 reason for five-year refresher, because operationally  
15 the crew will execute, I guess, is it a monthly drill?

16 A. MR. DZUGAN: The monthly --

17 Q. So they are getting refresher.

18 A. MR. DZUGAN: That was the view of some, yes.

19 Q. So do you believe that is not, exactly, the  
20 case?

21 A. MR. DZUGAN: Well --

22 Q. Anecdotally, do you speak to your students and  
23 kind of verify or perhaps get a different view that  
24 those drills are actually being conducted?

25 A. MR. DZUGAN: One of the things we did in that

1 same study is we asked those sixty fisherman who took  
2 part in that study, how many of them had been doing  
3 monthly drills. And we had -- this was an interesting  
4 thing to ask, because you are basically asking somebody  
5 to self-incriminate themselves -- but fisherman, I have  
6 found, that despite their reputation can be pretty  
7 honest, brutally honest. And they will say if they do  
8 them or not sometimes.

9           And we had two people out of those sixty say  
10 yes, they had monthly drills. Well, they had done  
11 drills. When I examined further I found out that the  
12 drills they were doing was at the beginning of the  
13 season they put on a suit and that was it. So..

14           Q. Did you said two of sixty?

15           A. MR. DZUGAN: Two of sixty. That was in this  
16 one study we did. And when, and again, that's self-  
17 reporting, but it is self-reporting, sort of  
18 incrimination, you might say. So I think it was pretty  
19 brutally honest.

20           And another study that was done and presented  
21 at the IFISH 2 Conference in New Bedford, a study that  
22 was done from fisheries observers, who are placed on  
23 some boats by NOAA. They reported 29% of fishing vessel  
24 crews are being given the opportunity to practice  
25 emergency drills. So that's another source. And I

1 believe I will turn it over to my partner here.

2           A.    MS. CONRAD:  So, just over five years ago I  
3 started keeping track of all of the people coming in to  
4 take drill instructor.  And that's from all of our  
5 fleet.  So I have gill netter, I have crab boats, I have  
6 the big factory trawlers and we ask them now, after the  
7 first break, you know, do they run their drills on a  
8 regular basis every thirty days.  And we get about 80%  
9 of the boats do not run their drills on a regular basis.

10           Q.    I just have one final question, and then I  
11 will see if the Board has any questions.  By any chance  
12 -- in earlier testimony, last week, and this week as  
13 well I heard terms like culture, Bridge Resource  
14 Management, risk, GAR model, are those any kind of  
15 topics of interest in the industry today, perhaps,  
16 within your organizations?

17           A.    MR. DZUGAN:  Yes, they are -- some of those  
18 are integral, that is a long list of those, you  
19 mentioned three things.  We -- risk is a very important  
20 part of our, inherent in our drill class.  But it is  
21 not a separate topic of risk.  By showing the videos of  
22 accidents, of casualties, by going through a drill with  
23 a crew and making them understand through hands on, what  
24 happens if you don't have a well laid out plan, and  
25 who's doing what.  How you increase risk by the lack of

1 organization. Through what's called the seven steps of  
2 survival and recognition that was developed by the Coast  
3 Guard that we still use for your priority listing of  
4 what to do in an emergency. It is embedded in a lot of  
5 things in that class, for the drill conductor class.

6 And like I said, we do separate workshops just  
7 on risk. That we give at gatherings of fishermen, you  
8 know, 1 to 2 hour workshops just on some of those  
9 topics. The GAR model is inherent in one of those,  
10 regarding risk. So yes.

11 Q. Okay. Ms. Conrad?

12 A. MS. CONRAD: Same exact answer, he said it  
13 perfectly.

14 Q. Okay. Well thank you. That is all the  
15 questions I have. Other Board members? Mr. Gillette?

16 MR. GILLETTE: Commander I have no follow-up  
17 questions.

18 CDR MULLER: Thank you. Mr. Karr, NTSB?

19 MR. KARR: I have two, and I will direct them  
20 to Mr. Dzugan.

21 **EXAMINATION**

22 MR KARR:

23 Q. With regard to the training that occurred in  
24 2005, that the, that Captain Hathaway and Mr. O'Grady  
25 would have taken, what, can you describe the, what they

1 would have been taught, or what they would have been  
2 walked through with regard to the life raft  
3 installation, and the hydrostatic release?

4       A.   MR. DZUGAN: Well, that's definitely one of  
5 the skills on the skills check-off list. So they would  
6 have had a life raft -- usually, let me back up. Most  
7 of the classes we do are in a classroom setting, and  
8 then we go out and do some of the hands on things by the  
9 water or on a boat. Occasionally, about once or twice a  
10 year -- we do about a 125 drill classes a year -- and  
11 usually 1 or 2 of them a year somebody will want it just  
12 for their crew on their boat.

13               Which, I look forward to that opportunity  
14 because we can certainly focus the class in to that  
15 environment that they work in. And we will use their  
16 life raft, not to inflate, but to show them how the  
17 hydrostatic release works. And then that, and everybody  
18 has to go through that. They have to basically walk  
19 through how to set it up, and then walk through how to  
20 launch it in teams of two. So then everybody gets  
21 checked off on that.

22               And they also, if we don't have a life raft to  
23 inflate, we -- they have to see a video of it inflating,  
24 so they can hear the excess CO2 being expelled from it,  
25 and know that it is not a leak in the life raft, and how

1 long the painter line, and they have to actually see  
2 that if they can't at least do it. So that pretty much  
3 covers what we would be covering there.

4 Q. Are they also instructed on examining it to  
5 make sure it is installed correctly?

6 A. MR. DZUGAN: Exactly, yeah. Examining, you  
7 are saying the hydrostatic release itself?

8 Q. Correct looking at the life raft and the  
9 cradle --

10 A. MR. DZUGAN: Yes, yeah.

11 Q. -- and the hydrostatic release installation?

12 A. MR. DZUGAN: That is a critical part of the  
13 training. It is like, again, when I was saying, when  
14 the, when we were doing that study and training  
15 everybody to a 100% skill level, that's the same thing  
16 in a drill class. That thing everybody, everybody has  
17 to individually get checked off on, that they can  
18 actually put that back together again.

19 Q. All right. Has the technology of the  
20 hydrostatic releases changed since 2005?

21 A. MR. DZUGAN: No it hasn't. One company pretty  
22 much has the market on this one. The only thing they've  
23 done to it, they've made some slight modifications to it  
24 to make it easier. In the, you've seen this too in your  
25 training, I'm sure Ms. Conrad.

1           A.    MS. CONRAD:    Um-hmm.

2           A.    MR. DZUGAN:    In Kodiak in the late 1980's  
3 about 50% of the hydrostatic releases were set up wrong.  
4 Now it is kind of color coded, yellow is the top, where  
5 the strap comes over sunny-side up, black at the bottom  
6 like the color of the earth is the bottom, grommet, you  
7 might say. And the -- yeah, you still have to hook up  
8 the painter line to the red grommet, that's the same as  
9 it was. But essentially, it is a water pressure  
10 activated razor that cuts the line. Or now, a piece of  
11 plastic.

12          Q.    All right thanks.

13          A.    MR. DZUGAN:    Yeah.

14          Q.    My next question is regarding your efforts and  
15 the efforts of other members of the Commercial Fishing  
16 Industry, Vessel Safety Advisory Committee. Describe to  
17 me the efforts that you are working on with regard to  
18 crew competency, crew training, those initiatives. You  
19 know, we have heard about the statute in 2010 that  
20 charged the Coast Guard with coming -- developing a  
21 program. So if you can tell me what's happened since  
22 2010 through the eyes of the Advisory Committee.

23          A.    MR. DZUGAN:    Yeah, I will invite Karen for her  
24 feedback too, since she's on it as well. But --

25          Q.    Well good, both of you can answer then.

1           A.    MR. DZUGAN:  Yeah.

2           Q.    Thanks, yes.

3           A.    MR. DZUGAN:  We have been really busy in  
4 developing objectives for that, and developing an  
5 outline as the person who houses the records for that,  
6 Karen, I'll let you speak.

7           A.    MS. CONRAD:  So when I joined, the objectives  
8 were already done.  And so we took that in the last year  
9 and created syllabus' for each of those, and the reason  
10 I chose the syllabus instead of like a timeline or  
11 whatever, is the syllabus broke down each individual  
12 objective, and then put it in order.

13                   And then we made them into, the courses into  
14 modules.  So the whole eleven competency courses can be  
15 done within five days.  And -- or they could be taken  
16 in, you know, like somebody could just come and just  
17 take a day.  And then, another day they would take like  
18 damage control stability.

19                   The eleven competency courses are fatigue,  
20 stability, damage control, survival, fire, weather,  
21 navigation, collision avoidance drill, seamanship, rules  
22 of the road, and medical, first aid, CPR.  So all those  
23 courses, the syllabus' have been written and submitted  
24 to the Coast Guard.

25           Q.    Well what, what part of the Coast Guard?  Is



1 this part of a rulemaking?

2 A. MS. CONRAD: It --

3 A. MR. DZUGAN: Well, it was submitted to the  
4 Fishing Vessel Safety folks in D.C., that's who it was  
5 submitted to.

6 A. MS. CONRAD: Right.

7 A. MR. DZUGAN: That was our task. And so we  
8 responded to that task with that work, and it is in the  
9 hands of the Fishing Vessel Safety Division.

10 A. MS. CONRAD: And during our last meeting, last  
11 September, in the minutes it is all, there is many  
12 motions that were made on who needs to take the course,  
13 how long each course is, what kind of certification they  
14 get at the end, how often they have to refresh, what  
15 needs to be involved in the refresher training, all of  
16 that is in the minutes.

17 Q. Have you thought about, well is it possible  
18 for the course to be put out there so that folks can  
19 start taking it ahead of any requirement to take the  
20 courses?

21 A. MS. CONRAD: Yes. We were just discussing that  
22 today, and I think Jerry and I are going to work on  
23 writing the courses and submitting them.

24 A. MR. DZUGAN: If I can comment on that.  
25 Historically, there has been a resistance from NMC to

1 accept or approve courses that weren't required. And  
2 therefore, it is kind of like the cart and the horse.  
3 We can, and we do, both put out courses that are not  
4 required that we give to fisherman.

5 Q. Let me take a second. NMC is the National  
6 Maritime Center of the Coast Guard?

7 A. MR. DZUGAN: Correct. Thank you for that  
8 clarification. And until -- so we would like to have  
9 that curriculum ready and approved by NMC before a  
10 regulations comes out for it. So that, if a fisherman  
11 goes through the course, they've got a certificate that  
12 they can show that, they can show the Coast Guard that  
13 they have met the training requirement for this  
14 particular module.

15 And I wanted to address this a little bit  
16 later, hopefully, have an opportunity to, but we have  
17 not had that regulation come out in seven years. So ...

18 A. MS. CONRAD: And it tends to be a little bit  
19 difficult to get a fellow to come in and take one  
20 required eight hour course. And now we are saying hey  
21 come and take this eleven course, five day, fisherman  
22 certification course. And they are saying, those are  
23 required. And we say, well it is a law, but there is no  
24 regulation, so technically no.

25 A. MR. DZUGAN: There is a phenomenon that goes

1 on probably in a lot of industries of under voluntary  
2 safety training you tend to bring, you tend to draw out  
3 the choir. And that was true with the drill conductor  
4 courses, and the early marine safety instructor courses.  
5 And it wasn't always necessarily the target group that  
6 was the most at risk.

7           And it is also hard to keep offering something  
8 when you get not so much interest in it, because there  
9 are higher interest courses that draw more people that  
10 you can do more good with. So it is a cart and a horse  
11 kind of thing that has to, ideally, it would be  
12 coordinated together so it was more seamless than that.  
13 But, they effect each other.

14           Because if you do have a requirement and you  
15 don't have the training out there and available, then it  
16 puts fishermen in a horrible situation of not having  
17 access.

18           Q.    Thank you for your answers here, and your  
19 comments.

20           A.    MR. DZUGAN:  Thank you.

21                    CDR MULLER:  Thank you Mr. Karr.  Ms. Spivak?

22                    MS. SPIVAK:  I have no questions.  And at the  
23 risk of repeating myself, I would like to thank you both  
24 for offering, continuing to offer the training  
25 opportunities for the crewmembers.  I know that you are

1 facing a lot of challenges, funding is one of them, and  
2 it is an important challenge. And from my personnel  
3 experience, being on may vessels from 200 crewmembers,  
4 factory trawlers, to 2 to 3 crewmembers, small  
5 captain/owner-run boats. I think most of them MPFOA's,  
6 safety manual on board. I have one in my office. And  
7 they all carry the videos that NPFOA produces. And I  
8 think it is very helpful. I haven't sat through your  
9 stability course which you described, but I must say  
10 that donning the survival suit and man overboard are  
11 very entertaining.

12 CDR MULLER: Absolutely concur. Thank you.  
13 Well that concludes the questions that we have for this  
14 panel, and again, thank you for your time.

15 Before we release you as a witness is there  
16 anything that you would like to add that the Board  
17 should consider that was not otherwise captured?

18 A. MS. CONRAD: I'm fine.

19 A. MR. DZUGAN: Okay. First of all I want to give  
20 my thanks and appreciation to the dedicated and  
21 underfunded and undermanned Fishing Vessel Safety Office  
22 in D.C., as well as the Coast Guard fishing vessel  
23 safety coordinators and examiners from around the  
24 country. They are really the people, the men and women  
25 who are on the ground who make the connection between

1 the regulatory authorities and the real world.

2           And I think Karen would agree with me that  
3 since 1990 they have -- a lot of the progress has  
4 happened right with those people, and the relationships  
5 that they have developed. I think as Chris Woodley was  
6 talking about, it is all about the conversation that  
7 happens in the wheelhouse between the Coast Guard and  
8 the master. And that's where all the magic happens if  
9 it is good. Otherwise it is not good magic. And they  
10 have done an excellent job.

11           I think also, it was interesting, I was  
12 reading the NTSB safety form, I think it was that, and  
13 it was mentioned in there that in 1971, the Coast Guard  
14 looked at developing a fishing vessel safety program.  
15 They did a cost/benefit analysis. And in that  
16 cost/benefit analysis they figured that they could  
17 probably reduce fatalities by 71% if they had instituted  
18 a program back then.

19           But they didn't feel like the industry could  
20 bear the cost of it. And now, fast-forward to now.  
21 Since 1980, since the Fishing Vessel Safety Act was  
22 passed, it's been, the fishing vessel fatality rate has  
23 been reduced by, I think it's 76%. So that study was  
24 uncannily accurate in terms of its cost/benefit analysis  
25 back in 1971.

1           And I don't know if there is many industries,  
2 I haven't checked all the industries in the U.S., but I  
3 think that is a tremendous record of the fishing vessel  
4 industry, to have reduced that, their fatality rate that  
5 much. Because it wasn't done just with regulations,  
6 because safety really happens in the wheelhouse and on  
7 the deck of every vessel, because that's where the  
8 decisions are made. It was fishermen who made those  
9 decisions to reduce risk.

10           So I want to congratulate both the fishing  
11 industry and the Coast Guard for your efforts in working  
12 together to make this happen. However, that's the happy  
13 part, I am deeply troubled that if we had 2-3 years to  
14 make this law, the 2010 law into regulations. And if we  
15 had given fishermen a five year window to get the  
16 training that was required in the 2010 Act that the crew  
17 of the fishing vessel Destination, would have probably  
18 gotten the protective benefit of that training.

19           There has -- since 2010, there's been  
20 approximately 175 fisherman in the United States who  
21 have still died. Some of those people would not have  
22 died, I believe, if that protective training had been  
23 available.

24           We know in looking at our own statistics of  
25 our own -- we have train 20,000 drill instructors since

1 1991 -- and of that group, there's been a 169 fishermen  
2 that have been in fatalities and survived. Those are  
3 the people I'm talking about. And many of those people  
4 said the training was helpful in their survival.

5           And one of the things I hope that you consider  
6 in your deliberations is what are the systematic  
7 obstacles within the administration that has made me  
8 make this statement for the last seven years, why we  
9 don't have anything more. And in fact, we know what has  
10 happened in the 2012, and the 2015 Authorization Acts,  
11 we've actually gone backwards in some regards.

12           So again, my hope is that you will consider  
13 those systematic obstacles within the administration  
14 that prevents those benefits to be realized for this  
15 industry. Thank you.

16           CDR MULLER: Okay. Thank you Mr. Dzugan.  
17 Thank you Ms. Conrad. Clearly your dedication to  
18 support the fishing vessel industry, the fleet, and in  
19 particular in education is just highly apparent. Thank  
20 you.

21           So with that, you are now released as a  
22 witness to this Marine Board Investigation. And  
23 certainly, thank you for your testimony and cooperation.  
24 If I later determine that the Board needs additional  
25 information we will contact you. If you need additional

1 information from the Board, please contact LCDR Mendoza,  
2 thank you.

3 THE WITNESS/MR. DZUGAN: Thank you.

4 CDR MULLER: Before we close for today, just a  
5 few things. One is, thank you for allowing the Board to  
6 run a little bit later. But obviously we strive to work  
7 with our testimony, make sure we are capturing as much  
8 factual information to allow us to move forward  
9 effectively. And certainly, we did not want to rush  
10 this important information.

11 With that in mind, we have, for the most part  
12 pretty much wrapped up all of our testimony from outside  
13 resources. We have had almost, over thirty-five  
14 different witnesses, it's been quite a schedule. And I  
15 think we have done a pretty good job in keeping on  
16 schedule. And with that, with speed.

17 So tomorrow there are some presentations  
18 regarding the vessels, AIS tracking, the NOAA with their  
19 survey results, and the Coast Guard Cutter Healy, and  
20 dive locker survey results as well, some imagery that  
21 they were able to collect.

22 And then after that -- at this time I don't  
23 believe we have a reason to recall any of the witnesses.  
24 That is always subject to change.

25 With that being said, I believe we be able to



1 wrap up, and have our closing remarks by tomorrow  
2 afternoon, if not before lunch but certainly right after  
3 lunch. So I do not anticipate holding the hearing on  
4 Friday, and that we will be complete by tomorrow  
5 afternoon.

6           So with that, we will recess until tomorrow  
7 morning and resume at 0900. Thank you very much.

8

9

**(The proceeding then concluded.)**

10

CERTIFICATION

This certificate is valid only for a transcript accompanied by my original required signature on this page.

I hereby certify that the proceedings in the matter of Marine Board Investigation of the F/V Destination, heard in the United States Coast Guard Thirteenth District, Seattle Washington, Wednesday August 16, 2017, were recorded by means of audiotape.

I further certify that, to the best of my knowledge and belief, page numbers one to two hundred and twenty-five constitute a complete and accurate transcript of the proceedings as transcribed by me.

I further certify that I am neither a relative to nor an employee of any attorney or party herein, and that I have no interest in the outcome of this case.

In witness whereof, I have affixed my signature this 19th day of October, 2017.

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Sally S. Gessner, Court Reporter