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March 20, 2018

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Jason D. Neubauer, CAPT USCG
Office of Investigations & Casualty Analysis (CG-INV)
United States Coast Guard
2703 Martin Luther King Jr. Avenue, S.E.
Washington, D.C. 20593-1030

Re: Preliminary Investigation
USS JOHN S. MCCAIN and M/V ALNIC MC Collision
Our Ref.: 693379-06505

Dear Captain Neubauer:

On behalf of Energetic Tank, Inc., Owner of the M/V ALNIC MC and a designated Party In Interest for the subject investigation pursuant to Commander Activities Far East letter dated Aug. 26, 2017, we write to provide Owner's comments concerning the U.S. Coast Guard's Preliminary Investigation Report, CG-INV 5800 Memo of 22 January 2018 with five enclosures (the "Report").

A. Preliminary Matters

1. Owner notes that its review of the Report and its ability to provide a meaningful response as a Party In Interest has been significantly constrained by the Coast Guard's decision to not provide Owner with the entire record, or even a clear index of the evidence that will be provided to the National Transportation Safety Board ("NTSB"). Accordingly, it is impossible for Owner to determine whether the record is "complete" or whether the NTSB will have everything relevant to the issues it will be analyzing. Moreover, Owner understands that some documents – most notably including the draft "factual summaries" prepared by the Coast Guard – have already been provided to the NTSB without prior notice and before Owner was provided an opportunity to review and comment.

2. Owner understands that the primary basis for denying Owner access to many of the relevant documents is that they have been designated "For Official Use Only" ("FOUO"). Owner objects to this designation as a means to limit its review of parts of the record that are clearly relevant to the Coast Guard's investigation. The FOUO designation is intended to protect

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information that would be exempt from disclosure under a Freedom of Information Act exemption, 5 U.S.C. 552, and is not authorized as a means of protecting information that does not merit protection for national security reasons. *See* Department of Defense 5200.01, Vol. 4, Information Security Program: Controlled Unclassified Information, Enclosure (3), ¶ 2.b(2)(c) (2012). It is not apparent that any of the documents withheld from Owner's representatives meet any of the criteria for designation as FOUO.

3. The cover memo to the Report discusses, at p. 2, the "protocols for sharing other evidence" and, particularly, the "process for the USN to screen all evidence and redact privileged and protected information." These protocols have not been shared with Owner and this gives Owner concern that the investigation process has not been transparent. Owner also has not been provided with a record of which of Owner's documents have been provided to the Navy. Further, Owner has not been advised as to whether the Navy will be provided with Owner's comments on the USCG's investigation file or whether Owner will be provided with the Navy's comments. In either event, this should be done on a reciprocal basis.

B. Testimonial Evidence

1. Owner submits that questions highly relevant to the facts and circumstances of the collision were not asked of key witnesses who were aboard the MCCAIN. Broadly, with respect to these witnesses, Owner submits that questions for the Commanding Officer (Interview No. 35), Executive Officer (Interview No. 34), Officer of the Deck (Interview No. 27), Junior Officer of the Deck (Interview No. 30), and Tactical Action Officer (Interview No. 25) should have been focused on: the decision to use the inside of the traffic lane instead of the outside of the lane to have afforded greater passing distance in the vicinity of increased traffic density; the decision to direct the shift of thrust control without first turning to the outside of the lane or slowing down; whether the bridge received any reports from radar watch standers or CIC that MCCAIN was on a collision course with ALNIC MC; and whether any consideration was given to sounding the danger signal or broadcasting the loss of steering on CH16 with a Sécurité call or Pan-Pan, in addition to calling for red over red not under command lights. Questions for the Junior Officer of the Watch (Interview No. 29), Conning Officer (Interview No. 28), and Shipping Officer (Interview No. 24) should have been focused on their use of the radar, and in particular any attempts they may have made to ascertain MCCAIN's position with respect to the ALNIC MC between the loss of steering and the collision. Questions for the Boatswain Mate of the Watch (Interview No. 5 and No. 40), Helmsman (Interview No. 3 and No. 37), and Lee Helmsman (Interview No. 4) should have focused on the PQS process used to learn how to operate the MCCAIN's Integrated Bridge Navigation System ("IBNS") touch screens; and the exact sequence

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of events and the persons who accomplished the actual shifting of thrust and rudder control from the helm station to the lee helm station.

2. Owner submits that the justification for some of the Navy's redactions in their witness transcripts, other than personal identifying information, is not always self-evident. For example, interview transcript no. 24 has redactions at p. 22, and transcript no. 25 has extensive redactions at pp. 2, 6 – 8, 10, 12, 15 – 18, and 24. As far as Owner understands, the redactions have not been reviewed by any other U.S. government agency without a direct interest in the outcome of the investigation to determine whether the redactions are properly limited in scope. In addition, the Navy does not cite the relevant Navy Security Classification Guide as justification for the redactions.

3. Enclosure (4) refers to attendance onboard TEAM OSLO "to determine the crew's recollection of events," but nothing in Enclosure (5) reflects any memo, notes or transcript of crew interviews. If attendance onboard TEAM OSLO was memorialized in a written record, we renew our request for a copy of these records. Enclosure (4) also refers to "summaries of interviews" of the "other vessels' crew" and "statements from the masters of these vessels" which apparently were provided to the Coast Guard by the Singapore Transport Safety Investigation Bureau ("TSIB"). Similarly, Owner renews its request for any such summaries.

4. Enclosure (4) (at p. 2) refers to interviews and statements by USN machinery control system technical representatives, but it is not apparent from Enclosure (5) whether these statements or transcribed notes are included in the record. To the extent such documents exist, we request copies.

C. Documentary Evidence

1. Enclosure (4) (p. 2, category f) indicates that detailed information on MCCAIN's arrangements was not received from the Navy. These materials appear to be highly relevant. Owner submits that they should be obtained from the Navy before completing the record.

2. Enclosure (4) (p. 3) lists the information from MCCAIN the USCG considered "most informative" to the investigation. Most of these records, however, have not been provided to Owner. Owner renews its request for copies of the following documents collected from MCCAIN (appropriately redacted) listed in Enclosure (5):

- 86_IBNS Tech and Steering Manual CD (2.e);
- Governing standing and night orders (2.i);

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- 718_VMS Track Data (2.k);
- 232_Engineering Operational Seq. Sys (for steering control systems)(2.l);
- 492_IBNS Test Documents (2.v);
- Audit history (2.w); and
- Records of emergency drills (2.ee).

3. The documentary evidence listed in Enclosure (5) as having been collected from ALNIC MC includes numerous photographs of documents and equipment taken by the Coast Guard investigation team. (*See, e.g.*, pp. 6, 8 – 10.) Please provide copies of these photographs so we can evaluate whether they are an accurate depiction of the documents or conditions on ALNIC MC at the time of the investigation.

4. Enclosure (5) includes, at pp. 25 – 26, a listing of evidence “collected from shoreside and other vessels.” These items of evidence appear highly relevant to the investigation of the collision. Owner renews its request for a copy of these records.

5. Records of communication between ALNIC MC’s crew and management (Enclosure (4), p. 2, category e) were not requested from Owner, and the noted entry should be amended to clarify that fact.

D. Physical Evidence

1. The evaluation of relevant physical evidence (Enclosure (4) at p. 3) references additional electronic recordings collected by the Navy but not provided to the Coast Guard investigation team, including voice recordings. These recordings appear to be highly relevant. Owner submits that they should be obtained from the Navy before completing the record. In addition, Owner requests a copy of these recordings – especially those from the bridge (in transcript form, if redactions are necessary).

2. Enclosure (4) references audio recordings of bridge-to-bridge communications and internal networks, which are listed, in part, in Enclosure (5). Owner requests a copy of the following physical evidence collected from MCCAIN listed in Enclosure (5) at 3.g(5) and/or additional recordings subsequently collected from MCCAIN:

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- 977 JSM_DD G 56 Net 15 Recording Collision.wav;
- 978 DDG _ 56 Collision Recording Timeline; and
- 979 JSM_DD G 56 BTB Recording Collision.

3. The evaluation of MCCAIN's VMS (Enclosure (4), p. 4, (d)) is inconsistent. It first notes that MCCAIN's VMS does not have recording or playback capabilities but then notes that several screenshots from a VMS playback have been provided. This evaluation should be clarified. In addition, Owner requests a copy of the screen captures collected from MCCAIN listed in Enclosure (5) at 3.g(1) ("726_VMS Screen Captures from SIB") and/or additional screen captures subsequently collected from MCCAIN.

4. The discussion of the testing done on the steering system and its functionality (Enclosure (4), p. 4 (e)) should be expanded to detail the testing accomplished, particularly testing of the so-called "big red button." In addition, Owner requests a copy of the steering functionality tests as documented in Enclosure (5) at 3.j (3). In particular, Owner should be provided with the following:

- 121_SKED Screenshot of Rudder Swing Check 20 AUG 17;
- 342_NAVSEA Electrical Steering Gear Visual Inspection Results;
- 343_NAVSEA Mechanical Steering Gear Visual Inspection Results; and
- NSWCPD_MCS.

E. M/V ALNIC MC Factual Summary

The statement at p. 2, that the Master is "required" to serve as conning officer, is not completely accurate. Pursuant to Section 2.3.4 of the Navigation Procedures Manual, although Master "usually substitutes one officer" when in Watch Condition 2, the Master may delegate this responsibility to the Chief Officer under special circumstances, and either the Master or the delegated Chief Officer is the conning officer.

The time of the discussion at p. 2 of the Master attempting to hail MCCAIN on VHF Channel 20 is incorrect. According to the VDR audio recording, the Master hailed MCCAIN at 05:24:15, not 05:21:17, as stated in the report.

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Owner submits that the conversations allegedly transcribed from the VDR audio track from ALNIC MC's bridge discussed at p. 2 – 3 are not correct. The conversation in Tagalog at 05:21:35 is "Nothing happens" not "It's crossing," and the conversation allegedly in English at 05:23:35 cannot be definitively ascertained as saying the words "Slow down."

Owner submits that the discussion of the Electronic Chart Display and Information System ("ECDIS") alarms at pp. 2 – 3 is not correct. The continuous tone audible on the VDR audio track at 05:22:43 has not been confirmed as the ECDIS alarm. When this audio track was played for the ALNIC MC Master and Chief Officer during their interviews, they were not sure which alarm it was. Further, the same alarm cannot be heard on the audio track at 05:23:09 and 05:23:31.

The statement that the ALNIC MC VDR was stopped at approximately 05:28 is incorrect. The data from the VDR indicates it was stopped at 05:25:50.

F. USS JOHN S. MCCAIN Factual Summary

Similar to the discussion above concerning the transcripts, the justification for some of the Navy's redactions in the factual summary, other than personal identifying information, is not always self-evident. Also, it is unclear whether the NTSB will receive a redacted or unredacted version of the MCCAIN fact summary.

The discussion at p. 5 on transferring propulsion should mention that the shafts can only be transferred one at a time and then need to be manually ganged at the new control location.

The discussion concerning "Ship Readiness & Training" at pp. 5 – 7 is very superficial in light of all the problems that have come to light from the Navy's own "Comprehensive Review of Recent Surface Force Incidents" dated October 26, 2017. A complete record requires reference to the findings of the Navy's Comprehensive Review and how the deficiencies noted may have affected the subject collision.

The discussion of crew training also should include details of what information was available to those involved in steering to allow them to understand the vessel's steering system, including what information is provided in pertinent manuals, and the extent to which those crew members utilized the available assets as part of their training and qualification process.

The discussion at p. 5 of the Casualty Report ("CASREP") of the IBNS should be expanded to include the technical details of the deficiencies that made the system "unreliable."

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There also should be a general description of the CASREP system to place this discussion in context.

The discussion at p. 11 concerning after steering establishing communications via the Integrated Voice Communications System ("IVCS") is incomplete. Multiple witness transcripts describe difficulties establishing communications with the IVCS prior to the collision which contributed to the overall confusion on the bridge.


Although the summary recounts, at p. 11, which station had steering control at any given moment, it does not explain why multiple shifts took place. A complete record requires this explanation and what the crew members thought they were doing with the so called "big red button."

At p. 11, it also should be noted that MCCAIN did not sound the collision alarm at any time before the collision.

G. Conclusion

While Owner recognizes that the national security aspects of this casualty investigation have presented certain procedural challenges, those constraints should not be permitted to undermine the investigative procedures or the core goals of the U.S. Coast Guard's Marine Investigation on behalf of the National Transportation Safety Board and the Independent Safety Board Act of 1974. Owner has, to the best of its ability under the circumstances, identified certain factual inaccuracies and omissions in the Preliminary Investigation Report. However, for the reasons noted above, Owner does not believe it has been provided full access to the relevant information and, for that reason, Owner does not believe it has been able to discharge fully its responsibilities as a Party In Interest to this investigation.

Very truly yours,


Gregory J. Linsin