

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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Investigation of: *

CAPSIZING AND SUBSEQUENT SINKING OF *
COMMERCIAL FISHING VESSEL *MISTY BLUE* *
DECEMBER 4, 2017 *

Accident No.: DCA18FM005

* * * * *

Interview of: ERIC ARABIAN

U.S. Coast Guard
Marine Safety Detachment
New Bedford, Massachusetts

Friday,
December 8, 2017

APPEARANCES:

LARRY BOWLING, Senior Marine Investigator
National Transportation Safety Board

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I N T E R V I E W

(9:30 a.m.)

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2
3 MR. BOWLING: This is Larry Bowling with the National
4 Transportation Safety Board. It is December the 8th, correct, at
5 9 -- around 9:30. We're at the Marine Safety Detachment in New
6 Bedford. We're going to be interviewing the captain from the
7 *Misty Blue*.

8 And, Eric, forgive me, I just lost your last name.

9 MR. ARABIAN: Arabian.

10 MR. BOWLING: Say again?

11 MR. ARABIAN: Arabian.

12 MR. BOWLING: Arabian. We're going to start with the parties
13 that are present. It's myself; my last name is B-o-w-l-i-n-g.

14 And with the Coast Guard, from Sector?

15 [REDACTED].

16 MR. BOWLING: And the Coast Guard Marine Safety Detachment
17 supervisor and lead investigator?

18 [REDACTED]

19 [REDACTED].

20 MR. BOWLING: And party in interest?

21 MR. McEWING: Is Brian McEwing, M-c-E-w-i-n-g.

22 MR. BOWLING: All right. And, counsel, for the record, you
23 represent?

24 MR. McEWING: We represent the companies: Atlantic Cape
25 Fisheries, Sea Harvest, Misty Blue, LLC.

1 MR. BOWLING: Okay. And the witness, Captain, for the
2 record, would you spell -- say your -- state your full name and
3 spell your last name?

4 MR. ARABIAN: Eric Arabian, A-r-a-b-i-a-n.

5 MR. BOWLING: Okay. Thank you. And I'm going to put this
6 over a little closer to you there, Captain. You speak pretty
7 loud. But we went through some stuff on [sic] the record. Again,
8 you're aware that it's going to be recorded. And if at any time,
9 Captain, you need a break, you let us know, okay?

10 INTERVIEW OF ERIC ARABIAN

11 BY MR. BOWLING:

12 Q. Start me out with just give me some general background of how
13 you became a mariner. Do you have any professional maritime
14 training or you're up through the ranks?

15 A. No. No. I've just been on the water my whole life, with my
16 father, fishing. I've been on the water since I was 5 years old.
17 I love the water and that's why I became a clam boat captain. One
18 of my buddies bought a clam boat, and I used to do flooring for a
19 living, and he called me up and said, hey, you been on the water
20 your whole life, are you interested in starting to run a clam
21 boat? And I said absolutely, and I started running it.

22 And the boat didn't catch many clams, and then I got offered
23 a new boat, which is the *Silver Fox*, which is Danny Cohen's boat.
24 I ran that boat for approximately 4 years. And I had -- we had
25 problems with one of the owners, with Al Rancorelli (ph.). He was

1 not pleasant to me, so I said a few words, and then he got mad at
2 me and then he fired me. And then I moved on to another boat, *Sea*
3 *Rover*, *New Sea Rover* from Sea Watch.

4 I've been on a bunch of boats and never had an issue with
5 anything, nobody ever injured. I ran the *Silver Fox* for 4 years.
6 People were getting injured and hurt bad on the boat. I ran it,
7 not a single injury on the boat. I'm a safe captain and nothing
8 like this has ever happened to me. And I don't know if it's an
9 issue with the boat or what, but the clam tank filled up with
10 water from the waves coming in the scuppers and the boat listed.
11 It should never have sank with having that little bit of water in
12 this boat.

13 Q. Okay. Cap, what we'll do, if -- I want to get a little
14 background you.

15 A. Yeah.

16 Q. And then I want you to start me out with the story. We're
17 going to go into a little bit of detail, okay?

18 A. Yep. No problem.

19 Q. From the minute you showed up at work that morning, when you
20 got underway, up through the chain of events, okay?

21 A. Okay. Gotcha.

22 Q. Do you have any formal maritime training as far as the --

23 A. No, I went to the course they had over here.

24 Q. What course is that?

25 A. The fisherman partnership course that they have.

1 Q. Oh, okay.

2 A. I went to that.

3 Q. When was that?

4 A. That was in 2013.

5 Q. All right.

6 A. I took that course with all my crew. And we were supposed to
7 do it again but we were off doing something. I can't remember.
8 There was another one. We were going to do it every year because
9 it was great. It was great for the guys to learn about
10 everything. And that's the kind of training I had. Other than
11 that, it's been on-the-water training.

12 Q. All right. And you're -- how old are you now?

13 A. Forty-four.

14 Q. All right. And you've got an extensive background. When
15 exactly did you start working in the fisheries industry?

16 A. About 7½ years ago, 8 years ago.

17 Q. Okay.

18 A. I started running the *Miss Maegan*, which is a 68-foot clam
19 boat out of New Bedford.

20 Q. So if I were to ask you to give me your total experience on
21 the water, where would you be at in the year mark and month mark?

22 A. Of any boat, any vessel?

23 Q. Any boat.

24 A. My whole life.

25 Q. Okay.

1 A. Since I was a kid. I was brought up on the water.

2 Q. Okay. Prior to the accident, tell me about your physical
3 condition. How's your eyesight and health?

4 A. Good. Everything's good.

5 Q. All right.

6 A. I just went and had a physical. I ran the *Goody Hallet* that
7 was owned by John Kelleher, out of Atlantic City, New Jersey. And
8 when I first started taking the boat, he says, when's your last
9 physical? I went and had a physical to make sure I was good to
10 run the boat and I passed with flying colors and went from -- and
11 just kept fishing.

12 Q. Okay. Are you -- at the time of the accident were you on any
13 prescription medications?

14 A. No. No, I'm clean.

15 Q. What about over-the-counter stuff at the drugstore?

16 A. Nothing. Nothing.

17 Q. Okay. So, actually let's go ahead and get into it. And
18 again, we're going to let you -- we want to hear your story
19 because you're key in this whole investigation.

20 A. Yep. Yep.

21 Q. Start me out on the day you got underway from Fairhaven.

22 A. Okay.

23 Q. Tell me when you -- you got out of your truck and headed to
24 the boat.

25 A. Well, first of all, I went to the grocery store to get grub

1 for the boat. I told the guys we'd be leaving between 8 and 8:30.
2 I got down there with the grub, I called the guys on the phone,
3 said come out, help me unload the grub. We unloaded the grub. I
4 went down, checked all the oils, checked everything on the boat
5 before we go, a routine check. I started everything up, let it
6 warm up for about a half hour, threw the lines and made our way
7 out.

8 And we headed out fishing. We got fishing approximately 10
9 o'clock in the morning, on Sunday morning. We fished from Sunday
10 morning right through the night till the next day. Fishing along.
11 We had a little bit of issues with -- I've been having issues with
12 the pump. Engine fuel has been air bound in the motor for my last
13 six trips. And we haven't been making money because I've had to
14 come in every time. We've been working on it every day. You
15 know, come in, work on it, try and fix it, go back out; wasn't
16 fixed. And the last time it wasn't fixed, but we hadn't made a
17 check, so I had a group gathering and said, hey, we can go down
18 and take turns going down bleeding the pump engine, because it was
19 getting air bound, which when you go shut the pump engine off,
20 open the Racor until you seen the fuel rise, shut it, and I can
21 get two tows. And we did that the whole trip. And that has
22 nothing to do with what happened. That was just letting us get a
23 trip so we could all make money.

24 And we must have fished for 30 hours, not a problem. I
25 transferred fuel probably about 18 hours into the trip, 15 hours

1 into the trip. Because if the fuel goes down too far on the
2 starboard side, the pump engine will die because it's lower than
3 the fuel pump. So we had to keep up on that, and I did that.
4 Everything was fine.

5 Like I said, we fished a good 30 hours. And the tides were
6 roaring, so I left the spot I was on and I tried to get in a spot
7 that had a little less tide on the east side of Old South Shoal,
8 because I was fishing the west side. And we went over there,
9 everything's fine. The boat's not listing. Everything's perfect.
10 I went over there, fished for about an hour. The tide was slowing
11 down. And when the tide slows down, you can do what they call
12 fair tide tows. You can tow both ways; tow into the tide, turn
13 around. So I was doing that the whole time.

14 And then the tide started running hard and you can only go
15 one way. So I turned the boat and go to steam up with the tide,
16 to turn to come into the tide, and I noticed the boat was listing
17 a little bit. So I ran outside. You know, it wasn't crazy
18 listing, but I could tell it was listing and you try to keep it
19 always good. So I come out to go see what was going on and Colby
20 was coming into the galley to tell me that we had a list going on.
21 And so I said, check everything. I ran down the engine room.
22 There was no water in the boat whatsoever. Lazarette, I checked
23 everything. Everything was fine.

24 So the next step was lift up the clam cage tank, the covers.
25 They're plywood. They're not a real cover. They're plywood that

1 covers over the clams just to keep the sun off them or whatever.
2 So we lift that up and there's water in that tank filled to the
3 top. But it was full of clams already but one cage, so there
4 wasn't a ton of water in there to make the boat sink because the
5 clams displace the water that's in the tank, you know. So there's
6 not a lot of room for water.

7 And just with that little bit of water that was in the tank,
8 the boat was listing pretty good. And the waves were hitting the
9 scuppers, which wasn't super rough; 3-footers, 3½ foot. But the
10 scuppers are very low on this boat and the water was splashing in
11 the scuppers and going right into the tank. The combing on the
12 boat was about 6 inches. Every clam boat I've ever ran is 2 feet,
13 2½ feet to 3½ feet above the deck of the boat. And when I started
14 taking this boat, I was a little concerned about that. But what
15 made me not concerned is the boat had been fishing for years like
16 this. So I took the boat. You know, I've seen -- I know the
17 boat. When I was running the *Silver Fox*, this boat was beside me
18 on my tow, like in my way all the time, so I knew it was a pretty
19 seaworthy boat so it really didn't concern me.

20 So when I seen that water, the boat was listing hard and
21 there was no water in the hull whatsoever, lazarette, nothing,
22 just the water in that tank was making this boat list over and
23 take on water, and scaring us. And first concern was me, save the
24 boat, see what's wrong. So I checked everything. I couldn't find
25 anything wrong with this boat other than water was getting in this

1 tank and it was listing way harder than it should have been with
2 that little bit of water. Because I had the other side of the
3 boat, almost every cage full over there, so it was stabilized.
4 You know, you do two cages here, two cages here. You keep the
5 boat stable, okay? And it was listing and I didn't understand why
6 it was listing so bad with just that little bit of water in that
7 tank.

8 And next thing I know, the water's just coming into the
9 scuppers, coming into the scuppers, coming in. I ran downstairs.
10 We have a Pacer pump on the boat, a 2-inch Pacer pump, and that
11 does all the holds, the fish hold, the lazarette hold, the shaft
12 alley, all of them, it does all of them, and it's a Pacer pump
13 that you have to bleed the top of it. We have water that comes to
14 it that bleeds it, and you got to bleed it, and then shut it, and
15 then turn the valve, and then run upstairs and turn it on. And
16 it's finicky. It doesn't just turn on instantly. Sometimes it
17 can take a minute; sometimes it's 30 seconds. It's different
18 every time.

19 So I turned that on, not to pump out the boat, to pump water
20 into the other side of the tank to stabilize the boat. And it's
21 happening very fast and it wouldn't come on, wouldn't come on.
22 And I seen the boat getting worse and I told the guys we've got to
23 abandon ship. I looked out the door and I said, everybody get
24 your suits, get them on. We couldn't -- we usually have a muster
25 station on the deck, but it was wet. And if you get wet, the suit

1 will not go on easy. So the wrong move is to put them on in the
2 galley, but we had no choice. The water was filling the back of
3 the boat and they would have got wet laying on the deck, because
4 you have to lay down to put your suit on.

5 So I told the guys, get your suits, get them on. I told
6 Colby. The other two guys were running around panicking and I
7 kept telling them, just get your suits on, get your suits on.
8 Colby listened to me. He didn't panic. He got his suit on, got
9 outside the wheelhouse door. Because we had the other -- the
10 galley door to the deck is a watertight sealed door, and we shut
11 that so no water can come in. And Colby got his suit on, he went
12 outside. I started putting my suit on, these guys. I looked out
13 the door and I said, oh my -- get out, get out of the boat, we're
14 gonna go down.

15 So I -- it didn't matter if we got our suits on. I had
16 called the *Enterprise* and they were on their way. In my mind,
17 Coast Guard was not the right thing to do because it would have
18 taken too long. These guys were within 2 miles of me and they
19 knew exactly where I was. So I called them and told them we're
20 taking on water, please hurry, get to us.

21 And so Colby's outside the door. I'm putting my suit on. I
22 got it to my waist, I stood up, I looked outside the back deck and
23 the rail was under water. The port rail was under. So I said get
24 out the boat. I take my suit -- these guys are right there next
25 to the door. On this particular boat the wheelhouse door had two

1 steps down, and they were right there. And I was standing there
2 and I looked outside and I said, get up, get outside, the boat's
3 gonna sink. I went out with my suit to my waist because I knew it
4 was going to go and I didn't want to be in that galley with a
5 suit, or even be in there.

6 So Colby went outside, he's yelling, yelling. I come out to
7 the door and I know they're right there. I started screaming to
8 the top of my -- my throat was hurting me. I was saying, get out
9 the boat, don't matter if your suit's on. I was swearing, the F
10 word, get out the boat now, now, now, now. And they were panicked
11 and they weren't -- they were right there. But I knew if I went
12 back into that boat, I wouldn't be here right now, you know? So
13 they didn't come out, and I held onto the boat as long as I could.

14 I'm out there -- I was not even out there a minute screaming,
15 the boat rolled hard, a violent roll, slammed -- me and Colby
16 almost went back in the galley door it hit so hard when we rolled.
17 He seen that, he bounced off the boat, and he flew himself off the
18 boat. I looked at, I seen him go. And I stayed with the boat,
19 holding onto the rail of the boat because I figured this boat
20 wouldn't just go (makes sounds) gone. And it was gone in 3
21 seconds. The ass went -- the boat rolled over upside down. I'm
22 holding on the boat. The stern of the boat went under, the bow
23 went up, and instantly gone. It didn't float like I've seen
24 other -- like, being a fisherman, I've seen -- I watch on my phone
25 all these incidences of boats sinking. Some of them sink -- would

1 float for 20 minutes, some hours, some 10 minutes. This thing
2 went down like a brick. And I was in the engine room 3 minutes
3 before this boat went down, before I was outside and in the water,
4 hanging on the boat. The whole thing was listing hard. There was
5 not a drip of water in that boat, nothing, and it was going down.
6 Which boggled me. I couldn't believe what was going on.

7 And I tried my best to get the guys out the boat. It's a
8 shame. These were my buddies. And they were panicking. They
9 didn't come out. They were more concerned, I guess, of getting
10 their suit on when I told them -- they knew the other boat was
11 coming. I could see it coming, you know. And they weren't
12 listening to me. And Colby's alive because he listened to me. I
13 tried the best I could do to save these guys' lives, you know.
14 And I see on the news, oh, the captain should have made sure the
15 crew -- I tried to do everything I could. I was going to lose my
16 life if I stayed on that boat for another second. And it went
17 down, you know. I couldn't do nothing. I couldn't do a thing.

18 Q. Captain, here, take some water. If you need a break, let us
19 know.

20 A. No, I'm good. I'm good. I just need to get this out and
21 everything.

22 Q. No, that's fine. We appreciate it.

23 A. I did everything as a captain to try and save this boat and
24 save these guys. You know, these guys have never been in an
25 incident like this, and neither have I, but I've been on the water

1 long enough to know that you need to get off this boat now. We
2 have help coming. I could have dove in that water without a suit
3 and lived. The boat was coming right there. They would have got
4 us. But they weren't listening to me because, I'm guessing, they
5 wanted to get their suit on. I went in the water with half a
6 suit. I was freezing. I lived. But they wouldn't come out. And
7 we've had millions of safety drills from Hercules. They all know
8 the deal. And they were just in shock.

9 Q. Captain, let me -- again, if you need a break, you let us
10 know. But, I mean, this is the stuff we need to hear. And I know
11 it's tough for you.

12 Let me ask you to take a step back in time. Where we just
13 left off, you're in the water in your survival suit. I want to --
14 and if you need to close your eyes and just kind of walk us back,
15 let me step back in this chain of events. When you first saw,
16 when you first became aware of the list, where were you at?

17 A. I was towing the boat. The thing with this boat, right,
18 every stern ramp I've ever been on, the tow point is on the port
19 side. On Atlantic Capes, they changed it because they feel it's
20 better by the hose, away from the towline, because they can get
21 tangled a lot and they kind of slow your trip down. When you get
22 the hose on the towline, you got to set hard starboard to get it
23 off. So they changed it, which is a good thing. They moved it on
24 the total opposite side of the hose. So every time you're
25 fishing, it never gets caught on the hose.

1 And what happens is, when I'm towing back and forth like I
2 told you guys, the towline is on the starboard side, and all the
3 way to the dredge it's pulling the starboard side down, not
4 letting you know there is a list happening, you know?

5 Q. Right.

6 A. And that's why I didn't realize that we were listing until I
7 stopped doing tow after tow. Like I would haul back, dump it.
8 It's all by me. I dump the dredge. I do everything. I set the
9 dredge. So I would haul back, set it, boom, right back in the
10 water instantly. There was no setting -- leaving the dredge in
11 the A-frame when you're doing fair tide tows. When it comes to
12 fair tide tows, that's when the crew and the captain, the boat,
13 makes money, because the dredge is constantly fishing.

14 Q. Right.

15 A. So I'm doing that, and then the tide started running hotter
16 and I didn't do a tow. And when I was steaming up with the tide
17 to turn now, because the tide runs hard, you only could tow into
18 the tide, because it's dangerous towing the other way.

19 Q. Captain, let's step away from the accident for just a minute.

20 A. Yep.

21 Q. I want you -- I'm going to give you a pen and I want you to
22 draw out a from a top-down vision of the *Misty Blue*. And I assume
23 the vessel was originally built as a shrimp trawl when it was
24 constructed. I don't know. It has the outriggers on it, I saw
25 from --

1 A. It was a shrimp boat, probably a shrimp boat.

2 Q. Yeah. But so what I'm looking for is I'd like to see just a
3 top-down quick layout, not detailed, of the boat.

4 A. Okay. I'm not a very good artist.

5 Q. That's fine. We're not grading you on that by any means.

6 A. All right.

7 Q. So once you do that, what I'm interested in -- you were just
8 talking about how you -- your drag line for the rake.

9 A. Yep.

10 Q. All right, you're calling them a dredge?

11 A. This is called a dredge.

12 Q. A dredge. Your drag line for the dredge, it is ran through
13 the winch on the boat, out through the outrigger, the starboard
14 outrigger, is what I heard you say?

15 A. No.

16 Q. No?

17 A. No.

18 Q. What did -- how were you -- how was it configured? Show us
19 how it was configured.

20 A. This is just -- I'm not a very good artist, but here's the
21 dredge. The hose comes off the boat, comes back to the dredge.
22 The towline has a tow point over here, a post, you know, a thick-
23 ass post.

24 Q. I got you.

25 A. A real big post right here, with a big -- with a padeye and

1 like a well wheel or a pulley. The rope, the towline comes off
2 the pulley, swings right back like the hose, and goes back to the
3 dredge. So when you set this dredge in, the hose goes out, the
4 towline goes out, and when the towline tightens, the hose got a
5 horseshoe and then this is straight. So this is pulling right
6 here.

7 Q. Right.

8 A. Okay? The list was here. And as I'm towing, the boat's
9 perfectly straight, perfectly straight. I'm going back and forth,
10 right? This is the wheelhouse right here, the clam tanks are
11 here.

12 Q. All right. If you don't mind, just put -- I'm going to have
13 you sign this and we'll date it. We'll make it an attachment to
14 your transcript. But just put CT and CT on those two. So the one
15 you're labeling right now, and we'll will make a note here -- just
16 put a -- identify the port side for me on the boat.

17 A. Right here.

18 Q. All right. Perfect. All right. And this dot that you
19 indicated below the word "port" is where the flooding or the water
20 was coming in?

21 A. Yep. Yep.

22 Q. Okay.

23 A. There's scuppers all down this side right here, little
24 cutouts on the side of the boat. I think there's like four of
25 them on each side.

1 Q. Okay. All right.

2 A. So I'm towing, everything's fine. We've been fishing for 30
3 hours, we haven't had an issue, okay? I went over to this other
4 spot, the tide was slowing down, and I started towing back and
5 forth, back and forth, back and forth. When you tow, the weight
6 of the dredge is pulling on the starboard side. It's pulling it
7 down because a dredge weighs -- I couldn't even tell you how much
8 it weighs. There's a lot of weight there. It's hitting the
9 bottom. There's resistance. It's pulling on that part of the
10 boat. So the boat's fine.

11 I run up here, the tide was running. It's very easy. Now
12 the tide's running to the north right here. I said, okay, that's
13 it, no more fair tide tows. Because it started towing fast, and
14 if you get hung up, you can sink the boat. You can get hung down,
15 get the towline in the wheel. There's three things you can get
16 caught on: You got a wire that hauls and sets the dredge, you got
17 a hose, and you got a towline. So if you get hung down, the
18 boat's going to go backwards because you're going fair tide.
19 You're not going into the tide.

20 So when it gets a little scary, which we shouldn't sink even
21 with that. You just get the towline, have to get towed in. So I
22 said, okay, that's it; it's going too fast. You can watch the
23 water going the wrong way when you're towing. Okay, that's it,
24 that's all we're doing. I steam up with no -- just the dredge in
25 the rack, and you never have it high other than when you're

1 dumping it because the stability goes off. I got it low down by
2 the water, scraping the water. I start steaming up and I notice
3 the list and I said, oh my god, why are we listing?

4 I run out there. Colby's at the door. He's like, Cap, I was
5 just coming to get you; we're listing. So I said, okay, I'm going
6 down the engine room, I'm going to check. Nothing there. I lift
7 up these plywoods, the plywoods on top of this tank right here,
8 four or five of them on this side right here, on the port side.

9 Q. On the port side.

10 A. On the port side. This was all clams here, one cage to go.
11 And this was all full and one cage to go.

12 Q. Okay.

13 A. Water -- so I come out, I said, flip this up. There was
14 water right up to the edge.

15 Q. And where the pen is now on your drawing, that's the port
16 clam tank?

17 A. That's the port side. The port clam tank only had water. I
18 pull it up, there's water in it. And the whole time I'm standing
19 there the water's going splash, right in the scupper, into the
20 tank, into the tank, into the tank. And I said, oh Jesus. So I
21 run down to turn the pump on. Which it wasn't to pump out this,
22 because an inch-and-a-half hose is not going to pump out this
23 water in any time fast enough to do nothing. So I ran down to put
24 water in here to stabilize the boat.

25 Q. And you're indicating to the starboard?

1 A. Starboard. I was going to pump water into here, but I
2 didn't -- I knew I didn't have enough time but I was going to try
3 anything to get this list right before we abandoned ship. Because
4 I never thought in a million years that this boat was going to go
5 over, over a little -- over 200 gallons of water in this tank
6 right here. So I went down the engine room to try and fill this
7 tank over here with the hose.

8 And I couldn't get the Pacer pump to go fast enough. You
9 know, I'm running around frantic because we're taking water over
10 the side into this tank. And I ran down there to try and do it.
11 I tried five times. I could not get that pump to work. I'm not
12 saying that would save the boat, because a 1½-inch pipe, a hose,
13 would take a long time to fill this other side, but I was trying
14 anything I could do to save the boat, you know.

15 Q. From a timeline standpoint, at this point when you started
16 working on the Pacer pump, what's your recollection of where John
17 and Mike were?

18 A. John was up in the wheelhouse.

19 Q. Okay.

20 A. Talking to the *Enterprise*. Mike was down on the boat,
21 inspecting the boat to see if there was any other place this water
22 was coming in.

23 Q. Okay.

24 A. I went down to the Pacer pump and I was checking in the
25 bilge, first, and then I started bleeding the Pacer pump and I

1 couldn't get it to run. And I tried all these times and I said, I
2 can't get it to run, what's -- I'm steaming full throttle,
3 figuring -- I've been on boats that have taken on water, small
4 boats, and if you just gun them and go and hit the thing with the
5 horsepower, it'll keep the boat up for a while. So that's what I
6 was doing with the boat.

7 I said, John, put the thing in the corner. And I even had
8 him -- I ran up there and shut the autopilot off and used the jog
9 lever and steered hard port, which would make the boat list
10 starboard. The boat would not come up. We lifted the bird up on
11 the port side; it would not come up. And that's when I realized
12 and I let these guys know, John know and the *Enterprise* know that
13 we are going to be going down because it's not slowing down. And
14 the boat isn't taking any more water but it's listing more and
15 more and more, and there's nothing coming in the boat. The tank
16 is full.

17 Q. Okay.

18 A. And it's listing more and more, which don't make sense to me.
19 It shouldn't be listing any more than what's there, and it was
20 listing more and more and more and more. And that's when I said,
21 get off the radio. I called the *Enterprise* and said, we're going
22 to be going down, please hurry, get here. Guys, get the suits on.
23 And they were running around. And Colby put -- I watched Colby
24 getting his suit on. I started getting it on, these guys started
25 getting it. And I looked outside and I said, oh my god, get out

1 now, get out the boat now. And they didn't come out the door.
2 And there was nothing else I could do to stop this boat from going
3 down besides save my crew and get in the water.

4 Q. I want to step back in the timeline from where we're at here.
5 I don't want to get too far. And I appreciate everything you're
6 telling us, because it's just -- these are things we need to hear.
7 Step back in your mind to this point when you and Colby first
8 become aware of this port list.

9 A. Yeah.

10 Q. The position of your outriggers -- you just described a bird.

11 A. Yeah.

12 Q. Were your outriggers deployed?

13 A. Yeah, we always -- I always have the outriggers down. And
14 when we're fishing, we always have the birds in the water to
15 stabilize the boat.

16 Q. To stabilize the boat. So both -- at that point in time, the
17 starboard, port outrigger was in the water or was it -- it was
18 out, and the bird was in the water?

19 A. No, the outriggers go down as soon as we leave the spark plug
20 here.

21 Q. Yeah.

22 A. They go down, and you don't put the birds in unless it's
23 rough.

24 Q. Okay.

25 A. You know, that saves time of us getting out there. If it's

1 not rough, it's not -- you don't need them.

2 Q. Right.

3 A. And as soon as we get to the spot, I don't care if it's flat
4 calm, the birds go in the water because they indicate the tide and
5 everything, how fast you're moving, by looking at them.

6 Q. Right.

7 A. So that's one of the reasons we put them in. You can see how
8 fast the -- instead of relying on your GPS, you can look out and
9 watch the birds sliding through the water. If they're getting
10 pulled back, you're going head tide. If they're floating forward,
11 you're going fair tide, you know, and that's when I do a fair tide
12 tow. I watch the birds. If they start going way out like this,
13 it's time to stop doing it.

14 Q. The outriggers on the *Misty Blue*, approximately -- if I were,
15 you know, I say horizontal to the water surface, what angle are
16 they at when they're fully deployed?

17 A. They're not perfectly straight. They're just slightly up a
18 touch like the normal. They were normal.

19 Q. Okay.

20 A. There was nothing, anything different with them.

21 Q. All right. And is there a chain stopper on each outrigger?

22 A. Yep. Yep.

23 Q. Did you have that in place?

24 A. Yep, everything was -- well, you let the outriggers out until
25 the chain stop stops and put a little bit of slack so it's not

1 pulling on the cables.

2 Q. Okay. And we're going to move down the timeline. When you
3 told -- you gave John a command to make a certain helm.

4 A. Yep.

5 Q. Walk me through that again.

6 A. Well, I went up and made the call on the radio about the
7 water coming in the boat to the *Enterprise*.

8 Q. Okay.

9 A. And I went out and I said, stay here and talk to them and
10 make sure they're coming to us, steam towards them, you know, keep
11 the boat going towards them. And I was going to go check
12 everything down the engine room, make sure there was -- because in
13 my eyes, if there was no water in the bilge of this boat anywhere,
14 we should be floating. When water gets into the boat, that's your
15 enemy. And it wasn't getting into the boat. It was only getting
16 onto that clam tank and that little bit on this side where the
17 scuppers were flushing it in and out, in and out.

18 Q. Did you bring the throttle up or did you direct John to bring
19 the throttle up?

20 A. I brang the throttle up.

21 Q. All right. And so, from roughly what speed over ground did
22 you go from --

23 A. We were probably -- the boat's not a fast boat. We might
24 have been doing 7 knots, 6½ knots.

25 Q. All right.

1 A. When we were going slower, in my eyes, we were listing a
2 little bit more. And when I gave it the more throttle, it
3 straightened it up a little bit. It was better. It was better.

4 Q. All right. And what was the position of your outriggers and
5 your birds at that point?

6 A. Position of my outriggers, my port outrigger was obviously
7 down because we were listing. So as soon as I knew we were
8 listing like that and I seen that, I lifted that bird up because
9 it's pulling down on that side. And when I lifted -- Mike did
10 that. Mike did it.

11 Q. Okay.

12 A. Mike lifted the bird up and nothing changed. That bird did
13 not make us come up any. The boat was stuck on a I don't know how
14 many degree angle. I can't even thin of how many it would be.
15 But the angle of the list did not change by lifting that bird out
16 of the water. And it should have. And it should have. And it
17 didn't. And when I took that wheel, backed off the throttle and
18 cut the -- took the jog lever and jammed it all the way to the
19 port and did a hard turn to the port, the boat was supposed to
20 list starboard. It would not. It would not come up. It would
21 not come up.

22 Q. And what was the position of the starboard outrigger when you
23 did that, when you made the port turn?

24 A. It was up. It was up higher because we were listing to the
25 port.

1 Q. Okay. All right.

2 A. There's no doubt it was up.

3 Q. Let me borrow that pen back from you. Thank you. I'm going
4 to have you sign that in a minute.

5 MR. BOWLING: And, Coast Guard, I'm getting close on
6 relinquishing the floor here.

7 MR. ARABIAN: And what I was saying on this, these, saying
8 about the combings around the tanks?

9 BY MR. BOWLING:

10 Q. Right.

11 A. This tank and this tank, if you go check any of Danny Cohen's
12 boats, there ain't one that's under 2½ feet. This one is about 6
13 inches.

14 Q. Okay. And you were witness --

15 A. Of freeboard, of freeboard from the floor.

16 Q. You're referring to, you were pointing to the picture. You
17 were pointing to the --

18 A. Right. This is the combing around the edge.

19 Q. Right. So the port clam tank here?

20 A. Both of them are about 6 inches off.

21 Q. Both of them. Okay. All right.

22 A. And the scupper is right here, so 6 inches, the water's
23 hitting here and going right in here.

24 Q. Got it. To the best of your recollection, tell me exactly
25 what spaces you personally went into to look for flooding and what

1 you saw. You said you went into the engine room.

2 A. I went in every one of them.

3 Q. Every one of them. Walk me through your, walk me through
4 your --

5 A. Okay. I come down the engine room stairs. You walk right
6 down into the engine room, okay?

7 Q. Okay.

8 A. The main engine is right there, the bilge is right
9 underneath. There's plywoods. The bilge is right there
10 underneath the main engine. There was no water. I ran up to the
11 forepeak. There's a door, I opened that up, there's no water.
12 There's a shaft alley on this boat, which was pretty nice. You
13 could see the shaft and everything that was going on. It's a
14 catwalk, like a steel catwalk that you walk on. And I went in
15 there, no water. Just a normal -- just a little bit from the
16 shaft, the packing on the shaft. The drip, you know. That much
17 water.

18 I went into the pump room, which is the lazarette, no water
19 in there. And I'm running doing this because I'm scared to death
20 and I see the boat's listing bad and I'm trying to find out what's
21 wrong. And there was no water in there. None at all.

22 Q. All right. Did you hear any unusual noises or anything prior
23 to that?

24 A. Nope. Nope. And I had Mikey out there, and Colby, were
25 inspecting the sides of the boat and stuff to see if there was

1 some reason why the water was coming in other than the scuppers,
2 and we could not find anything other than the scuppers were
3 putting the water in the boat.

4 Q. Kind of move down the timeline a little bit more to where
5 you're abandoning ship.

6 A. Yep.

7 Q. You used the term panic --

8 A. Yep.

9 Q. -- describing the two shipmates you lost.

10 A. Panic is just -- I called it panic because they were running
11 around frantic. You know, we all know where the suits were, we
12 all had the suits, and they were just -- they were acting totally
13 different. They were scared and I think it was slowing them down.
14 And I know it is, because when you're scared you can't do
15 everything that you try to do when you're not scared.

16 Q. Right.

17 A. And I looked at them. I'm putting my suit on. I was scared,
18 but I was getting my feet in. I looked over, they were getting
19 their feet in. And then I got up when it got to my waist and I
20 looked out the back window to the deck and the port rail was
21 totally under water. And that's when I got up and went out with
22 the suit not even on, because I knew any second this boat could
23 roll right over. So I told the guys and Colby, I said, out the
24 boat. Colby had his suit on, he went right out the boat.

25 And I'm screaming at these guys, standing right over them

1 like this. They're right here. I've got my suit this high. I
2 just ran from the door that's probably twice the distance to that
3 glass door and looked outside, because you have a nice window to
4 look out on deck. And I seen the whole rail, port rail, waves
5 just coming right over it, coming over it. And I come running
6 back, said, get out the boat now, we're going to go down, get out
7 the boat. And they stayed on the ground. And I'm telling them,
8 get out, get out. And I knew it was going down.

9 So I'm right here. Like, there's two steps right here, and
10 the galley door is right here, the wheelhouse door. So close.
11 And I stood in that door with my head in, and I could see their
12 feet right there. And I'm screaming to get out the boat,
13 screaming at the top of my lungs. Colby was screaming. They
14 wouldn't come out. And I'm telling them, it don't matter if your
15 suit's on, get out here.

16 Q. Do you recall any specific communications from John or Mike
17 during that time frame?

18 A. They never talked once. They never said a word when I was
19 screaming and yelling. Even when they were on the ground, they
20 didn't even look at me. They didn't even look at me. It was like
21 they were in a trance. I'm screaming over the top of them to get
22 out and they're still sitting there doing that. You know, I'm not
23 physically big enough to grab these guys and rip them out the
24 boat.

25 Q. Right.

1 A. But me screaming -- like I said, Colby's the only one that
2 heard me and said off the boat. And he was waiting at the door,
3 Cap, I'm at the door, I'm at the door. And I'm screaming at these
4 guys and I finally said, I'm going up the stairs and going out the
5 door because we're going to roll any second. I wasn't out on that
6 deck a minute and the boat violently rolled. And I tried staying
7 with the boat by holding on because I expected it to bob for a
8 while.

9 The door was right there at arm's reach from me. I was on
10 the safety rail. When you open a pilothouse door, on each side
11 every boat has got a rail. So if you were to go step out and
12 slip, you won't go off the boat. There's a rail there. I was
13 hanging on the outside, holding that rail, with the door 3 feet in
14 front of me, hoping to see these guys pop out the door. And it
15 didn't happen because the boat went (snaps fingers) down.

16 And I almost died. I got hooked on something that dragged me
17 down and I came up with water in my mouth. I thought I was dead.
18 Like, when I was going down, I had my eyes closed and I was going
19 like this. I can picture it right now. (Makes gurgling sounds)
20 and it's pulling me down. Something had me, stay wire, something
21 had my suit pulling me for the bottom. And I kicked as hard as I
22 could and it finally let me go. And when I -- I don't know if
23 you've ever been in the water snorkeling, but you go down too deep
24 and you're out of breath and you're going like crazy to the top
25 and your head's going like this. Well, that's what it was with

1 me. And I actually thought I passed out until I hit the surface
2 and got a breath of air. And then I started screaming for the
3 guys and the only guy I heard was Colby.

4 Q. Okay.

5 A. Colby's like, the raft -- hey, I was underwater and I stayed
6 on the boat. The raft was already up and Colby was at it by the
7 time I came up onto the surface. He already had the raft. I
8 don't know how long it took or how long I was down there, but the
9 raft was there. And Colby's like, I'm coming to you, I'm coming
10 to you. I didn't have my suit on all the way, so as soon as I
11 came up I looked and there was a piece of plywood that we used as
12 a cover for the tank, for the clam tank. I was freezing. I went
13 on top like a raft and I floated on it.

14 And I'm floating and Colby's saying -- he's kicking to me.
15 There's no way he's dragging that life raft to me. And I knew the
16 tide was going to him because I was getting a little closer to
17 him, a little closer. And then, finally, I jumped off and swam
18 for my life for the life raft. And I get to the life raft and the
19 life raft painter line was all tangled. The thing didn't even
20 open right. And we just climbed up those flotation -- we just
21 climbed up on it. And I could hear the air coming out of the
22 raft, saying, oh god, the raft's going to deflate. I could hear
23 it deflating. Bubbles.

24 And I got on there and we held each other and he's squeezing
25 me tight, and we're just waiting for the boat. And I got the

1 little strobe light that goes on my thing and I was pointing it
2 like a microphone right to the *Enterprise* so they could see me.

3 Q. Captain, my last question for this first direct and then I'm
4 going to turn the floor to the Coast Guard, can you just tell me,
5 summarize your relationship with Mike, John and Colby? Just how
6 long have you known them, how much you've worked with each other.
7 A. Okay. Well, I've known Colby -- I've known John for about 4
8 years. He's been with me for about 4 years. He's been on the
9 deck in this boat and *Goody Hallet* I was running out of New
10 Jersey. He was my mate. So this boat I took him as a mate. And
11 I've been with John probably about 4 years, 3½, 4 years.

12 Colby, he came down. He used to work on the *Goody Hallet*
13 with Max and Scott Nolan. He worked over there for a few months,
14 so he learned how to clam on that boat. And then I got the job
15 running that boat and they sold it to John Kelleher; it went down
16 to Jersey. So I brang my crew with me, John and Colby. So they
17 were down in Jersey probably 6 months with me, fishing on that
18 boat. And I quit that job because the boat wasn't making me any
19 money. It wasn't catching, just like it wasn't catching here.
20 The guy dumped 4-, 500,000, John Kelleher, into it and it wasn't
21 catching, so I quit. And the guys quit, too.

22 And then I got the *Misty Blue*. I called John. He was
23 working on another boat in Jersey and he goes, absolutely, I'll
24 come fish with you any day. He come down, started working on the
25 boat. We had broken trips. We had six broken trips in a row,

1 just of the fuel system, nothing -- no major issues. And so I had
2 this colored guy Mike on the boat and he was lazy and he was no
3 good, so I fired him because Colby's been calling me looking for a
4 job and I know he's excellent on a boat. He's a young kid, which
5 you need young help, and he did his first trip with us. And we
6 went down.

7 Q. Okay.

8 A. But I've known Colby for -- I don't know. I've known him by
9 sight. I seen that he was working on the *Goody Hallet*. I knew
10 who he was. I knew he was a good worker. And that's how I know
11 these guys.

12 Q. All right. Thank you. I'm going to relinquish the floor.
13 Captain, you doing okay?

14 A. Yeah, I'm all right.

15 MR. BOWLING: All right. Coast Guard Sector? Sorry, MSD New
16 Bedford?

17 BY [REDACTED]

18 Q. Captain, can you maybe describe if you know if there's any
19 hull penetrations in that area where the clam tanks are?

20 A. I didn't notice any. You're talking about a hole in it?

21 Q. Well, if there's -- are there any --

22 A. There is a drain hole.

23 Q. Is there a -- okay. What's that?

24 A. There's a drain hole that goes to the, I want to say Venturi
25 system, but it's not a Venturi system, because a Venturi system

1 runs off the pump engine and off the pump, which is a serious
2 emergency pump, like a 3-inch pump. That pump actually can empty
3 that, would have emptied that tank in about 10 -- I don't know, 3
4 minutes, you know. But this didn't have that, it was different.
5 It was done by Pacer pumps. It was a pretty nice setup but it was
6 just -- I didn't like it too much because it was a Pacer pump that
7 you had to bleed. It wasn't just flip the pump on and pump, it
8 had to be bled. That way you're getting rid of the air pockets
9 and start working, you know. But on the bottom of each tank there
10 was, I would say it's a 3-inch pipe, but where it come out wasn't
11 3 inches. Where it come out was a inch and a half. So it went
12 big, nice, to small.

13 And I didn't see any other holes or anything. When we've
14 come in with prior trips, I didn't get a full load. I was coming
15 in through Vineyard Sound and I noticed the boat was listing a
16 little bit, so I went out there and I looked in. There wasn't
17 even barely any clams because we only got five cages. And it was
18 rough and I noticed the boat was listing a little bit, so I went
19 out there and I looked in the plywood; there's about 3 feet of
20 water in the tank, coming in from just the scuppers, going in, you
21 know. And that's when I said I didn't like that tank because it's
22 low. But I figured everybody else that fished this boat didn't
23 have an issue of anything, you know, so -- I didn't see any holes,
24 nothing in there. The only thing I could tell you is the water
25 was coming from the scupper to the tank.

1 Q. When you described that the water comes into the tanks on
2 that trip coming in, was it in both tanks or in one tank?

3 A. No, just the port one.

4 Q. Just the port tank.

5 A. It seemed like if I ever got a list it was on that side.

6 Q. Is the bottom of the clam tank the bottom of the boat or is
7 there a void, are you aware?

8 A. I think it may be the bottom of the boat. No, maybe -- I've
9 never seen. Because most boats you can go in and you can go
10 underneath the clam tank and see what's under there, this one was
11 sealed. So I'm not sure what was under there. You know, I know
12 there was a hose connected to the bottom, so there must have been
13 some way they could get in there to put that on there.

14 Q. A hose connected to? Can you describe more?

15 A. There's a drain. There's a drain. Like on every clam tank
16 there's a drain, okay? And it was to the forward. Because this
17 boat actually was like a ramp. The back of the boat was -- it was
18 like a beveled hull like this. So the stern of the boat was
19 higher than the middle, like it kind of went up on a ramp.

20 So like when we were done clamming, in order to rinse the
21 boat down and get all the shells and sand, you had to start at the
22 back of the boat and flush everything to the wheelhouse and then
23 out. You know what I mean? So if any water's coming in, it's not
24 going out the back of the boat because it's like a ramp.
25 Everything was staying at that clam tank. That's the most

1 levellest part of the boat.

2 Q. Where in the tank is this drain?

3 A. It's on the forward side of both tanks.

4 Q. The forward side --

5 A. So the bow side.

6 Q. The bow side.

7 A. The wheelhouse side of both tanks.

8 Q. Is it on the inboard or is it in the middle?

9 A. It's inboard on each tank.

10 Q. Okay. Just to clarify, at the bottom of the drain --

11 A. There's a screen.

12 Q. There's a -- so it's just like a deck drain? Like a drain
13 kind of like --

14 A. Yep. It's like a 3-inch hole with a piece of -- and it's got
15 like a square cutout into it. And we've got a stainless steel
16 screen, like metal with a bunch of holes in it, like, that they
17 made, and it fits right over that so shells and stuff like that
18 can't clog the pump.

19 Q. Are you aware of how the pipe from that drain connects to the
20 Pacer pump?

21 A. Yep. It's by ball valves.

22 Q. But how does the pipe run? Does it --

23 A. It runs from the tank, comes out from underneath like the
24 steel walls. And you can see the pipes coming out, they're PVC,
25 gray, approximately 3 inches, and they come to the Pacer, to

1 the -- there's like a wall that reminds me of a Venturi system.
2 And they all come up, every -- engine room, forepeak, they call it
3 shaft alley, and the lazarette. There's pipes coming from every
4 one of them, so they're all in a line, and they're all labeled.
5 And then there's two Pacer pumps up top.

6 Q. Okay. Great.

7 A. And you can only use one, you know what I mean? You use one
8 or the other. If this one don't work, you use this one. And
9 there's valves that you open. So in order to drain the pump,
10 you're going to start the -- tank I mean. You're going to start
11 the pump, right, with the seawater. The seawater is going to come
12 first. And then whatever tank area you want to pump, you open the
13 ball valve and the Pacer pump will pump water down into that to
14 get rid of the air. And then you shut it, shut the main water
15 from the ocean, and it'll make a siphon and it'll switch over from
16 seawater to tank water, bilge water, or whatever you want.

17 Q. Is the Pacer pump considered the vessel's bilge system?

18 A. Basically, yeah. Like I've been -- like the *Goody Hallet*,
19 they have a big tank that held 24 cages, and on the shaft -- the
20 shaft alley was underneath it. And they had a big plate with
21 holes all drilled in it and they had a regular like sump pump with
22 a foot in there. So any -- you'd have to watch it. Any water
23 that was coming in was going out; in, out.

24 Q. Are there any automatic pumps on --

25 A. On the boat? There is. There's one in every area. But just

1 like little Rule pumps, you know what I mean, with a foot.

2 Q. Which areas were they in?

3 A. They were in the -- they called it a tool room, which was the
4 forepeak. They were in the bilge and the engine room. There was
5 one in the shaft alley and there was two in the lazarette. And
6 they never turn on. There's never water in there. Never.

7 Q. Are they left to be in the automatic position?

8 A. Yeah, you can put them in automatic position, yep, and that's
9 what I would do. But there was no water in there ever, but I did
10 it anyway, just put them on auto. And you'd never see these pumps
11 come on. We never had a water issue ever. I did seven trips on
12 the boat, never had a water issue in the bilge anywhere.

13 Anywhere. The only issue I had was steaming in, in the rough
14 water, noticing the boat started listing a little bit on the port
15 side and I had to pump that out. And like I said, the Pacer pump,
16 take three or four times to get it to prime, and once it primed,
17 it worked.

18 Q. Were there alarms in these spaces?

19 A. Yes, there were.

20 Q. Which spaces had alarms?

21 A. All of them. All of them.

22 Q. Were there alarms in the clam tanks?

23 A. No, nothing in the clam tanks.

24 Q. Why is that?

25 A. I don't know. I don't know if they do it or not. There was

1 a alarm -- like the *Goody Hallet* had one, but that had a automatic
2 pump in there already. But there was no alarms in that. I ran
3 the *Sea Rover*, the *New Sea Rover* for Sea Watch, that had an alarm
4 in it. But it's a totally different setup. It was a totally
5 different rig, you know what I mean? It was a much bigger boat,
6 real high sides on the tank, and the water couldn't get in there.

7 Q. Is there supposed to be any water in the clam tanks?

8 A. Well, every boat's different, you know.

9 Q. On the *Misty Blue*?

10 A. On the *Misty Blue*, I was told that you could flood the tanks.
11 The reason you flood a tank is you fill them both up, so you'd
12 fill -- you wouldn't just fill them up all the way. You would
13 fill half on one and half on the other and just get them both up.
14 And the reason for flooding tanks is so you don't have a lot of
15 breakage. The clam will fall into the water and float down
16 instead of smash down. And that's the whole purpose of flooding
17 the tank. And I was told that you could flood them, but I wasn't
18 flooding them.

19 In my own eyes, I wasn't flooding the tanks on this little
20 boat. You know, in my eyes, I'd rather break more clams than
21 have -- the reason about breaking clams is it takes a lot more
22 clams to fill a cage when they break. If they're not broke, the
23 cage fills right up. But I was told they can flood. And that's
24 why, in my eyes, when I seen water in that tank, we're not going
25 to sink. These things are made to flood, plus they're full of

1 clams displacing the water, you know. Something was pulling us
2 over more and more and more and there was no more weight coming on
3 the boat. It was the tank full of water and the water that's
4 splashing on the port side.

5 Q. Who told you the tanks could flood? If you don't remember,
6 it's okay.

7 A. I'm not sure, but somebody that works in the yard over there.

8 Q. Okay.

9 A. They said they're floodable.

10 Q. How about the bulkheads of the tanks, is there any
11 penetrations, any wiring or pipes that go through the --

12 A. Are you talking the inside of the tank?

13 Q. On the inside of the tank, yes.

14 A. No, there's nothing. There's ribs. There's stringer ribs,
15 what you would call stringers, to stiffen it. There's some ribs
16 in it and there's different heights. Like, just the closest to
17 the wheelhouse was a little lower, the back was a little higher
18 because the stern of the boat came up, you know. But my concern
19 was around the edge of these.

20 Q. Right.

21 A. It should have been like this. But I didn't concern that
22 because this boat had been fishing and never had an issue.

23 MR. BOWLING: And just for the record, the witness, when he
24 said "these," he was -- and tapping his finger, it was --

25 MR. ARABIAN: Clam tanks.

1 MR. BOWLING: -- clam tank.

2 MR. ARABIAN: The shroud or whatever you want to call it
3 around it.

4 MR. BOWLING: Thank you.

5 MR. ARABIAN: But I had no recollection, or whatever the word
6 I want to say, of this boat going down because this tank was full.
7 There was clams in both sides stabilizing the boat. And you
8 cannot fit a ton of water when there's clams already in there.
9 These cages fit so tight that when you go to unload, they were
10 pulling -- they were so hard to get out. They would bind up
11 against each other. And to put them in, you had to have two guys
12 there wiggling and jiggling and jiggling to get them in they were
13 so tight. So there wasn't a lot of room for anything.

14 The bottom of the cages got about 5 inches where the water
15 can be underneath. And the only other spot the water could be is
16 in the inside of the cage that we didn't fill. So there's not a
17 lot of water in there. I know water weighs about 8 pounds a
18 gallon and the boat should have handled that.

19 But it's acting like there's a stability issue with the boat,
20 is what I'm worried about. This boat has fished for 10 years or
21 more. They had put a crane on the roof of the boat recently. I
22 don't know how much the crane weighs, but I'm guessing anywhere
23 from 2500 pounds to 3,000 pounds, and it's about 8 feet over the
24 waterline. It's on top of the dog -- on top of the wheelhouse.
25 That's the only thing they've changed on this boat.

1 BY [REDACTED]

2 Q. When did they change that?

3 A. When it was in the shipyard, I guess.

4 MR. ARABIAN: Do you know when they had changed that, Brian?

5 MR. BOWLING: And just, Cap, for the record, counsel wouldn't
6 be able to answer that question. We're --

7 MR. ARABIAN: Oh, all right.

8 MR. BOWLING: Yeah, yeah, that's fine. That's fine.

9 MR. ARABIAN: I'm sorry. I'm sorry.

10 MR. BOWLING: It's your first interview, so --

11 MR. ARABIAN: I just know he's in with the boat. I don't
12 know --

13 MR. BOWLING: Yeah, we'll follow up on that.

14 MR. ARABIAN: But this crane on top of the boat, it's offset
15 to the port. That may be why the boat's always wanting to go that
16 way. I know the pump engine is offset to the port and that's why
17 we have to have about 600 gallons on the starboard side to make up
18 for the counterweight of the pump engine, you know. And I keep up
19 on the fuel. The fuel was perfect. This boat was perfect until
20 we moved to the other spot.

21 And like I asked Colby, I said, Colby, when you were filling
22 that second-to-last cage in that port side, the cover's open, did
23 you see any water in that tank, in that cage that's not filled?
24 Because that's where you would see it. He says, Cap, there was no
25 water in that cage, none at all. And we only fished about an hour

1 and within an hour that tank was full.

2 BY [REDACTED]

3 Q. And that was in the port side?

4 A. That was on the port side.

5 Q. And he didn't see any water?

6 A. He did not see any. I asked him before we were listing, hey,
7 you guys just got out of this cage, was there any water in that
8 empty cage? No.

9 Q. Was there any water in the starboard cage?

10 A. No. Nope.

11 Q. Or in the starboard tank?

12 A. Nope, that was dry.

13 Q. What is the purpose of that crane that you've described?

14 A. That crane is to unload the cages. These cages full of clams
15 weighs about 3300 pounds. So it's a pretty heavy-duty crane. And
16 they put it up so whoever runs this boat -- the boat was small
17 enough to go into Hyannis.

18 So, say, the weather's beautiful -- like I was going to do,
19 the weather's beautiful, you can go out, get a trip, come into
20 Hyannis, use this crane, knuckle boom crane or whatever they want
21 to call it, and it had levers that -- it moves and extends. Well,
22 it's square stock, pretty nice, with a base that swivels. And
23 that was meant to unload in Hyannis.

24 So instead of steaming -- because the boat was very slow. It
25 was taking us about 12 hours to get to where we were fishing, 11

1 to 12 hours. And to go into Hyannis would only be about 5½ hours.
2 So you'd cut the time -- instead of coming all the way to New
3 Bedford, unloading that at Fairhaven, at Linberg's, you can just
4 go into there, unload, head right back out, get another trip. So
5 that was the purpose of the crane.

6 But this boat never had this crane until they just fixed it
7 all up and painted it and all that. And I don't know, I don't
8 know if they had a stability test or what, but I was told from one
9 of my buddies anytime you raise anything over the waterline -- say
10 it's 3,000 pounds, you raise it to 8 feet off the waterline,
11 that's 10,000 pounds right there. Am I right or am I wrong?
12 Because that's what I was told.

13 MR. BOWLING: Larry Bowling with the NTSB. I mean, that's
14 been speculated or that's been put on the table before, and you're
15 close. The measurements are --

16 MR. ARABIAN: Yeah, because my buddy is the one that told me.

17 MR. BOWLING: Weight high.

18 MR. ARABIAN: He called me up and said anything different on
19 this boat? And I'm trying to look at it and I said, that crane is
20 the only thing different on this boat. That's the only thing
21 they've changed. They painted it and fixed it up nice. The boat
22 was real good looking, but what I didn't like was the combing on
23 the tanks. The water was getting in. I didn't have an issue with
24 the boat, but that's extra weight up there towards the port side.
25 And both times I seen this boat list was to the port, never to the

1 starboard, ever.

2 BY [REDACTED]

3 Q. When did you start working on this boat, the *Misty Blue*?

4 A. I started working on this boat probably a month ago. Seven
5 trips, according to the weather. If it's blowing, we can't go.
6 But I tried to make seven trips, and every trip I never caught
7 nothing because of the pump engine. And finally, this last trip I
8 actually got some clams on the boat because we were purging it.

9 Q. Are you aware if the boat was previously ever loaded almost
10 full of clams?

11 A. Oh, yeah. I went out on one trip, I went out on one trip and
12 we caught clams, and after that the pump engine started acting up.
13 And I was out of work because they were replacing all the fuel
14 lines. They replaced all of them. There's like 40-something feet
15 of line. That was all corroded, so they cut it out and put
16 stainless and put new -- what do they call them? They put new
17 check valves. The boat went uphill in the back, so the fuel had
18 to go up, and they put check valves so the fuel couldn't come
19 back.

20 And then you had to have enough fuel on the starboard side
21 higher than the fuel pump, otherwise it would be sucking,
22 straining it. So I had a little zip-tie on the sight goss (ph.).
23 There's a tube called a sight tube. So I put a zip-tie on there
24 so when it got anywhere near close to there, you transferred fuel
25 to make sure the pump didn't die. It wasn't for stability; it was

1 for the pump to stay running.

2 Q. On that trip you said that you did catch clams, was it a full
3 trip?

4 A. Yeah.

5 Q. How many cages is a full trip?

6 A. Sixteen.

7 Q. How do you distribute the cages?

8 A. I'll just do it as we go. One on this side, one on this
9 side, and just keeping the boat straight.

10 Q. How many are in each hold?

11 A. Eight. Eight a side. And the day I did go out there was
12 like a mill pond. It was not rough. It was flat calm like a mill
13 pond. This trip right here on Monday morning, it was pretty
14 rough. It was snotty. It was a super moon tide. Not only was it
15 a little rough, the tide had a lot to do with pulling you, too.
16 The tide was roaring, you know.

17 So the day that I went out there and did have 16 cages on, it
18 was a flat calm day. It was beautiful. This was choppy. When
19 it's calm, the water can't come in the scuppers. Like I was
20 towing side to the wind. North/south is, what, 90 percent of your
21 -- because old south runs where I was fishing north/south. So 90
22 percent of the guys, you run north/south. And the wind was coming
23 more out of the northeast, I'm guessing. It was on the side of
24 the boat. And the waves, they were crashing right into it.

25 Q. Are there doors on the scuppers?

1 A. There is. Small doors, yep.

2 Q. Are they ever closed?

3 A. No, we normally don't shut them because that's dangerous.

4 The scuppers are made to let water out the boat, not to keep the
5 water in. So on any boat I've ever been on, the worse thing you
6 do is shut the scuppers, because if the water comes in, it's got
7 nowhere to go. They're there to let water out. You could have
8 shut them, but if they did get shut, the water would have stayed
9 right in the boat even more, you know. But I don't shut the
10 scuppers, never.

11 They're there -- most boats don't even have doors, they just
12 have a scupper. That's meant so water comes in, water goes out;
13 water comes in, water goes out. I've never -- a lot of the boats
14 I've been on don't have doors, but this particular boat did have
15 doors. And the scuppers were low. They weren't big scuppers that
16 I'm used to, but this is just how they designed this boat.

17 Q. Could you estimate the size?

18 A. Yeah, they were about 12½, 13 inches, maybe 7 inches high.
19 Which I'm used to about a foot and a half, 10, 12 inches high,
20 just to make sure the water gets out. But like I said, they
21 didn't have an issue with this boat. But they hadn't been fishing
22 with this crane on top of the boat for 10 years. This is
23 something new, and I don't know if that's an issue or not.

24 That's the only thing I can think of. Because I know the
25 waters very well. I'm a damn good captain. I take care of my

1 guys. I know the waters better than guys, other guys I know that
2 run clam boats. They don't even have a clue of what I know from
3 being on the ocean my whole life. I know what's going on, and
4 this boat shouldn't have went down because of that little bit of
5 water in that tank.

6 Q. Right.

7 A. And that's what I'm trying to get at, you know. I think
8 there was an issue with the stability on the boat. That's the
9 only issue I can think. You know, I've been on plenty of boats
10 and never came close to even sinking, and I've been out in some
11 serious weather. Danny Cohen's little boat, the *Silver Fox*, is 65
12 feet. I've caught millions of clams. I was catching more clams
13 in one season than the other captain did in two seasons, okay?
14 And I was out in some nasty weather.

15 All these big boats that Danny owns, the *Lori Ann*, all them,
16 they go home, and I could stay there in that little boat because
17 of a side rake. With a side rake, when you haul, it turns the
18 boat, comes up on the side. It's not taking you into steering the
19 boat, keeping it straight. It just spins right around, comes up,
20 pull it in. And when it's rough, you go fair wind.

21 Safety first was my thing. Like you can check and no one's
22 ever been hurt on any of Eric Arabian's clam boats, nobody.
23 Because I was always safety first. When I'd haul that little boat
24 back, I'd turn, put the wind at my stern, and then run the gear,
25 because that stabilized the boat. If there's no wind rocking you,

1 it's perfect. And I would stay out there and I'd get them. You
2 can ask anyone at Danny's clam plant. I was killing them on that
3 boat, and it was the smallest boat in the fleet. And never an
4 issue with anything about danger or flooding or anything.

5 And I believe it's still a safer boat than this one, and it's
6 smaller. But the clam tank is 4 feet. Water can come in them
7 scuppers all it wants, it ain't filling that tank. The only way
8 that tank's getting full is if you get a rouge wave and it comes
9 right into it, but that ain't gonna happen around here.

10 Q. I'd like to know a little bit more about how the boat is set
11 up. Would you be able to maybe draw another picture?

12 A. Yeah, I can do anything you'd like.

13 MR. BOWLING: I'll give you my pen. Larry Bowling with the
14 NTSB. I'm going to label this right now Witness 1. And, Captain,
15 this will be part of your transcript when you get a chance to look
16 at it. If you don't mind, just sign the bottom of that.

17 MR. ARABIAN: Yeah. That's a terrible picture, but --

18 MR. BOWLING: You're not being graded on artistic points, so
19 that's good. I'm going to -- this is going to be Witness No. 2.

20 MR. ARABIAN: No problem.

21 MR. BOWLING: And why don't you sketch on that. And keep
22 that pen. We'll leave this here. There you go.

23 BY [REDACTED]

24 Q. If you could draw the boat but at the level of the lazarette
25 and the tail shaft alley so that, you know, we're looking down on

1 those spaces to see how they connect. So just a profile of the
2 boat as though you're looking back, if you --

3 A. Do you want the side profile or the deck?

4 Q. No, just looking -- like if you were a bird looking down at
5 the boat.

6 A. Oh, yeah, so that's the deck.

7 Q. Like if you were looking through -- well, through the deck,
8 what are the spaces below there?

9 MR. BOWLING: The compartmentalization below the deck.

10 MR. ARABIAN: Oh.

11 By [REDACTED]

12 Q. Yeah.

13 A. Oh, okay. Okay, I gotcha. This is the deck. This is the
14 front of the boat. Forepeak. Engine room. Shaft alley is a
15 narrow alley hallway like this. In the back is the lazarette.
16 Just like that.

17 Q. How do you get from the lazarette to the --

18 A. On the shaft alley there's a catwalk.

19 Q. Is there a door or something?

20 A. Yep, there's a door right here. And there's a door right
21 here. And there's a door right here. This door always stays
22 shut. These ones right here, I don't usually shut them, like
23 especially this last trip, because I was up and down here, going
24 to the lazarette to bleed this thing every 20 minutes. Come down
25 the stairs, they're right here.

1 And there's a hole in -- this is the galley. This is all
2 galley up here. So you come down the stairs, the main engine's
3 here. You walk around it to the shaft alley door. And it's a
4 catwalk, like steel, like this thick, with spaces on it. And the
5 shaft's right under there. You see the shaft. And this boat had
6 a tunnel drive. Not like a Kort nozzle, but like -- it had a
7 tunnel. Like when you were coming down it, you had to walk up a
8 tunnel.

9 So where the prop was, it's almost in like a tunnel drive
10 boat, like a Penn Yan or a SeaCraft or something that the prop
11 gets up into the hull a little bit. And it goes uphill. So once
12 you get up to the shaft alley, it starts going up like this. And
13 if you're on the deck of the boat, it does the same thing. Once
14 you get past these clam tanks right here towards the stern, it's
15 all uphill from there to the ramp. So if you looked at the back
16 of the rails of the boat, the gunnels, they would go like this and
17 come up.

18 Q. In shaft alley is the shaft under the catwalk?

19 A. Yep, right underneath. You can see it. And that's how you
20 adjust the packing for the shaft drip, you know, make sure it's
21 just drip, drip, drip, a slow drip.

22 Q. As the tail shaft goes into the engine room --

23 A. To the pump engine room in the back?

24 Q. No, to the main engine room.

25 A. Yep.

1 Q. And the tail shaft connects to the engine --

2 A. Yeah, right to the reverse here, yep.

3 Q. -- how does it go through the bulkhead?

4 A. There's a hole there with a gasket. I'm not sure what --
5 because I never really inspected it, but I know there's a gasket
6 there in case the pump -- in case this took on some water, it
7 wouldn't get into the main engine. But it's like a little -- it
8 might even be a packing like on a stuffing box, a piece of packing
9 around the shaft where it's just rubbing on it a little bit
10 because the shaft is getting wet, you know, where the drip is,
11 keep it wet so it don't burn it out.

12 Q. Have you ever seen water come in from that penetration to the
13 engine room?

14 A. No. I've never had water in the boat.

15 Q. And the entrance to the tail shaft alley from the engine
16 room, which side of the engine room is that on?

17 A. It's right in the middle.

18 Q. Is it above the tail shaft coming into the engine room?

19 A. What do you mean by tail shaft? Say this is the main engine
20 right here, here's the shaft that comes off the transmission. It
21 goes through the wall right here.

22 Q. Right.

23 A. And then the shaft starts. You know, the shaft only goes a
24 little ways, then it goes into that tunnel so you don't see it no
25 more.

1 Q. And where is the door?

2 A. The door is right --

3 Q. Is it up higher than that shaft going through that bulkhead?

4 A. Oh, yeah, way higher.

5 Q. Okay. But they're in line?

6 A. Yeah, it's like the door is like right in the center of the
7 boat down in the engine room. Like directly behind the
8 transmission, the door is right there.

9 Q. Okay.

10 A. And it's right in line with the shaft. So if I open it up
11 and I look, the shaft is right in the center of that door. And at
12 the very back of the boat, to the lazarette, it's only a little
13 door, like small. I smash my head on it it's so small to get
14 through. But you can get through it. But, like, I've never seen
15 water in this boat. This boat does not leak water. Everything
16 has been dry. Never heard an alarm for high water, nothing.

17 Q. When you're in tail shaft alley, can you see under the clam
18 tanks?

19 A. No. No, it's blocked. It's like a wall. You know, shaft
20 alley is about this wide, and there's a wall and a wall. You
21 can't even see in there. There's no crawlspace that I could see
22 or even recognize, nothing. But there's never been an issue with
23 any water in there. The only water issue I've ever seen was going
24 to that port tank.

25 Q. When you noticed the list, was it light out?

1 A. No, it was dark already. It was dark, because I think the
2 boat went down around 6 or something like that. Put it this way:
3 From the time I seen water in there to the time it went down was
4 about 10 minutes. It was not long.

5 And I was telling the guys we shouldn't be going down because
6 there's only a little bit of water here. I was down in the engine
7 room 3 minutes before the boat went down. There was not a drip of
8 water in any of those compartments. And I'm saying, why? It just
9 don't make sense. It does not make sense. There's no water down
10 there at all and the boat's going to roll over. And that's why I
11 say there's a issue with the stability. I could see if there's
12 water in here; yeah, water inside a boat is your enemy. But there
13 was no water at all.

14 [REDACTED] Excuse me.

15 MR. ARABIAN: And out of all seven trips I've been, there was
16 never water in there. Never.

17 MR. BOWLING: While the [REDACTED] stepped away, Larry
18 Bowling with the NTSB. Captain, I'm going to ask you to -- I'm
19 going to put an arrow to the three spots -- or the four spots, the
20 compartmentalization on your sketch, Witness 2. And you've been
21 using a lot of terms. On this arrow that I'm pointing to --

22 MR. ARABIAN: Lazarette. You want me to put L?

23 MR. BOWLING: Just put L for lazarette.

24 MR. ARABIAN: Okay, L.

25 MR. BOWLING: Perfect. All right.

1 MR. ARABIAN: Shaft alley.

2 MR. BOWLING: All right. Just SA. Next --

3 MR. ARABIAN: Engine room, E.

4 MR. BOWLING: E.

5 MR. ARABIAN: Forepeak.

6 MR. BOWLING: Forepeak. Perfect. Thank you.

7 BY [REDACTED]

8 Q. What type of lighting is on the *Misty Blue* for the deck?

9 A. On the deck we had two big, like the old-style aluminum frame
10 rights. You know, they're pretty round, like this. They got like
11 an old lamp style that you would use for a work light but a giant
12 one. They weren't LEDs. They weren't up to date, you know. They
13 were fine, though. There was two like that up on the mast for the
14 deck, and then there was one LED up on top of the A-frame so you
15 could see the dredge.

16 And on the front of the superstructure there was another big
17 one. So if you were coming in somewhere, you could flip it on and
18 see the cans, which I had never used. But there was another big
19 one so you could see out in front of the boat, like the crab boats
20 use to see their pots coming and whatever. So if this boat was
21 ever looking for someone or someone went overboard, you'd flip
22 that light on. Instead of a spotlight, it was a big light that
23 would light up the water. And that's it for lights.

24 Q. And was that enough? Was that adequate lighting for the
25 work?

1 A. Yeah, it was fine. You can see real good on the boat.

2 Q. When you're hauling back the dredge, where do you do that
3 from?

4 A. Right in the wheelhouse.

5 Q. Are you facing forward?

6 A. I'm facing the stern of the boat on the starboard side.
7 There was a haul-back station right there. You could sit or
8 stand. Standing was a little harder to see, so you'd sit down.
9 I'd sit down and run the gear right there.

10 I had a camera right here. All these stern ramp boats have a
11 camera to watch your wire. There's an actual Y that goes out that
12 looks like this, that looks like this, goes in when you're towing.
13 And when you start hauling, you leave it in, leave it in. When
14 the wire gets close to the boat, because you're steering the wire
15 with the boat to get in the middle, then you go, okay, it's good,
16 Y out. There's a shift there that grabs the wire and keeps the
17 wire in that.

18 So as it's coming up, I'm watching the camera, and you watch
19 the winch. When you're a clam boat captain, you don't just watch
20 the camera. You're watching the winch, counting the wraps. You
21 know when the wire's here, the dredge is at the Y. When the Y is
22 here, you put the wire out -- the Y out, I mean. So you read the
23 winch when you're fishing. So I know three more wraps, the dredge
24 is going to be at the Y, and that's when you'd idle back and come
25 in nice and easy, you know. And that's where I'd haul it back,

1 right there.

2 When it comes into the Y, I shut the Y, bring it up, and you
3 just hold the haul back, it goes up. There's trip arms on it that
4 trips the door. The door dumps the clams, opens up the back of
5 the dredge, the clams go right in, into the hopper, which holds
6 the clams with a belt in there.

7 And then once that's done, you go down -- if it's rough, you
8 do the same thing fair tide, you turn around so it's safe. The
9 thing goes up. You don't leave it up there because the stability
10 of the boat goes. Dump it, get it down quick. And then what I
11 was doing when this all happened, I didn't mess around, it was
12 down, in the water, see you later. Set it in, start towing again.

13 And I was towing for a good hour and a half and didn't
14 realize that there was any water in there because the boat was not
15 listing. When I noticed it was listing, it was when I was
16 steaming back and not doing the fair tide tow. The only time I
17 noticed it was listing is when I was steaming without the gear in
18 the water. And that is because the towline is on the starboard
19 side, pulling down on that boat. All that weight of that dredge
20 and drag like you're dragging a car is pulling all on that side.
21 So you didn't know it was listing. The first steam up, I'm not
22 towing both ways and constantly fishing, is when I noticed it.

23 Q. When the dredge is up and out of the water, is there any
24 other equipment that is in the water?

25 A. Yep. The hose, full of water, which is a lot of drag, you

1 know. But that's nothing that's going to make the boat list, I
2 wouldn't think.

3 Q. And the hose is on what side of the dredge?

4 A. The hose is on the port side. And the water is off. You
5 shut the water off, so when I haul -- once I start hauling, the
6 guys -- there's a butterfly valve. The guys shut it so when the
7 dredge comes up it doesn't spray water all over the guys. It's
8 dry, up. Soon as I dump it, it starts to come down, they turn the
9 water on, boom, I set.

10 And there was no showing that this boat was listing until I
11 steamed up without the dredge in the water, without that towline
12 pulling on that port side, is when I noticed. So that thing had
13 been getting water splashed in for a hour and a half, or whatever
14 the time it was. Because I just left from the other spot and
15 steamed 2 miles to that spot and there was no list on the boat.
16 So all the list started from the time I got to that other spot.

17 Q. I just want to make sure. We've been talking for about an
18 hour. Are you still okay? Do you need a break?

19 A. I'm good. I just want to get this over. You can ask me
20 anything. I've told you basically all I know, but you can ask me
21 anything you want and I'll answer you.

22 Q. I'd like to find out a little bit more about your interaction
23 with the company. When you were hired on again, what was that
24 process?

25 A. I got a phone call from Chad Brayton that they wanted me to

1 run that because I had worked for the company before and I made
2 them lots of money and I did very well. And he called me up and
3 said if I was interested. And I came down there, met him, and he
4 says, I got a couple boats that you may be running. And I said, I
5 don't care which one, I need a job right now, I need to get back
6 to work.

7 Because I was going backwards going to Jersey. I was going
8 back and forth to Jersey. I got a Toyota Tundra. I blew my
9 engine going back and forth there. It's a 6½-hour ride. And I'm
10 saying, I'm going backwards. It cost me 6 grand to replace my
11 motor. I ain't making any money. So I went on the last trip, I
12 said, if I don't fill this boat this trip, I'm done. And that's
13 when I quit.

14 And then it was probably about a month later Chad called me
15 and I went down there and he said, I got a couple boats, are you
16 interested? I said, absolutely. I loved working for Danny. You
17 get paid no problem. Everything was great. When something needed
18 to be fixed, Danny was on it. There was no doubt about it. The
19 guy was not slouching on the boats, you know. But when I got on
20 it, I didn't like the clam tank. It was too low.

21 And I was told from Chad, once I get fishing and this boat
22 starts making money, anything I absolutely want they will do, no
23 questions asked. I'm the captain. Whatever I want, they do. And
24 I mentioned the tank, don't like how low it is. And he's like,
25 I've never been on it. He never ran the boat, you know. He never

1 ran the boat. And I didn't like it because the one time I did
2 have clams on the boat, I was steaming in through Vineyard Sound
3 and the water was coming in the tank and I had to pump it out.
4 Water shouldn't be getting in that tank. Absolutely not.

5 Q. Were you ever given any company policies or procedures of how
6 they want you to do things on the clam boat?

7 A. Nope. They just told me to go catch clams because they know
8 I've been doing this for 7½ years.

9 Q. Was there ever any training provided to you by the company?

10 A. When I first started clamming, I was trained by the
11 captains -- not the captains, the boat owners. Like Al Rancorelli
12 was part owner of the *Silver Fox*. They each owned half. Danny
13 Cohen owned half. So he took me out.

14 I did a hardwood floor for the guy. This is how it happened.
15 I ran this other boat, the *Miss Maegan*, it didn't catch clams. It
16 was terrible. Al's boats and Danny's boats for part owners were
17 murdering the clams. I'm right there beside the guys and we
18 couldn't catch nothing. So Al started to know who I was because I
19 was running this boat and he knew I did flooring for a living.
20 And the economy went to heck 8 years ago, 9 years ago. People
21 were living on their floors with nasty rugs and everything.
22 That's what I did for a living. And the economy went and no one
23 wanted anything. I had no work. I went from making big money to
24 no money.

25 So I said, I'm going to go on a clam boat, there's big money

1 to make. So I ran this *Miss Maegan* with the owner. We're both
2 captains. We were, like, both captains, you know, both. We both
3 ran the boat. There was no mate and we both split the money. It
4 was pretty cool. But we didn't catch much.

5 So Al owned the *Silver Fox* with Danny and he says, all right,
6 what do you think about fishing a real clam boat? I said, yeah,
7 that boat kills them. They were murdering them. I said,
8 absolutely. He says, you still do flooring? I said, I can do
9 flooring anytime. He said, I need hardwood in my dining room, my
10 kitchen, and my bathroom and the hallway, you interested? I said,
11 absolutely. He says, you do a good job, you'll be running the
12 *Silver Fox*. I said, just put me on it because this is what I do
13 for a living, that floor is going to be beautiful. So I did his
14 floor, took me 3, 4 days, by myself. I didn't pay anybody because
15 I needed the money. I got done, he was like, all right, let's go.

16 We went down the boat, he jumped on, we did two trips
17 together. He watched me run the boat. I murdered the clams. I
18 had a job for over 4 years catching -- that's how everybody knew
19 me, you know. Like I said, I was well known on the dock. It
20 wasn't I was well know, it's because of the amount of meat I was
21 putting over the dock. And I'd fish hard. I'd see my family a
22 day and a half a week and I was out there every day, you know.
23 But I was very good. You can ask anybody.

24 Put it this way: Anybody that worked on my boats said I was
25 the best captain they've ever fished with, the best. I don't

1 yell. Do your job, we catch our clams, we go home, we get paid.
2 I never yell. The only time I yelled was when these guys were
3 putting their suits on and I needed them out of the boat. That's
4 the only time I ever yelled. You can ask anybody that knows me
5 and that's what went on, on my boats. We got it done when we went
6 out there, and no one's ever got hurt, nothing.

7 Like I said, that *Silver Fox*, people are getting hurt like
8 crazy, heads squished and broken arms. I went out there, I was
9 told from somebody, don't go on that *Silver Fox*, it's a bad juju
10 boat. I said, it's not a bad juju boat, it's the captain that's
11 hurting everybody. And you can check the records on Danny's.
12 There's not one, not even a hurt finger, on my boats. This is the
13 only incident I've ever had on a clam boat, which shouldn't have
14 happened.

15 Q. Were there any maintenance records for the *Misty Blue*?

16 A. I've never seen anything. But when I was out there, every
17 boat I've got on, I look for stability. Every boat I've ever been
18 on, they have a book on how many cages the boat can hold and
19 everything. I looked for it and couldn't find it.

20 Q. Did you ever ask the company for it?

21 A. I didn't ask, no. But then after this happened, I should
22 have been asking, obviously. But I couldn't find one. All the
23 other boats I had, they had a binder with the stability tests,
24 what they did in the water with the weights and all that, and
25 showed how much it can hold and how much fuel it can hold and

1 everything. I didn't see nothing.

2 It wasn't an issue to me at the time because I've always been
3 fishing. You know, I said, oh, this -- I'm telling you, if you
4 went over to this boat and looked at it, she was gorgeous. She
5 just had a whole -- I don't know if they replaced steel or not,
6 but the whole thing was all repainted. The boat was older. The
7 galley was -- the boat was beautiful, other than the clam tank
8 didn't have combing around it.

9 (Cell phone ringing.)

10 MR. ARABIAN: I don't know if that's me or -- no, that's me.

11 BY [REDACTED]

12 Q. How did you know when maintenance was needed on the boat?

13 A. The only maintenance I did on the boat was change the oils on
14 the engines.

15 Q. What was that process?

16 A. Pumping out the oil, putting it in buckets and bringing it up
17 for the fuel guy to come pick up.

18 Q. How did you know when to do that?

19 A. By the hours on the motor.

20 Q. Was the --

21 A. I hadn't been running it that long, so somebody else had put
22 the hours on it, Doug or whoever it was that they got rid of. I
23 was just told it's time to do an oil change. And after that, I
24 recorded on my pay slip when I -- there was a catch report but not
25 the catch report that you send to the feds. I did that one, too,

1 but I had a catch report thing. They wanted to know how many
2 cages, what the water temperature was, who was with you, all this.
3 Then on the bottom it said engine hours, main, generator, pump.
4 And every time, I'd have a little book like -- not a real logbook
5 but like a book like something like this that I'd write in, okay,
6 we fished this many hours, this many hours on the pump engine,
7 this many on the generator. And we have a backup generator that I
8 don't run, so I'd put zero, because it's sitting there with fresh
9 oil and never been run. It's a backup one. And every time when
10 it gets to 300-and-something hours, you change the oil.

11 Q. How about drills, were drills conducted?

12 A. Not yet. I just got on the boat. They would have been,
13 though. Once a month we do them. I didn't hear anything about
14 that but, like I said, I just got on the boat. And the guys and I
15 have had tons of safety drills with Hercules, Rodney and Teddy.
16 They all know me well. If you were to talk to them, they know who
17 I am. They know I've been running boats. They're great guys and
18 they go over the safety drills once a month. I just hadn't been
19 there a month yet. And I'm sure it was coming, because that's
20 something mandatory now, they're doing it once a month. They were
21 doing it.

22 Q. Was it ever explained to you whose responsibility it was to
23 make sure that drills happened once a month?

24 A. No one said nothing to me about it. Like I said, I'd only
25 been on there for six trips. I've been there for 3 weeks, not

1 even a month. So I knew they were going to say, hey, safety
2 drill. The boat manager would always come over and say, hey,
3 safety drills next Friday at 9 o'clock. And I hadn't heard that
4 yet, but I know it was going to happen.

5 I know one of the survival suits wasn't up to date because he
6 had a little glow stick like my kid walks around on the shore.
7 Luckily, my suit had the light. And I was holding it just like a
8 microphone so that boat could see me, and I know they can see them
9 from 5 miles.

10 Q. Where were the immersion suits located?

11 A. They were right in the holders, like when you come into the
12 galley, they were right there. Everybody knew where they were.

13 Q. You were all together?

14 A. All together.

15 Q. What about lifejackets?

16 A. They were there too. It was like a cabinet of plywood like
17 that holds a suit, suit, suit, then life preservers. They were
18 all there.

19 Q. Did you ever have the crew try on the immersion suits?

20 A. On this particular boat, no. But they had been in them. My
21 guys have been in them a bunch of times. I already knew that they
22 could do it fast. Faster than me, tell you the truth. They were
23 quick. They were younger than me. They were skinnier than me.
24 They were quick. Colby had the record, like 18 seconds. He was
25 good. But he didn't panic, like I told you. He's messed up now

1 bad, but he listened. And when I got on that life raft with him,
2 he was hugging me and kissing me and keeping me warm. And he's
3 like, I don't know why those guys didn't leave. You must have
4 heard when he told you the story, you know. He didn't say nothing
5 different than I'm saying, I'm sure, because this is what
6 happened. And -- poor guy.

7 But he listened to me. The other guys didn't. And I wasn't
8 losing my life to go in there. I knew that boat was going down
9 and I jumped up without -- I went in the water without my suit on
10 because I knew we were going down. And I screamed at those guys,
11 swearing, everything. They would not get up. They wouldn't get
12 up. And I knew it was seconds that this boat was going down. I
13 couldn't go back.

14 I feel so bad. I listen to the news and the woman's like,
15 oh, my kid -- because Mikey's 50 years old. They keep saying he's
16 44 and stuff. He's 50 years old. He's got kids with babies and
17 granddaughters and stuff and it's like, oh. I wanted to cry. I
18 want to go talk to them, but I don't have the courage to go talk
19 to them and let them know exact -- I would have saved them if I
20 could have. I went from survival mode of saving the crew to
21 saving my own life, is what I did. If I went back in that boat,
22 you wouldn't be talking to me right now.

23 It was so quick and they weren't listening to me. I'm
24 telling you, I was screaming, screaming. They were right there.
25 I could see their feet, one of them. They wouldn't come out. And

1 they seen me, I stood up and I said, get out the boat, with my
2 suit not on. And they looked at me and put their head back down.
3 I was screaming at them. I probably should have choked them and
4 dragged them, but they were -- I don't know what to say, man. It
5 was scary, it was dramatic, it was no time.

6 This boat sunk with no water in the hull faster than I've
7 seen anything, like on TV or on my phone. I've watched disasters
8 on these boats and going out to reefs and sinking them for fishing
9 areas. They go down slow. This thing, gone, with no water in it.
10 That's what amazed me, when I went down there and didn't see any
11 water and this boat's getting worse and worse and worse. It
12 should not have got worse and worse. No way, not in my eyes.

13 I don't know about your eyes, but no water in the bilge is a
14 safe boat. Water on a deck shouldn't sink you. The stability
15 goes as it fills with water, and it was not full. You know, I
16 learned all about that displacement and that's how the boat floats
17 and all. I know the waters, I know the boats, and everything I
18 seen, that boat shouldn't have sunk. Everything I seen.

19 And I'm telling the guys before we sank, we're not going to
20 go down, there's no way. And I'm looking at it get worse. I
21 said, it's going down, get your suits on, let's get out. And
22 that's when they -- when I -- I don't know how I should have said
23 it, because when I said that, that's when the panic went. The
24 boat's going down. I figured we were going to steam and steam and
25 steam and the boat would stay up.

1 Q. Right.

2 A. It was listing more and more and more and more. And it
3 should have been just a stable list. No way. It went, which
4 don't make sense to me. No water in the bilge, no water in the
5 lazarette, no water in the shaft alley, dry boat, tank full of
6 water, and a little water on the deck. Gone.

7 Q. I just have a couple more questions.

8 A. Yeah.

9 Q. Do you know what size immersion suits were on board?

10 A. Extra large and one jumbo, I believe. The same as they
11 should be.

12 Q. Okay. How about on the radio, do you have a button that it
13 calls, like, Mayday?

14 A. I believe I do. But I didn't have time for that. I called
15 the closest vessel. With experience, I knew that these guys are
16 going to be way closer than even a helicopter. That boat got to
17 us before anybody. Because I believe the *Enterprise* put out a
18 Mayday call for us. And I was already on the *Enterprise* before
19 Coast Guard was even anywhere near, or the helicopter. And I knew
20 our best chance for survival was call the nearest boat I knew.
21 They were 2 miles. And that's what I did. If I called the Coast
22 Guard, I would have been wasting time. You know, these guys are
23 right here. And I've learned by the safety drills the Coast Guard
24 is good to call, but if you don't got time, you call the closest
25 boat to you. And that's what I did.

1 Q. Right.

2 A. And I might have died, because I was freezing to death. I
3 was in that raft soaking wet, freezing, with Colby holding me to
4 keep me warm, for about a half hour. And I was freezing my -- I
5 couldn't feel my hand when I got on the boat. It was numb.

6 Q. Where was the EPIRB located on the boat?

7 A. EPIRB was on the ceiling.

8 Q. On the top of the pilothouse?

9 A. Yep. Yep. The same with the raft. They all ejected fine.
10 I didn't have time to throw the raft or throw the EPIRB. My
11 concern was get the guys off the boat.

12 [REDACTED] Okay, thanks. I don't have any more
13 questions at the moment.

14 MR. BOWLING: Sector, do you think you'll have -- do you have
15 questions?

16 [REDACTED] Just a few.

17 MR. ARABIAN: Yeah, no problem.

18 MR. BOWLING: All right. Counsel, are you anticipating
19 having any questions that will need to be screened by the Coast
20 Guard, or where are you at?

21 MR. McEWING: I may have a couple to share with you at a
22 break, yeah.

23 MR. BOWLING: Okay. Ma'am, may I make a recommendation that
24 we go offline and I can hear about flooring, let the Captain have
25 a smoke, we'll make a head break, and then we'll reconvene. And

1 it may give you, Coast Guard personnel, some time to get with
2 counsel and see exactly what subject areas he wants to go to. And
3 then we'll reconvene and go back on the record and wrap it up.

4 [REDACTED] Sounds good.

5 MR. BOWLING: Captain, that okay with you?

6 MR. ARABIAN: I could use a cigarette.

7 MR. BOWLING: All right.

8 MR. ARABIAN: Bad habit. I got to quit.

9 MR. BOWLING: At this point we'll just pause the tape.

10 (Off the record.)

11 (On the record.)

12 MR. BOWLING: All right. This is Larry Bowling with the
13 NTSB. The witness and all parties are present. The Coast Guard
14 lead investigator had the floor.

15 Ma'am, were you done with your lines of questions?

16 [REDACTED] All set. Thank you.

17 MR. BOWLING: Okay. Sector?

18 BY [REDACTED]

19 Q. Okay. So, again, my name is [REDACTED]

20 A. Yep.

21 Q. While you're -- this picture that's out, you said the
22 outriggers look the same as the *Misty Blue*?

23 A. Yep.

24 Q. So this picture, it's called the *Harvester* in the background
25 there. This I pulled from our files here. I believe -- is this

1 the *Misty Blue*?

2 A. No.

3 Q. It's not?

4 A. Not that I know of. I don't know if that's what it was
5 called back in the day. I don't know.

6 Q. Okay. But looking at the boat, you don't believe it's the
7 *Misty Blue*?

8 A. I don't know. It's very similar. That very well could be
9 the boat.

10 Q. Okay.

11 A. A different color. That looks like the boat, yes. That is
12 the boat probably.

13 Q. Okay.

14 A. Okay. Now see right here? See, this is the superstructure.
15 The crane is right here.

16 Q. If you can just go ahead and mark on there.

17 A. The knuckle boom is right here. It's got a big platform on
18 the bottom of the swivel and it's got a arm right here to move,
19 and it's slightly offset to port side of the center of the boat.
20 That's probably the boat.

21 Q. And I'm just going to --

22 A. That's not a clam boat there. It looks like it's a longliner
23 or something, but --

24 MR. BOWLING: And for the record, the [REDACTED] and the
25 witness are putting together -- it's an image that was downloaded

1 from the Coast Guard MISLE database and it is a photo of the
2 vessel when it was named the *Harvester*.

3 MR. ARABIAN: So it is it.

4 MR. BOWLING: Stern looking forward on the starboard side.
5 And the witness has drawn a structure, a crane, and is going to
6 identify that on the photo for us.

7 BY [REDACTED]

8 Q. And then you can just sign the bottom there.

9 A. Yep, that's the boat. When you paint it, it looks a lot
10 different, and put an A-frame on the back of it. I've never seen
11 a boat that small with an A-frame on the back of it, but it worked
12 for 10 years or whatever it was.

13 Q. Okay. So just a few follow-up questions for me. As far as
14 your relationship with the company, how did you decide when the
15 *Misty Blue* was going to go fishing?

16 A. Well, that was my choice.

17 Q. It was your decision?

18 A. Yep. I looked at the weather, and when the weather's good --
19 I didn't like to fish that boat much over 4-foot waves. Anything
20 over 4-foot, I didn't want to be on that boat out there.

21 Q. Okay.

22 A. And I let the boat manager know that anything more than
23 that -- and I talked to Jimmy Stark and he said, absolutely, it's
24 a little boat. That's okay, he's like, you go when you know it's
25 a go. And that's what -- I'd look at the weather; 3- to 4-foot,

1 4-foot to 5 is about the limit. And they never had any issue.
2 They never said, why ain't you fishing? Never in the time I had
3 that boat. I looked at the weather and Chad would say, what do
4 you think of the weather? I said, it's looking like Tuesday.
5 He's like, absolutely. You know, I knew when to go and when not
6 to go. Because it's only a 69-footer. I'm used to running 80-
7 footers or better, which is a lot more boat.

8 Q. So you didn't perceive any pressure from the company?

9 A. Nope. They were cool. They were a great company to work
10 for. And the main reason is when you needed something fixed or
11 you needed anything, you just ask and you got. And that was a
12 good thing.

13 Q. In your month or so with the *Misty Blue*, did you ask for
14 anything?

15 A. I asked for some rope, that's about it. You know, that's
16 about all I needed. And the rope is to -- when you're done
17 fishing, you pull the hose back with a capsule head, and then you
18 tie it to the dredge, and that's the rope. So every time you do
19 it, you cut the rope and you throw it out. So I needed a roll of
20 rope. That's about it.

21 Q. But you were also aware of the -- I'm going to call it the
22 clam pump, the fuel problem where --

23 A. I wasn't aware of it when I first went, but then I had an
24 issue.

25 Q. Okay.

1 A. And they were worried about the last guy that ran it may have
2 sabotaged the boat, so -- because he got fired and he wasn't too
3 happy. This was his father-in-law's boat. His father-in-law was
4 John. And when I ran the *Silver Fox*, this guy was all over me
5 because I was on the clams. And I'd have to call him on the radio
6 and say, on a side rig you haul back to the side, so starboard
7 side.

8 And that's another thing about this boat. I'm so used to
9 turning starboard all the time because a side rig is -- every one
10 of them I've ever seen is on the starboard. So you don't turn
11 port because you can get the gear in the wheel. So since I've
12 been running boats, it's starboard turn. I don't care where I am,
13 starboard turn, starboard turn. And that's what I'm doing on this
14 boat. And I didn't realize the thing had an issue on the port
15 side that I wasn't aware of. Me turning starboard was letting the
16 scuppers spray water in the boat, was not known, you know. I
17 didn't know this.

18 Q. What was the -- who was the master before you? Do you know
19 his name?

20 A. Doug was running it before me.

21 Q. Doug.

22 A. I don't know his last name. He was a good guy, but they got
23 rid of him because he was taking forever to fill the boat and all
24 this. So they wanted someone that can fill the boat. So I took
25 the boat. But like I said, the only couple issues I had was the

1 combing on the clam tank, didn't like it. And other than that, it
2 seemed to be okay until I seen what happened.

3 Q. Also, as far as company policy, are you aware of any company
4 like chemical testing or drug-testing policy?

5 A. Oh, yeah. Yep.

6 Q. Okay. Were you tested prior to your employment?

7 A. I wasn't tested. I don't do drugs, you know. I've smoked a
8 joint here and there, but like -- it's legal here. But that's
9 all. I've never done a serious drug in my life, you know. I've
10 had buddies that did, but I don't. I've never done Percocets or
11 any of that crazy stuff, cocaine, nothing. I've been clean my
12 whole life.

13 Q. But the company did have a policy?

14 A. They did. But Chad knew me and he knows I've been running
15 boats and I'm straight. When he talks to you, he looks you right
16 in the eye, and if you're messed up, he knows. And he says to me,
17 Eric, we got to do a drug test. And I looked right at him and I
18 said, no problem. He goes, you don't need a drug test, I know
19 you. He's known me for 7 years, Chad, you know. I didn't do a
20 drug test. But I did do a drug test when we came in.

21 Q. Sure.

22 A. You know? But like I said, I might have smoked a joint with
23 my friends 7, 8 days before this accident, you know. But -- I'm
24 not going to lie to you. I have nothing to lie about.

25 Q. Sure. Okay. I noticed that your phone rang earlier.

1 A. Yeah.

2 Q. Is that a new phone?

3 A. This is my old phone that I had to call up and get a number
4 switched to it.

5 Q. Okay. Do you happen to have any pictures, recent pictures of
6 the *Misty Blue*?

7 A. They're all on the other phone, down the bottom. I have it
8 on the news that you could see it, because I taped every one of
9 them.

10 Q. I'm not very technologically savvy, but are they -- I know
11 that, you know, photos can go to the iCloud or Google Photos or
12 something.

13 A. I never sent them to nobody. I just had them in my phone and
14 said, oh, this is the boat I'm running. And it was never the
15 inside of the boat. It was just the boat at the dock with the
16 brand-new paint job, looking good. Because before Danny owned it,
17 the boat looked like a piece of junk. And if you looked at the
18 news, they had a light blue, because the boat used to be light
19 blue, and it looked like a piece of junk, okay?

20 When I was running the *Silver Fox*, that piece of junk was on
21 the side of me, I'm saying, look at this piece of shit. And they
22 painted it. It's a boo-boo patch. You know, you can make a piece
23 of junk look brand-new. But this boat seemed sound to me. If
24 there was an issue -- the shipyard, they go around and they bang
25 everything, make sure the hull's the right thickness. I don't

1 know what they did, I didn't ask, but the boat come back looking
2 like a million dollars. I'm telling you, when I went up to this
3 boat, I said, holy cow, this is the *Misty Blue*? This thing's
4 beautiful. It was gorgeous. But that doesn't mean nothing.
5 Paint covers a lot of stuff. You know, people go put vinyl siding
6 on a house; they're just covering up the shit hole. Right?

7 But the boat seemed good to me. I have nothing bad to say
8 about the boat other than I didn't like how the thing listed with
9 this little bit of water, which isn't right. I was not scared
10 when I seen that. And I told the guys don't be scared because
11 we're not going down. And then it got worse and worse, with the
12 same amount of water in the boat. It don't make sense to me.

13 Q. The clam tanks, could you -- do you know the size of them
14 offhand, or could you estimate it?

15 A. Well, the cage is about 3-foot wide -- 6-foot wide by 12
16 feet.

17 Q. You would estimate 6 by 12 to be the size of the clam tank?

18 A. Um-hum. On each side. They were exactly the same distance
19 off the rail, you know. They were exact.

20 Q. So it was symmetrical?

21 A. Yep.

22 Q. Okay. When you -- if I understand correctly, I know you
23 didn't like the 6-inch combing around the tanks, and you
24 verbalized that to someone?

25 A. Um-hum. Yep.

1 Q. Who did you say that to?

2 A. I talked to the deckhand. Well, actually -- yeah, he works
3 on the *Enterprise* and his name is Roman. He works on deck on
4 there and he's from Ukraine. He don't know much, but I told him,
5 I said, what's up with this? He goes, whatever you need, tell
6 Chad, he'll fix.

7 Q. And did you tell Chad?

8 A. I'm not sure if I told him. He told me that once the boat
9 starts making money, because it hadn't made money in a while --
10 it's been at the shipyard out of fishing for 11 months, I think
11 they might have told you. It was a long time that they worked on
12 this boat. And he says, let's get clams on this boat and then
13 we'll fix anything. Go out there, get a full trip, come in,
14 they'll fix anything on the boat.

15 Prove -- I needed -- they wanted kind of me to prove that I
16 can catch clams on this particular boat, because this particular
17 boat wasn't a good clam boat for catching clams. I would go out
18 there on that little boat, fill that boat, 16 cages, right? The
19 same amount of cages as this boat but smaller. Go into Hyannis,
20 unload, come back, get like 14 more, and that *Misty Blue* was still
21 fishing.

22 And it's got a totally different pump than any other clam
23 boat I've ever been on, the actual clam pump itself that goes to
24 the motor. It was an end-suction pump not a split-case pump. And
25 I'm a firm believer that every clam boat out there that I know has

1 got a split-case pump. This one had a different pump, and that's
2 why I believe it took a little more time to catch these clams.
3 It's not as efficient as other pumps. A in-line pump catches by
4 water pressure and a split-case pump works by water volume.

5 Q. And this one had the pressure?

6 A. Yep. So I never liked the boat because it didn't catch the
7 clams as good. Because I would watch the guy out there on my tow
8 and get them and come back and he's still on my tow, and I'd catch
9 like 13 more before he'd leave. So it was taking a long time to
10 fill the boat. And that was another thing about me running it,
11 but at the time, I quit the other boat and this was my next
12 option.

13 And they were talking about me running this one and then
14 moving up to the *Enterprise*. But I'm like, now we're talking a
15 clam boat, you know? It's a much bigger boat, much bigger dredge,
16 33 cages. That's a big money boat. So I was told through the
17 grapevine that if I get this boat going, then I can move up to the
18 other boat. So I said, I'm happy; I'll go work this boat until
19 it's time to get on the mother ship, you know. And that's where I
20 was going with it. You know, I'll work on that one until it's
21 time, or if somebody offers me another boat.

22 Like, I ran the *New Sea Rover* for Sea Watcher and I was
23 killing on that boat. Chad would call me on the radio, because he
24 was running the *Mandy* [REDACTED] at the time, before he started working
25 with Danny. I was the high-liner out there. He's like, jeez,

1 Eric, you're the high-liner out here with that boat, fishy boat.
2 The boat caught no matter where you dropped it in.

3 And Scott Nolan and Max Nolan owned the *Goody Hallet*, right?
4 And they were trying -- they were managing the *New Sea Rover*. And
5 Al fired me and I said, you know what, I'm not even clamming
6 anymore. Then I realized my bank account's dropping, dropping,
7 dropping, and I said, okay, I want to work. And they got me on
8 the *New Sea Rover*. So they got me the job. I ran that boat for 7
9 months. I think I made 110 grand in 7 months. I was killing it.
10 You can ask Chad. Chad called me, he was like, you're the high-
11 liner up here. The boat was phenomenal.

12 So I quit that boat because Scott Nolan and Max got me the
13 job and Max is my buddy, and they got a boat from John Kelleher
14 called the *Captain Frank*, which was 96-foot. My brother had
15 passed away on the ocean 2001. His name was Frank. And I got the
16 option to run this boat called the *Captain Frank* and I'm like, is
17 this a blessing in the sky? It is a huge boat, 120-inch dredge,
18 32 cages. I'm like -- so I quit the *Sea Rover*. And then I got on
19 the *Captain Frank* and the boat couldn't catch any clams. Could
20 not -- I'd go to the same spots, would not catch.

21 So I lost my job on the best boat I've ever been on to keep
22 my word with my buddy and his father. Because they got me the job
23 and they bought this other boat, were buying this boat, and they
24 knew how good I was catching clams, so they wanted me to run that.
25 So I quit the other job. Now Sea Watch doesn't like me because I

1 quit the job, and I should have stayed there. But I know how to
2 clam. I know the water. I know everything. And there was an
3 issue.

4 Q. Okay. I just want to talk about when you went down to try
5 and -- you mentioned you wanted to put water in the starboard --

6 A. Uh-huh.

7 Q. The Pacer pump itself, were you able to get it up and
8 running?

9 A. No. No. I didn't have enough time to.

10 Q. Okay.

11 A. I had about 10 minutes and, like I said, they're finicky.
12 And a Pacer pump is a surround pump and it comes from the
13 seawater. On the top of a Pacer pump there's a little wing nut,
14 almost like on a lawn mower that you check the oil. You open that
15 up and you put the freshwater pump on that's right here. It's all
16 set up pretty nice. Flip the lever up, and there was a valve
17 right here you opened so it would come from the valve to get to
18 it.

19 I opened the valve and I opened the bleeder, and you could
20 hear the air come out, shhh, and you hold it, hold it, until water
21 starts coming out. Shut the valve, leave the pump on, shut this
22 valve so it can't back feed, shut that, open up the seawater, go
23 turn on the pump. It would not work. I tried five times, would
24 not work. But like I said, sometimes it takes a minute. I don't
25 have a minute, so I wasn't waiting. And it wouldn't come on. So

1 I'd run down, bleed it again, bleed it again. I never got the
2 thing going.

3 Which I don't know if it would have mattered, but I was
4 trying, I was trying to upright this boat by filling the other
5 tank with a 1½-inch hose. I was trying to do the best I could.
6 Even if I got it running, it probably would have sunk anyway,
7 because a 1½-inch hose to fill that 200-and-something gallons
8 would have taken an hour, it would have taken an hour to do it.
9 But I was trying. I was trying to save the boat.

10 Q. Sure. For the purposes just of keeping a timeline, could you
11 estimate how long you -- you tried five times. Does it take a
12 minute to try?

13 A. It was about 7 minutes.

14 Q. Seven.

15 A. I was in the hold trying to do this 3 minutes before the boat
16 sank. I came up and the boat was listing hard and I said that's
17 the last time I'm trying, get the suits on, we're getting out.

18 Q. Okay. And I --

19 A. And like I said, there was no water in there, none at all.
20 So the hull, actual deck was not leaking down into anywhere. It
21 was dry. No alarms going off, no nothing.

22 Q. Okay. And referring back to the Witness No. 1 diagram here
23 and the doors we mentioned --

24 A. In the engine room?

25 Q. Sure. So there's doors between --

1 A. Every compartment.

2 Q. The forepeak and the engine room.

3 A. Yep.

4 Q. And then one between the engine room and shaft alley.

5 A. Shaft alley.

6 Q. And one between the lazarette.

7 A. Yep. Yep.

8 Q. I believe you mentioned that two of them you normally just
9 left open because you were running to check the Racor?

10 A. Yeah, normally, I would probably leave the shaft alley open
11 and shut the lazarette. And the forepeak always stays shut. But
12 the forepeak was in no way watertight, because it really -- you
13 know what I mean, it would stay closed just so there was no noise
14 coming up into the -- in the wheelhouse, you didn't hear all the
15 engine noise.

16 But it wasn't a watertight door. It was a steel door, but it
17 wasn't tight, you know what I mean? It was just closing it to
18 knock off some of the sound from the engines to the wheelhouse.
19 I've been on some boats that the wheelhouse is very noisy.
20 Because the engines aren't in the back like the other boats I've
21 been on. They were right underneath the galley.

22 Like even the galley door was shut because the water was --
23 it had a seal and the water was still getting in it. It slowed it
24 down, but it was still getting in. And that's just before the
25 boat went down, like when I was screaming at the guys when I went

1 and looked out the back. I could see water coming in the door and
2 I said it's time to go and I screamed at those guys. I should
3 have grabbed them by his neck and ripped them to the door, but I
4 tried the best I could.

5 Q. And then I think this is my final question here. You
6 mentioned that you brought up the --

7 A. The bird.

8 Q. -- the port bird and outrigger, right?

9 A. Yep. I didn't bring it up all the way. I didn't have time
10 to. We pulled the bird up and partway up on the outrigger.

11 Q. Okay. Do you remember if the starboard outrigger was still
12 out?

13 A. Yep, and the bird was in.

14 Q. And the bird was in. Okay.

15 A. Yep. If we would have lifted it out, we would have rolled
16 instantly.

17 Q. Okay. And finally, when the boat sank, it keeled over, so it
18 keeled over to port?

19 A. Yep. What happened is I was outside with Colby screaming at
20 these guys and I knew it was going to go because it was getting
21 more, more and more higher on the starboard side, because I
22 couldn't see over there anymore. I was on that side. I could see
23 the boat was coming up higher, higher, and I was screaming to
24 those guys. And the boat violently, I mean violently smashed to
25 the port side.

1 So I'm holding on the rail. The boat is upside down. The
2 boat's upside down, bow up. The ass end went down, stern went
3 down. So I'm looking at -- when I'm holding it, the stern's here,
4 upside down. It was to my right. It went down, the lights went
5 off. I didn't see any light anymore. There was no light at all
6 anymore, it's dark, with the moonlight.

7 The stern went down, the boat's upside down, bow went up.
8 I'm saying, yep, I'm going to stay here as long as I can. I was
9 taught by these seminars stay with the boat as long as possible.
10 And the guys were in there. I was not letting go and I was hoping
11 I'd see them any second. And that damn boat went down (snaps
12 fingers) ass down, bow up (snaps fingers), gone. I'm talking 30
13 seconds, not even, that I had that boat. Voomp, voomp, gone. I
14 expected that bow of that boat to float for at least 3, 4 or 5
15 minutes. No, gone instantly. It was like a knife. Gone.

16 And that's when something grabbed me and dragged me down
17 towards the bottom, because I was trying to stay with the boat and
18 with the guys. You know, if the guys were obviously out the boat,
19 we would have jumped off the boat and gotten away from it, but my
20 guys were still in that boat and I was hoping to god that they'd
21 come to the door when it went up like this. But they might have
22 been knocked out when that boat rolled, because it rolled hard.
23 That starboard outrigger smashed the water. I was on it, on the
24 side of the boat. It smashed the water on the other side so --
25 break a boat in half it was so hard.

1 So they might have got beat up right there when that did
2 that. Because me and Colby -- well, Colby started to go towards
3 the boat and he let go; he was gone. But me, I almost went -- he
4 says he almost went in the door, but I don't know if he did
5 because I was there. He was on the side of me. When it violently
6 smashed, he was gone. He had already flopped off backwards. And
7 he's like, oh, I almost went in the door and I'm thinking, jeez,
8 how did you almost go in the -- I was right there. I was the one
9 that almost went back into the boat, but I held on with my arms --
10 with my elbows like that.

11 But it violently rolled and went down super duper quick. I
12 really thought the guys were going to come to the door, but they
13 didn't. It was too fast. There was no way. It was way too fast.

14 █ █ Thank you. That concludes my questioning.

15 MR. BOWLING: Thank you, █

16 Party in interest, Mr. McEwing from Reeves & McEwing, do you
17 have questions, sir?

18 MR. McEWING: No, sir.

19 BY MR. BOWLING:

20 Q. Okay. Captain, bear with us. We're getting very close.
21 We're going to come back -- I want to go back, get a few things --

22 A. That's fine.

23 Q. -- cleared on the record. You were talking earlier, I think
24 when I was in my first round, about -- you were using the term
25 suits. You were referring to survival suits, correct?

1 A. Yes. Yep.

2 Q. Okay. And somewhere along there you had indicated -- you
3 used the term knew, as in they knew where the suits were.

4 A. Where the suits were, yep.

5 Q. How did you know that or how did you determine that?

6 A. Because as soon as I got on the boat I said there's the
7 suits. That's the first thing I do anybody comes on the boat.
8 Survival suits are the most important thing on a boat, in my eyes.
9 You need to know where they are.

10 Q. And did you specifically do that with Colby?

11 A. Yep. Colby seen it, yep. As soon as he walked in, he asked
12 me. Colby asked me when he got there where's the suits. I said
13 right there.

14 Q. Okay.

15 A. They were all stacked in a nice shelf right there.

16 Q. What about John?

17 A. John knew where they were, too. He had already been on the
18 boat for six trips.

19 Q. All right. And Mike?

20 A. Mike knew where they were. He had been on the boat for 5
21 years.

22 Q. Okay.

23 A. He was telling me things about the boat. Like when the boat
24 filled up with water in that tank, I said, Mike, have you ever
25 seen anything like this? He's like, no. I've been on this boat

1 for 4 or 5 years, he was telling me. Have you ever seen this boat
2 list like this or get water in that tank? No.

3 Q. And another clarification, you were describing bilge pumps
4 and you used the term foot. Were you referring to a float switch?

5 A. Yep, float switch.

6 Q. Float switch.

7 A. Built-in float.

8 Q. Okay. Gotcha.

9 A. Automatic.

10 Q. AIS, tell me what was going with the AIS. Did you have the
11 AIS output?

12 A. That's one thing I do on the AIS, I never shut it off. All
13 these other clam boat captains shut it off. So when I'm out
14 there, if they turn theirs on, I'm the only one they're picking
15 up. Not one of them have them on. Do you know why?

16 Q. Why?

17 A. Because I had a sweet laptop on my boat, it was a MaxSea.
18 They changed it to TIMEZERO. If they have the AIS on, I can
19 double click on them to the right and I can get their tow, get
20 their tow right where they're fishing. It puts a track line right
21 on my computer back and forth the whole time until I shut it off.
22 And so these guys do not want you knowing -- even though they work
23 for the same company, they don't want you to know. I'm telling
24 you. I've been out there clamming a lot of years. They all shut
25 them off.

1 *Mariette, Enterprise, Lori Ann*, every single one of them,
2 when they get to the fishing grounds -- say I'm there first, I
3 have mine on all the time because I don't want to get run over by
4 somebody. And I see them coming, they get about a mile from the
5 spot, boomp, it shuts off. I can't even shut mine off. I don't
6 even know how to. But they shut them off.

7 I just knew they were there because I had been fishing and I
8 knew there was four boats: the *Lauren*, the *Enterprise*, the
9 *Mariette*, and the *Lori Ann*. They were all within 2½ miles of me.
10 And I just knew they were there because I see them, you know, but
11 not one of them had their AIS on.

12 Q. How confident are you that the *Misty Blue* was broadcasting
13 AIS on the accident voyage?

14 A. It says it right on my GPS. It shows it, *Misty Blue*.

15 Q. Okay. And just lay out the bridge for me with regard to the
16 navigation gear and the radios and so forth. How's the vessel --
17 the wheelhouse equipped?

18 A. It's equipped pretty well. It's got two radios, two radars,
19 four GPSes, plotters, stereo system. About it.

20 Q. And for navigation --

21 A. It had -- put it this way. Out of all the clam boats I've
22 been on, it had the most GPSes I've ever seen on one. And I was
23 even thinking about putting my own, because I have all my tows in
24 my own GPS. And I'm glad I didn't do it because I wouldn't have
25 it right now. That thing cost me 3300. It's in my own boat. I

1 have my own boat sitting in front of my house right now that I
2 fish any chance that I can.

3 Q. For navigation, are you --

4 A. Oh, autopilot we had. I didn't say that.

5 Q. What are you using for navigation, though? Is it a chart
6 device, electronic chart device?

7 A. It was a Furuno NavNet system that most boats have. It's got
8 chart plotter, radar, sounder. We had sounders, too, two of them.

9 Q. Okay.

10 A. It had everything.

11 Q. Okay.

12 A. There was no issues with anything other than the boat listing
13 like that. It was all nice shit. It was -- I'm sorry. It was
14 all nice stuff on this boat. There was no slouching involved in
15 this boat when it come to electronics. And I told them I wanted
16 this laptop, TIMEZERO. I don't know what it cost Danny. I asked
17 for it, the next day it was put on the boat. There was no issues.

18 Q. When you first started telling us about the crane that you
19 observed on the wheelhouse --

20 A. Yep, I noticed that when I first got on the boat. I'm
21 saying, huh, they put the knuckle -- I know where it came from. A
22 buddy of mine that used to own a boat called the *Mystic Light*,
23 which borrowed money off of Danny, he had this boat, it was called
24 the *Mystic Light*. His name was Billy, Billy Rabelo (ph.). And he
25 kind of taught me how to catch clams, too, because he did a trip

1 with me, too.

2 And he used to have a wooden boat called *Northern* -- I can't
3 even remember it. Something or other, and he needed to buy a new
4 boat because it was a wooden boat and it was a piece of junk. And
5 he was working for Danny and I guess he was chummy with Danny,
6 because Danny lent him the money to get this *Mystic Light*. And it
7 had this knuckle boom on it, and it was on the side of the boat,
8 flush with the boat. It wasn't upraised or nothing; it was on the
9 deck itself. And that was on the port aft corner of the boat.

10 And he was out catching clams and I guess he was screwing
11 Danny or something, not giving him the clams. And Danny
12 repossessed the boat and put a blue tag on it, or red tag,
13 whatever they do, red-tagged it or whatever, and got the boat
14 back.

15 And they were fixing that boat up and I actually wanted to
16 run that boat. I talked to Jimmy Stock, I said, man, I'd love to
17 run that boat, because it was a 68-footer but way bigger than this
18 thing. It sits way out of the water, drafts 11 feet of water.
19 This drafts 6. It was a real beefy boat. And he said, oh, that's
20 going to be the best side-rigged boat ever, and they were working
21 on it. But then it ended up coming to be like 500,000 to make
22 this boat work. So they stopped and they took the crane off it
23 and they put it on this one.

24 Q. And that leads me to my next question. You've used the term
25 several times "they." When you say they, who are you referring

1 to?

2 A. I'm guessing the guys in the yard.

3 Q. The yard? Which yard?

4 A. The ship -- Danny Cohen -- Linberg's yard where they keep the
5 boats. They have their own welders that come in there, and
6 fabricators, and I'm guessing they did it there. I don't know.

7 Q. Okay.

8 A. I was in New Jersey for 7 months. But that boat never had
9 that on there. When I came back, I loved it because I'm going
10 into Hyannis. I'm going to save so much time and get more trips
11 and make more money. But it was a weight issue, no doubt in my
12 mind.

13 Q. What was the dredge size?

14 A. A 75-inch knife.

15 Q. A 75-inch knife.

16 A. So the knife is what you catch off of. So you're capable of
17 catching clams in 75 inches. And then the shoes, it was probably
18 100 inches with everything.

19 Q. Do you know an approximate weight on that?

20 A. Uh-uh.

21 Q. Okay.

22 A. I'm guessing 3 ton at least. Because the little ones, the 48
23 on the little boat I was running weighed about 5200 pounds, and
24 this was two of them.

25 Q. Okay. And this is my last question, Captain. You talk about

1 the last guy that ran it, who you determined his name was Doug,
2 you didn't know his last name.

3 A. Yeah, I don't know it.

4 Q. But you mentioned that "they" had thought he might have
5 sabotaged --

6 A. The fuel system.

7 Q. The fuel system on the -- the water pump for the dredge.

8 A. Yep. Yep.

9 Q. Where did you come with that knowledge and tell me about
10 that.

11 A. Chad said it. Chad said it. But then I said there's no way,
12 because if it was sabotaged it wouldn't have run for 3 hours and
13 then die. If it was sabotage, it would die, stop. Like if you
14 stuck a rag in the fuel system where it's blocking stuff, it
15 wouldn't run for 3 hours. It seemed like the engine would get hot
16 and then air bound. Like every time it ever happened was like 3
17 hours of fishing. And I went home every time because I -- it's
18 not my job to fix that thing.

19 I was so mad. I'm like -- my mate was pissed because every
20 time he'd go to bed -- the whole mate thing is he steams you in
21 and out and might do a few tows to let you get a couple hours
22 sleep. And every trip I went, John wakes up, we're halfway home.
23 He said, what's going on? I said, pump engine, pump engine. So
24 finally, the last time I said, I'm not going home. I'm not making
25 no money. And we started bleeding it, because I was shown how to

1 do it. Shut the engine off, open the Racor till it comes up to
2 the full part, shut it, start the engine and it's fine. It's fine
3 for 20 minutes. Go down there every 20 minutes and do it and we
4 were getting a trip.

5 Q. All right.

6 A. And I'm saying to myself, well, Danny's going to be proud of
7 me, the boat manager is going to be proud that we stayed out there
8 and did this extra to get a load of clams. Because they're worth
9 like 14 grand or more for the load, you know. So I was doing all
10 I could to make mainly Chad -- because I don't talk to Danny much.
11 I have talked to him, but Chad would have been proud of me when I
12 came in.

13 Because I talked to one of the boats and told them to call
14 him and tell him I'm having an issue, because I don't have a sat
15 phone. And that was my next step, to get a sat phone so I can
16 call him. So I called another boat and I said, call Chad and tell
17 him I'm having the same issue but I'm bleeding the system. And
18 Chad goes, excellent, do what you got to do to get the trip. And
19 I'm thinking I got one more cage to go. When I get in, I'm
20 probably going to get a bonus because I got the load when I
21 shouldn't have got the load. We did all we could, and then that
22 happened.

23 Q. And I told you it was my last question and I apologize.

24 A. Yep.

25 Q. You hit me with another one. Tell me about the settlement

1 houses and how that crew pay system works, from your
2 understanding.

3 A. Well, I haven't really got a real trip to tell you.

4 Q. Okay.

5 A. But I know things have changed. The price of clams went up a
6 little bit with Danny's -- because Danny owns the plant. So he
7 does what he get for a bushel. The price went up a little bit
8 since I've worked for him and they were giving bonuses for clams.
9 I was catching all monster clams. Big money. So I hadn't filled
10 the boat with a monster trip yet of big stuff. And I don't know
11 what it would have been, but it's normally, like, 20 bucks a
12 bushel, but I heard they were paying, like, 23 bucks a bushel if
13 you got big stuff, and all my stuff was big.

14 Q. Okay.

15 A. So I don't know what I would have got paid because I hadn't
16 filled the boat and got a check from it. I only got paid for five
17 cages, five cages, three cages, three cages.

18 Q. Okay.

19 A. So I never had a chance. Because I wasn't going to mess with
20 the pump, and then finally I said it's time to mess with it, I got
21 to make money. And that's when I started bleeding the pump. They
22 changed everything on that motor, fuel lines, everything but the
23 fuel pump. Which probably should have been fixed first.

24 Q. Right.

25 A. But they didn't think it was that, so --

1 Q. And to clarify your work/rest rotation, you, the mate and the
2 deckhands, walk us through that on this particular trip.

3 A. Okay. Well, we leave the dock, the deckhands throw the
4 lines. The mate's already sleeping. I make him sleep before we
5 even get there.

6 Q. Okay.

7 A. We're leaving at 8:30, you be at that boat at 6, sleeping.

8 Q. Okay.

9 A. Because it's his job to steam out. So I would get to the
10 boat, the deckhands help me unload my grub, because I would do all
11 the grub shopping. They put all the grub on. I go through the
12 boat, make sure all the oils are good, make sure everything's
13 right, start the generator, start the engine, switch to shore
14 power. They pull it in, throw the lines, we leave. I steam that
15 boat through Quicks Hole. Because that's a little dangerous, but
16 -- you know, the mates can do it, but that's my job.

17 Q. Okay.

18 A. I get through Quicks Hole, it takes about an hour and a half,
19 make my way to the straight opening through Vineyard Sound. I go
20 wake up the mate. I sit there and steam it a little bit. He gets
21 up, makes a coffee, has a donut or a bagel. When he's done with
22 his coffee, he takes the boat to the spot. He already knows where
23 we're going. And the deckhands go to bed as soon as we leave the
24 dock, or do whatever they want. They're allowed to do whatever
25 they want.

1 Q. Right.

2 A. If they want to watch TV, they want to do whatever, that's
3 what they do.

4 Q. Okay.

5 A. You know? So we get to the spot, the mate's job is slow the
6 boat down, put the outriggers, the birds in the water when we get
7 to the spot, get the guys up, get the gear in the water, get the
8 hose, the towline. That's what the gear is, the hose and towline.
9 Get that in the water. John's job is turn the key in the pump
10 engine. Starts it up, warm it up, open the valve, have the guys
11 open the valve and sink the hose. Sink the hose to add water to
12 the hose so it's not floating on the surface. Sink the hose, put
13 the towline in.

14 When the engine is warmed up, wake me up. I want to wake up,
15 grab a coffee, set in. No more messing around. I want to be on
16 the spot when you wake me up. I don't want to be woken up a half
17 hour, 45 minutes, I want to be woken up right where we're fishing.
18 I get up, make a coffee, set in. So I'm drinking my coffee on my
19 first tow.

20 Q. Okay. And the mate hits the rack?

21 A. The mate hits the rack.

22 Q. And then as far as the rotation on the work deck with the
23 deckhands --

24 A. They stay out there. Those two guys are out there.

25 Q. Okay.

1 A. They help each other. One guy out there by himself, they
2 work too hard. Two guys, just easy cake walk. And if they do get
3 tired, they'll come and say, Cap, can we get a 3-hour watch, they
4 call it. Depending on how we're catching and how -- it depends
5 how dirty you're catching. Up there off Nantucket there's a lot
6 of rocks. It's not like fishing Jersey. Jersey's calm bottom.
7 The only thing you catch is shells and clams. Up there's lots of
8 rocks. So if we're in the rocks and I know we're in the rocks, I
9 say, no, you can't go take a break because you'll kill the other
10 guy, you know. So they mainly stay out there.

11 And if it cleans up -- when the tide slows down, it cleans up
12 a little bit, and then they can do it. And there's only about 2
13 hours of that, you know, an hour before slack and an hour after,
14 and a half-hour slack. So it's 2½ hours that they got it cleans
15 right up. And then the tide starts roaring again and here come
16 the rocks again.

17 MR. BOWLING: All right. Thank you, Captain.

18 The investigator in charge?

19 BY [REDACTED]

20 Q. I just have a couple more questions, Captain.

21 A. Yeah.

22 Q. So once you got to the fishing grounds on -- Sunday?

23 A. Sunday morning, yep.

24 Q. And then was there any time that you were relieved from
25 driving the --

1 A. No, I usually don't need to. I usually don't need it. If I
2 do need it, I'll wake up -- I'll take John, like John -- John's
3 job is when he gets up from getting his rest, he'll wake up and
4 start making the guys a meal so they can come in. And John is a
5 very good deckhand. He's phenomenal. He could go out there and
6 run that deck himself, he's that good. But he deserved the job in
7 the wheelhouse and that's why I gave it to him. He's phenomenal
8 on deck. So say he makes the guys food, they come in, they both
9 come in, John will go out there and kill it. He'll go run that
10 hopper right out by himself. And that's what I'd have him do.
11 And if I -- I never had a chance to really fish a lot of hours to
12 get tired and say, hey, John, you're running it.

13 Q. Right.

14 A. You know, I didn't even get a chance to teach him the boat,
15 because every boat's different. Every single boat I've been on is
16 totally different on the way they haul back and everything. So I
17 never even got to train him. He knows the basic idea of hauling
18 back because he ran the *Goody*. He was very good at that. This
19 boat was a little different. So I haven't had a chance.

20 Every trip was broke down. I never got a chance to teach the
21 guy how to run it, you know. So he never even took the wheel.
22 This last trip, those 30 hours, I was full of piss and vinegar. I
23 was psyched that we were getting a load, make 1400 bucks and get
24 in, you know. I wasn't tired.

25 Q. So just to clarify, from around 10 o'clock on Sunday to

1 Monday around 6 o'clock, you were driving the --

2 A. Yep, I was behind the wheel the whole time.

3 Q. Do you ever put it on autopilot?

4 A. It's always on autopilot when you're towing.

5 Q. Do you ever leave the pilothouse?

6 A. No, not when I'm towing, never.

7 Q. So from 10 on Sunday to 6 on Monday, you just stayed in the
8 pilothouse the whole time?

9 A. Yeah, well, if I would haul back and -- a couple times I'd
10 run back there and see what we caught, you know what I mean, when
11 the dredge is up in the rack still. It's nice to go out there and
12 say, oh, we're catching trash. So I'd run out there when the
13 dredge is up in the thing, autopilot's on, steaming back up the
14 tow. And I'd run out there and look in the hopper, oh, that's
15 good; oh, that sucks, let's move over a little bit. That's about
16 it. Otherwise, I'm up there.

17 Q. And no naps or anything at that time?

18 A. No. Hell no. Nope.

19 Q. My other question is about the hose for the dredge.

20 A. The 8-inch hose, you're going to ask me?

21 Q. Yes. Well, how does that work? That's pumping out water?

22 A. Right. Well, in the pump room there's a pump and one side of
23 the pump pumps water out through a hydrant, like through the hull
24 of the boat into a hydrant, and the hose connects onto it. And
25 the other is a suction end. It's in the shaft alley. It's a 12-

1 inch pipe with a gate valve, with a wheel. And the water comes up
2 through there, up the shaft alley, to the pump, and then the
3 turbine -- the impeller turns it from the pump engine rpm and
4 shoots it to the hose. So suck, shoot to the hose.

5 It all depends on your throttle. If it's just idling, it's
6 nice and slow. The more you ask the pump to give it the water,
7 the faster the rpm goes on the pump engine, the faster the pump
8 turns, the more water goes to the dredge. And I would run 1700 on
9 the pump engine for 80 pounds, which is lower than I've ever
10 fished in any clam boat. The *Silver Fox*, with a smaller pump and
11 engine, I was running 90. In the bigger boats, 120. So way more
12 water.

13 Q. When the dredge is up in the cradle, is there water still
14 going through?

15 A. No, the water's off.

16 Q. The hose is still in the water, though?

17 A. The hose is in the water, full of water, so it's sunk still.
18 And you shut a butterfly valve, the guys on deck, and it shuts the
19 water off to the nozzles. You know how it's got all the spray
20 nozzles on it? So when it comes -- as I'm hauling back, their job
21 on deck is to shut that water off. And it's not for safety. It's
22 so you don't get wet.

23 Q. Have you ever heard of one of those hoses getting back
24 suction and coming, the water coming --

25 A. Never. No.

1 Q. Is that --

2 A. Nope. There's only one way that pump can work, is out.
3 That's the rotation of the pump. So if the pump's running
4 counterclockwise, that's the only way it can run. You know what I
5 mean? There's an impeller in there that's got wings on it. So if
6 it's a -- if you have to buy a pump for the engine, some of the
7 engines are right-hand rotation, some are left. I've learned all
8 about this since I was a clammer. And if the pump engine runs
9 right in rotation, you need a right-hand pump, which the impeller
10 turns counterclockwise. And the impeller only works one way. You
11 can't go in reverse and suck water. It won't. It won't even do
12 nothing.

13 Q. So is there water in the hose -- when the pump is not
14 running, where does the -- does the water come in the hose back
15 into the boat? Like it's just full of water?

16 A. No. No, it's on a -- it comes up like this to a hydrant, so
17 it's high.

18 Q. Okay.

19 A. So you don't need a check valve or anything like you're
20 thinking. The hose comes off the boat and goes down. So in order
21 for it to come up, someone's got to lift that hose straight up in
22 the air to let it drain out of the siphon back into the boat. But
23 it won't even go back into the boat because there's -- the pump
24 won't let it come back through, even if it's shut, even if it's
25 off. It can only go one way.

1 And say we're done fishing, the hose is full of water, we
2 have a air valve. You turn the air valve on, shut the valve, and
3 it blows all the water out the hose, through the nozzles, into the
4 hopper so the hose floats. Then the guys can pull it in.

5 So if I wanted -- if there was ever an issue like you're
6 thinking, but that doesn't happen, you can just put the air on and
7 it blows the water right out the hose from the hydrant to the
8 dredge. And the hose is like 260 feet long. It'll blow all that
9 water out to the dredge and out the nozzles and the hose will
10 float, and you can actually jump in and float on it.

11 Q. Okay.

12 A. Like if somebody -- like I tried to tell these guys, if they
13 ever fell on the boat, god bless, if you guys ever fell in, the
14 first thing the other deckhand does is blow the hose. Because I
15 can come up on that guy that's in the water and he can go right on
16 the hose and walk right onto the boat. He can walk right on it.

17 And I didn't believe that until John showed me. We were at
18 the dock and we were fixing the hose on the *Sea Rover* and he goes,
19 I bet I can walk on that hose. I said, no way, you'll sink. So
20 I'm at Sea Watch dock and we're fixing the hose, so I let the hose
21 all out and I blew it. He gets right off the boat and walks right
22 down the hose and walks back to the boat.

23 And that's when I realized if anybody ever fell off, you get
24 that hose, you swim to that hose and you grab it, you can crawl
25 right back to the boat, no problem. So that's what I tell all the

1 guys on my boat, anything ever happens, that deck hose, that hose
2 that goes to the dredge will save your life. Because I can go up
3 and idle, take the boat right out of gear, and they can swim right
4 to it and grab it and come right on the boat.

5 Q. Besides the dredge hose, are there any other hoses on board
6 that are directed overboard?

7 A. No. We have a deck hose that's connected to the hydrant to
8 spray the sand and stuff. That's the only other hose on the boat.

9 [REDACTED] Okay. All right. Thank you. I don't have
10 any other questions.

11 MR. BOWLING: Sector?

12 [REDACTED] No.

13 MR. McEWING: No. Nothing.

14 BY MR. BOWLING:

15 Q. Captain, this will --

16 A. Have I said everything you guys need to hear because --

17 Q. Yeah.

18 A. -- I've told you anything I absolutely know about my whole
19 clamming career. You know, I just got the life scared out of me
20 and I feel I shouldn't have. That's the only thing I'm messed up
21 about. I've been on lots of boats. I've been in lots of weather,
22 I mean, lots of weather. Too scary, and this is nothing compared
23 to this.

24 Q. Captain, we're going to wrap up with this final area here.
25 I'm looking at Witness No. 2.

1 A. Yeah.

2 Q. Where you identified four various compartments: the
3 forepeak, the engine room, shaft alley, and the steering
4 lazarette.

5 A. Yep.

6 Q. You identified these doors that you've already told us about
7 through the penetrations to these bulkheads. To your knowledge,
8 which of these doors were watertight?

9 A. The lazarette only, probably.

10 Q. All right. And why do you say --

11 A. Because it locked nice and tight.

12 Q. Okay.

13 A. But I thought the galley one was watertight and it wasn't.
14 It had a beautiful big handle with stainless steel that came down
15 and locked it right in, and water was coming in it. I don't know
16 if any of them really -- are any of them really watertight?
17 Because I've never seen one on a boat that's absolutely
18 watertight. They have a seal. I see the seal there. You know
19 the seal that's on the edge? They're all there, but 90 percent of
20 them are probably worn out from opening and closing a million
21 times. You know, the Coast Guard examination sticker guys that
22 come, like I heard on the news, Danny said the Coast Guard did
23 this, but they don't -- they only check safety stuff.

24 You know, you guys are Coast Guard. They come on, check your
25 high water alarms. I've been there a million times for it. Check

1 your high water alarms; check for any oil in the bilge; check your
2 EPIRB, that it's not out of date; make sure the battery's good;
3 check your life raft, that it's not out of date, don't need to be
4 packed; check your throw rings, you need three of them. We had
5 all three of them. I know the whole routine. You know, they
6 don't check stability on a boat, you know. And I believe the boat
7 was a safe boat other than the stability was off just because of
8 what I know about clam boats. And that little tank with water in
9 it should not have sunk a boat, and that's why I say the
10 stability's off.

11 When I seen that -- I told you this a hundred times already.
12 When I seen that water in that tank, there was nothing in my head
13 saying we were going sink. Nothing. But the boat went more and
14 more and more, and there was no more water coming in this boat,
15 telling me that something is off. And that's when I started
16 getting really scared. Because I wasn't scared when I seen the
17 water in the tank. The guys were; I was not. I said, that's
18 nothing, pump that right out, or put water in the other side. And
19 then it started getting worse and worse and worse and I said,
20 we've got to get off this boat.

21 Like I said, my first thing was save the boat. The second
22 thing was, we're going down, save the guys. And there was no
23 saving that boat.

24 Q. Okay. And the aft door leading into the accommodation space,
25 was that, from your understanding, a watertight door?

1 A. I really didn't inspect that one too much. I knew the one
2 that went to the lazarette off the shaft alley was only a little
3 door, like not even 2 by 2. And it looked like it was brand-new
4 is why I'm saying, I would say. It looked like someone just put
5 that thing on there. It was shining stainless steel and it had a
6 nice lever. And I don't know if it was watertight. I never seen
7 water in there to say it was watertight. The one that was at the
8 shaft alley was an older door, which I'm guessing was like the
9 forepeak, that wasn't perfectly watertight.

10 Q. Did you visually see the dogging mechanisms on the door you
11 described --

12 A. You know what kind of dogging mechanism there was?

13 Q. No.

14 A. Just like on any other wheelhouse door, there's a handle with
15 a nose on it, and you go blunk.

16 Q. All right.

17 A. That's it.

18 Q. Okay.

19 A. Which doesn't stop the water from coming in the bottom,
20 pressing out. You know, there's pressure and that's -- on that
21 door that had that beautiful latch, the pressure was still pushing
22 it out even though it had an unbelievable latch down on it. I'm
23 talking like a big thing that goes (makes sound) right on the
24 door. Beautiful. I never seen anything like it. The water was
25 coming in.

1 Q. We have no further questions. Captain, you have been an
2 outstanding witness and we're going to turn the floor over to you.
3 Have we failed to ask you any questions or anything you need to
4 get on record or would like to get on the record before we close
5 the interview?

6 A. Not really other than the only thing that concerned me about
7 it is the tank height and I did not see a stability test on the
8 boat, which I've seen on every boat I've ever been on. There is a
9 binder that says exactly how many cages you can put on this boat,
10 how much fuel you can put on this boat, everything. Like when I
11 was on the *Goody*, it said that you needed a full water tank.
12 Freshwater is in the bow on these boats. Stability goes by full
13 water tank, fuel tanks filled so much, all this. I didn't see any
14 of that. And I looked. And that's the only thing that concerned
15 me about the boat, like, about this meeting.

16 Q. Captain, thank you very much. We'll terminate the interview
17 at this point. We'll secure -- down the road, if you -- something
18 comes to mind that you feel you need to get on the record or --

19 A. I think I said everything.

20 Q. -- something recalls back --

21 A. I don't think I missed anything.

22 Q. -- please get with the [REDACTED] here at the Marine Safety
23 Detachment in New Bedford, okay?

24 A. And that would be you?

25 Q. Yeah. All right. We'll secure.

1 A. I can't think of anything. You know, I think I told you
2 everything about it.

3 Q. All right. Thank you, Captain.

4 (Whereupon, the interview was concluded.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

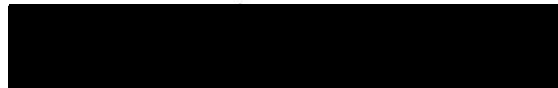
IN THE MATTER OF: CAPSIZING AND SUBSEQUENT SINKING OF
 COMMERCIAL FISHING VESSEL *MISTY BLUE*
 DECEMBER 4, 2017
 Interview of Eric Arabian

ACCIDENT NO.: DCA18FM005

PLACE: New Bedford, Massachusetts

DATE: December 8, 2017

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been transcribed
to the best of my skill and ability.



Transcriber