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IN THE TRIAL COURTS FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT
AT ANCHORAGE

STATE OF ALASKA,
Plaintiff,
vs
JOSEPH HAZELWOOD,
Defendant.

No. 3AN 89-7217; 3AN 89-7218

TRIAL BY JURY
FEBRUARY 13, 1990
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H & M Court Reporting
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BEFORE THE HONORABLE KARL JOHNSTONE
Superior Court Judge

Anchorage, Alaska
February 13, 1990
9:05 o'clock a.m.

APPEARANCES:

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PROCEEDINGS

FEBRUARY 13, 1989

(Tape: C-3612)

(000)

(Jury present)

THE CLERK: ...Johnstone presiding is now in session.

THE COURT: Thank you. You may be seated. Resume the testimony, Mr. Cousins, you're still under oath, sir.

A Thank you, Your Honor.

GREGORY T. COUSINS

recalled as a witness in behalf of the State of Alaska, having previously been sworn upon oath, testified as follows:

DIRECT EXAMINATION OF MR. COUSINS, CONTINUED

BY MR. COLE:

Q Mr. Cousins, we started with the exhibits. I'd like to finish those up here.

Show you what's been marked for identification as Plaintiff's Exhibit 69. Do you recognize that exhibit?

A It looks like the Master's Office.

Q A fair and accurate representation of the Master's Office on the Exxon Valdez?

1 A Yes.

2 MR. COLE: I would move for the admission of

3 what's been -- previously identified as Plaintiff's

4 Exhibit 69.

5 MR. MADSON: No objection.

6 EXHIBIT 69 ADMITTED

7 THE COURT: It's admitted.

8 Q (Mr. Cousins by Mr. Cole:) Showing you what's

9 been marked for identification as Plaintiff's

10 Exhibit 71, do you recognize that?

11 (71)

12 A I believe that's the captain's state room.

13 Q Okay.

14 A I haven't been in there that often.

15 Q Okay. Well we'll just store 'em.

16 Showing you what's been -- marked for

17 identification as Plaintiff's Exhibit 53?

18 A Yes.

19 Q What's that a picture of?

20 A The bridge.

21 Q Of the Exxon Valdez?

22 A Yeah. The navigation area.

23 Q Fair and accurate representation?

24 A Yes.

25 MR. COLE: Okay. I would move for the

1 admission of Plaintiff's Exhibit 53. I'm not sure if
2 it's been admitted or not.

3 MR. MADSON: I think it already has. Okay.
4 No objection.

5 THE COURT: Admitted.

6 THE CLERK: It's already in.

7 Q (Mr. Cousins by Mr. Cole:) I' showing you
8 what's been marked for identification as
9 Plaintiff's Exhibit 62. Do you recognize that
10 photograph?

11 A Yes.

12 Q What's that a photograph of?

13 A Of the chart table.

14 Q And is that a fair and accurate representation
15 of that?

16 A Yes.

17 Q Can you show the jury by --

18 MR. COLE: I would move for the admission of
19 what's previously been identified as Plaintiff's
20 Exhibit 62.

21 MR. MADSON: No objection.

22 EXHIBIT 62 ADMITTED

23 THE COURT: It's admitted.

24 Q (Mr. Cousins by Mr. Cole:) Can you show the
25 jury where this picture is -- where you're

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looking from that picture?

A This is -- this is the chart table over here.

Q I'm showing you what's been marked for identification as Plaintiff's Exhibit 51. Do you recognize that?

A Yes. That's the starboard bridge wing.

Q And Plaintiff's Exhibit 58, do you recognize that?

A Yes.

Q What's that a photograph of?

A A single side band weather fax. That's this equipment right here.

Q Fair and accurate representation of those two pictures?

A Yes.

MR. COLE: I would move for the admission of what have been previously identified as Plaintiff's Exhibit 51 and 58.

MR. MADSON: No objection.

EXHIBIT 51 AND 58 ADMITTED

THE COURT: They're both admitted.

Q (Mr. Cousins by Mr. Cole:) Now, in Plaintiff's Exhibit 51, does that -- this one right here -- is this where someone would stand if they were out on the starboard wing on watch?

1 A Yes.

2 Q Can you point to the jury where that would be?

3 A Well, anywhere on this -- this bridge wing

4 between -- between here and the end of the

5 bridgeway.

6 Q And what's out on the end there?

7 A There's a -- this is the repeater. There's a

8 -- a Doppler (ph) Log out here and this is part

9 of the radio antenna system here.

10 Q What's -- what's a repeater?

11 A A gyro repeater. It mimics what the master

12 gyro is reading.

13 Q Is it a digital one?

14 A No.

15 Q Okay. And from that can you get the heading

16 of the vessel?

17 A Yes.

18 Q And the Doppler. What's a Doppler?

19 A It indicates speed.

20 Q And the exhibit that was previously admitted,

21 can you tell the jury what the -- what radios are

22 there? You may have to hold it up as you're

23 talking about...

24 A Well, I'm trying to recall myself.

25 This is a -- I believe they're just two single

1 side band units, one here, and this is one that
2 was -- that had been recently installed. This is
3 the older unit. There's a sextant case, a
4 weather fax and that's about it for electronics.

5 Q What are all these?

6 A Flags.

7 Q And why do you use those? Why are those
8 there?

9 A Well, we have the signal flags for various
10 purposes.

11 Q Okay. Well, tell the jury what kind of
12 purposes those are for?

13 A Supposing we had a pilot on board, there's a
14 certain flag that we hoist to signify that we
15 have a pilot on board, or for alongside the dock
16 there's another flag we use to indicate that
17 we're loading hazardous cargo.

18 Q And what are these here in the corner, right
19 here?

20 A What are you referring to? These -- they're
21 hand held radios.

22 Q And are those what the crew members carry
23 throughout the ship?

24 A Yes.

25 Q Showing you what's been marked for

1 identification as Plaintiff's Exhibit 57. Do you
2 recognize that photograph?

3 A That, again's the chartroom.

4 Q Okay. A fair and accurate representation of
5 the chartroom on the Exxon Valdez?

6 A Yes.

7 MR. COLE: I would move for the admission of
8 what's previously been identified as Plaintiff's
9 Exhibit 57.

10 MR. MADSON: No objection.

11 (264)

12 EXHIBIT 57 ADMITTED

13 THE COURT: 57's admitted.

14 Q (Mr. Cousins by Mr. Cole:) Can you show the
15 jury where -- where that photograph is taken
16 from?

17 A You're looking into the chartroom from over on
18 the starboard side from -- from here.

19 Q And can you point out to the jury where the
20 course recorder is on that?

21 A That's right here.

22 Q And where is the chronometer?

23 A The chronometer's right here.

24 Q Can you see...

25 A Right...

1 Q ...it in that picture?
2 A Yeah, the -- well, the jury probably couldn't.
3 It's directly underneath the course recorder.
4 Q What is a chronometer?
5 A It's a timepiece.
6 Q Is it accurate...
7 A Very accurate timepiece.
8 Q I'm showing you what's been marked for
9 identification as Plaintiff's Exhibit 61...
10 A Uh-huh (affirmative).
11 Q Do you recognize that?
12 A Yes.
13 Q What's that a photograph of?
14 A Our electronic navigation units, the Loran C
15 and the Sat-Nav on the bottom.
16 MR. COLE: I would move for the admission of
17 what's previously been identified as Plaintiff's
18 Exhibit 61.
19 MR. MADSON: No objection.
20 EXHIBIT 61 ADMITTED
21 THE COURT: It's admitted.
22 Q (Mr. Cousins by Mr. Cole:) Now, do you use
23 the - the Loran in Prince William Sound?
24 A Not in the sound, I...
25 Q Why not?

1 A Although it's accurate, it's not really
2 accurate enough for the type of navigation work
3 that we're doing in the sound.

4 Q And how does the Nav-Sat instrument work?

5 A It picks up a satellite. And if the satellite
6 is in the proper aspect and we get a good signal
7 from it, it calculates our position.

8 Q I'm showing you what's been marked for
9 identification as Plaintiff's Exhibit 60. Do you
10 recognize that photograph?

11 A Yes.

12 Q What's that a photograph of?

13 A That's a radio direction finder.

14 Q Okay. And that was on the Exxon Valdez?

15 A That's correct.

16 MR. COLE: I would move for the admission of
17 what's previously been identified as Plaintiff's
18 Exhibit 60.

19 MR. MADSON: No objection.

20 EXHIBIT 60 ADMITTED

21 THE COURT: It's admitted

22 Q (Mr. Cousins by Mr. Cole:) How do you work
23 the radio direction finder on the Exxon Valdez?

24 A Well, it's energized from the bridge, but
25 there's a -- the radio operator has to flip some

1 Q (Mr. Cousins by Mr. Cole:) I don't think that
2 in the last time we talked about this area, can
3 you tell the jury what this phone is, right here?
4 A That's part of this system, here, the single
5 side band.
6 Q Okay.
7 A It's also part of the emergency calling that
8 we could use.
9 Q Would you explain that to the jury?
10 A Well, it's -- what is it? I forget the
11 frequencies now. I think it was 2182 that you
12 could call out on that for emergency distress.
13 Q Showing you what's been marked for
14 identification as Plaintiff's Exhibit 55. Do you
15 recognize that photograph?
16 A Yes.
17 Q And what's that a photograph of?
18 (425)
19 A Same side of the bridge, just looking further
20 aft.
21 Q Fair and accurate representation?
22 A Yes.
23 MR. COLE: I'd move for the admission of
24 what's previously been identified as Plaintiff's
25 Exhibit 55.

1 MR. MADSON: No objection.

2 EXHIBIT 55 ADMITTED

3 THE COURT: It's admitted.

4 Q I'm showing you a copy of what's previously
5 been admitted as Plaintiff's Exhibit 10. Do you
6 recognize that?

7 A Well, it says the Night Order Book.

8 Q What's the Night Order Book? Would you
9 explain that to the jury?

10 A Well, before the captain retires for the
11 evening and leaves the bridge, he'll write
12 instructions for the night watches.

13 Q Okay. And is that done every night?

14 A Every night. With the exception of in port
15 cargo handling.

16 Q I'm showing you what's been previously
17 admitted as num -- as Plaintiff's Exhibit 6. Do
18 you recognize that?

19 A Yes. That's our Rough Log.

20 Q Okay. And Rough Log and Deck Log book are...

21 A Same.

22 Q ...are the same thing? They're synonymous
23 terms?

24 A Yes.

25 Q Why -- why -- what's the purpose of having the

1 Rough Log book?

2 A Everything that -- that we do on watch is
3 recorded in here to -- to keep an accurate
4 account of what happened in each watch. Such
5 things as fixes, and courses steered and what
6 not?

7 MR. COLE: Judge, may the witness be allowed
8 to step down and identify this last exhibit here.

9 THE COURT: Yes, sir.

10 MR. COLE: Just be careful -- just keep it
11 attached...

12 A I don't think it's gonna...

13 MR. COLE: Yeah. Leave it right there.

14 THE COURT: Mr. Cousins, there's a little
15 amplifier on the end of that short cord that you can
16 take with you.

17 A Oh.

18 Q (Mr. Cousins by Mr. Cole:) Now, I'm showing
19 you what's previously been marked for
20 identification as Plaintiff's Exhibit 80. Do you
21 recognize that?

22 A It appears to be a scale model of the bridge
23 of the Exxon Valdez.

24 Q And have you had a chance to take this apart
25 and take a look at it?

1 A Just briefly.

2 Q Okay. The part that you saw, is it a fair and
3 accurate representation of the bridge of the
4 Exxon Valdez?

5 A Yes.

6 Q And below -- the decks below -- were you able
7 to take a look at the decks below in the...

8 A Yes.

9 Q ...in the posi -- in the particular rooms that
10 were identified?

11 A Yes.

12 Q And is that a fair and accurate representation
13 of the decks below the bridge on the Exxon
14 Valdez?

15 A Yes.

16 MR. COLE: Judge, I would move for the
17 admission of what's previously been identified as
18 Plaintiff's Exhibit 80.

19 MR. MADSON: One -- may I just examine it,
20 Your Honor, for a second?

21 THE COURT: Yes, sir.

22 (Pause)

23 MR. MADSON: I have no objection, Your Honor.

24 EXHIBIT 80 ADMITTED

25 THE COURT: 80's admitted.

1 MR. COLE: Want to look at the rest of it?

2 MR. MADSON: No.

3 THE COURT: 80's admitted.

4 Q (Mr. Cousins by Mr. Cole:) Mr. Cousins, can
5 you -- we've talked about a number of things, but
6 can you tell the jury -- identify the particular
7 areas on the -- on the upper deck of the -- the
8 Exxon Valdez, the bridge area, so that the jury
9 can understand that.

10 A Very...

11 Q You can begin on this end.

12 A The repeater I was referring to is located
13 right here. That's where we'd take visual
14 bearings from.

15 Moving inside, and the lookout would typically
16 be in this area somewhere. There's -- if you
17 notice from the photographs, there's a -- a
18 windbreak on most of the -- across most of the
19 bridgeway.

20 Q And the windbreak would be...

21 A Well, it's -- it's just a curved piece of
22 metal, steel. It runs nearly the length of the
23 -- the bridgeway.

24 Q Okay.

25 A To break the wind.

1 Q Are there any instruments on the outsides of
2 the doors, there?

3 (660)

4 A Yes. Just above the door there was a rudder
5 angle indicator, an rpm indicator, and I can't
6 remember if there's anything else. I believe
7 that's all.

8 Q Okay. And then moving into this area can you
9 -- let me take that off and maybe you could
10 explain to the jury there what the different
11 rooms are that are up on the bridge?

12 A This is our -- the console area, the 10
13 centimeter radar on this end of the console.
14 There's a -- another radar. It's a three
15 centimeter radar on the port side.

16 This is the -- the steering station. The rest
17 of this is engine control panels.

18 Q Now, the chartroom, would it normally have
19 been open up like -- as this is?

20 A Oh, there'd have been a -- a black-out curtain
21 drawn here. There's another black-out curtain
22 here and a black-out curtain on the other side.

23 Q What's the purpose for that?

24 A To keep the -- any backscatter light off from
25 the away the -- around the chart table from

1 entering into the...

2 Q You need some light when you're working with
3 the charts.

4 A Oh, yeah.

5 Q And that is the -- the curtains are to prevent
6 that light from getting out and hurting...

7 A Yes.

8 Q ...the eyes of the helmsman.

9 A Correct.

10 Q Can you tell the jury what's in the electrical
11 equipment room that's at that bottom there?

12 A The -- our master gyros. We have two gyros,
13 sit just right inside the door here. There --
14 there's some equipment for the radar -- both
15 radars. There's a single side band unit sits
16 back in the -- this corner...

17 Q And...

18 A There's various file cabinets and...

19 Q Is there a restroom right up on the bridge?

20 A Yes.

21 Q And that is where?

22 A That's right here.

23 Q And how do you get to that?

24 A Ah...

25 Q Do you remember where the door was?

1 A Yes. It's just inside the black-out curtains
2 on the port side.

3 Q And this out here on this end would have been
4 called the port bridge wing?

5 A That's correct.

6 Q Now, to get down the steps is there - is there
7 a way to go down to the next level below the
8 bridge?

9 A Yes. Right -- right through here.

10 Q Through those steps?

11 A Yes.

12 Q Okay. Now, on the next level, can you show
13 the jury where a person would come out on -- come
14 out if they walked down those steps?

15 A This is the ladder down to D Deck.

16 Q Okay. And would you identify the particular
17 rooms that -- that were on D Deck?

18 A Okay. Actually, I believe that we used this
19 as the pilot's state room. This is -- they call
20 it a file room. It had a desk and a bunch of
21 file cabinets in there, typically locked. The
22 captain's stateroom. His office. The chief
23 engineer's office. Chief engineer's stateroom.

24 I'm not sure what this is. It might have been
25 a cleaning gear locker, or something.

1 There's another spare room, and the radio room
2 and the radio operator's stateroom.

3 Q For Captain Hazelwood to get from his office
4 up to the bridge, what would he have to do?

5 A Just exit this door, enter this door and up
6 the ladder.

7 Q And if he had wanted to do it in a hurry, how
8 fast could he be there?

9 A Probably 10 seconds. 10 -- 15 seconds. It's
10 -- it's not far.

11 Q Now, can you go downstairs, then, from
12 there...

13 A Yes.

14 Q ...to the next level?
15 And that would be C Deck?

16 A Yes.

17 Q Now, would you give the jury an idea of what,
18 then, is located on C Deck?

19 A This is the ladder down from D Deck. Third
20 mate's room. The chief mate's office. There's a
21 cleaning gear locker and a gold locker. Chief
22 mate's stateroom. The second mate's stateroom.
23 The second assistant's stateroom...

24 Q Assistant engineer...

25 A Yeah.

1 Q ...say that.

2 A Assistant. And I believe this is the first
3 assistant's office -- first assistant's
4 stateroom. The officer's lounge. Laundry.
5 Third assistant engineer's stateroom. They call
6 this the library. It's used by the engineers to
7 keep a lot of their manuals and what not.

8 Q Now, you would have been staying here...

9 A That's correct.

10 Q And this was Mr. Kunkel at the time?

11 A Yes.

12 Q Okay. And Mr. LeCain was the second mate?

13 A Right.

14 Q And the officers lounges are separated from
15 -- all the officers stay on the deck below the
16 captain and the chief engineer?

17 A Yes.

18 Q Now, from that deck can you go further down to
19 the next deck...

20 A Yes.

21 Q ...below?

22 A Yes.

23 Q And that's using the same ladder system?

24 A Yes. That would be right here.

25 Q And basically, can you outline what is on that

1 deck there?

2 (904)

3 A All the -- the ABs, the oilers...

4 Q You're gonna have to...

5 A ...and generally, the unlicensed...

6 Q ...not get too -- too much in front of the
7 thing there.

8 A Yeah. Well, all the unlicensed personnel are
9 quartered -- with the exception of the pumpmen
10 are quartered on this deck.

11 Q And then, the deck below that. Would you tell
12 the jury what's in that deck?

13 A The cargo control room, where we monitor all
14 our cargo operations. A fan room. It -- it
15 can't be entered from inside. It's entered from
16 outside. The -- the crew's lounge. This is the
17 pumpmen's...

18 Q You got to make sure you're not gettin' in so
19 the people up there in the corner...

20 A Oh.

21 Q ...can see. Go ahead.

22 A Pumpmen's stateroom. We had a -- a dayroom
23 here for the chief mate durin' cargo operations,
24 so if he wanted to stay there there'd be another
25 officer. The cargo control console.

1 I believe this is the -- a locker, a laundry
2 room, a locker and just spare quarters here.

3 Q Now, there's one more deck -- one or -- one
4 more deck below this.

5 A That's correct.

6 Q What was contained in that?

7 A The mess halls.

8 Q That's all we have. I'm just gonna put this
9 back.

10 (Pause)

11 (1057)

12 Q Now, when we left yesterday we had talked
13 briefly about your background. Would you, again,
14 tell the jury when you got your third mate's
15 license?

16 A It was in February -- it was either February
17 or March of 1986.

18 Q And you sailed for approximately how long
19 before actually working as a third mate?

20 A My first third mate assignment was in January
21 of 1987.

22 Q And when did you get your second mate's
23 license, again?

24 A February of 1989.

25 Q Did you ever sail as second mate after getting

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your second mate's license?

A No.

Q Did you get any special licenses in addition to that?

A No. I didn't.

MR. COLE: Could I have that one exhibit?

Q (Mr. Cousins by Mr. Cole:) I'm showing you what's been marked for identification as Plaintiff's Exhibit 81. Do you recognize that?

A Yes. That's a copy of my second mate's license.

MR. COLE: I would -- I would move for the admission of what's previously been identified as Plaintiff's Exhibit 81.

MR. MADSON: No object to that, Your Honor.

EXHIBIT 81 ADMITTED

THE COURT: Admitted.

Q (Mr. Cousins by Mr. Cole:) This thing says any gross tons...

A Yes.

Q "...of ocean, steam, or motor vessels of any gross tons."

Can you tell the jury what that means?

A Essentially it's an unlimited license that you're certified to sail as a -- an officer on

1 any vessel.

2 Q Any vessel?

3 A Yes.

4 Q And the gross tons refers to what? What are
5 they referring to?

6 A The size of the ship, basically.

7 Q Okay. Now, it also says, "Radar observer
8 unlimited."
9 What does that mean?

10 A Before you -- you're issued the license, even
11 though you've passed the exam, you have to prove
12 proficiency on -- with the use of radar, and
13 that's what that's referring to.

14 Q And is that a -- a special course that you
15 take, or a special test?

16 A Yes.

17 Q And when did you get that?

18 A I got that with my third mate's license.

19 Q Now, did you have any special piloting
20 endorsements?

21 A No.

22 Q Okay. What does that mean? Pilotage
23 endorsement, what does that term mean?

24 A Well, that you're certified to navigate a -- a
25 vessel in a certain area.

1 Q Could you have gotten that?
2 A I suppose I may have been able to.
3 Q Do you know any third mates that have a Prince
4 William Sound pilotage endorsement?
5 A Not personally, no.
6 Q We -- we talked briefly about the -- your
7 trips to Valdez. Can you give the jury an idea
8 of how many trips you made to Valdez -- the -- in
9 and out as an Able-bodied seaman, and as a third
10 mate
11 A As an AB I would estimate perhaps 20 times.
12 As a third mate, maybe 16 -- between 16 and 18
13 times.
14 Q And would you have been at -- on the bridge
15 during the passage through the Prince William
16 Sound in all those?
17 A Not always as a -- as an AB. Usually, I'd --
18 as an officer I'd get some part of that transit.
19 Q Is it common in your industry to help the
20 first mate if his watch was -- was coming up
21 through the Prince William Sound area?
22 A Yes.
23 Q Would you explain to the jury why that would
24 be? Why you would do that?
25 A The -- the chief mate's workload increases

1 significantly with cargo operations. He spends
2 sometimes an inordinate amount of time up. And
3 to relieve him a little bit of -- spare him
4 additional fatigue so he's somewhat rested for
5 cargo operations, it...

6 Q In Valdez the cargo operations takes a fair
7 amount of time?

8 A I think we can turn around and leave in 24
9 hours. Just about...

10 Q Is the chief mate up for a good part of that
11 24 hours?

12 A Yes, he is.

13 Q So, you give him a little break if his shift
14 comes in, just to allow him to get a few extra
15 hours of sleep?

16 A Yes. If -- for example, if it -- his watch
17 was coming up, probably wouldn't call him 'til
18 some time just before docking.

19 Q You indicated yesterday that you had served
20 approximately three -- on three -- I can't
21 remember the term that you used, but three times
22 you had sailed on the Exxon Valdez prior to this.

23 A No. Two times prior to the grounding.

24 Q Okay. Two times prior, but this was the third
25 one?

1 A Yes.

2 Q What did you call that?

3 A An assignment.

4 Q Assignments.

5 Would you have been at the helm for any of

6 those -- what -- what was the Exxon Valdez

7 running at that time? Was it running between --

8 where was it going between on those...

9 A We'd run -- I believe the first trip on -- are

10 you talking about each assignment?

11 Q Yeah. The first two assignments, generally,

12 and then, the last assignment.

13 A Alaska to Panama on the first two assignments.

14 We'd stopped trading through Panama they'd

15 shifted us to San Francisco, Long Beach.

16 Q And that's what you were on on the third

17 assignment?

18 A Yes.

19 Q Can you give the jury an idea of how long it

20 takes to go from Valdez to San Francisco?

21 A A good trip, five days and some hours.

22 Q And, if you -- was it common to go to Long

23 Beach, also?

24 A Well, I don't know what the -- what was

25 common, 'cause that was kind of a new run to me

1 on that vessel. I supposed they'd split the
2 load, wherever they needed the oil, it was going
3 to be one -- one or the other.

4 Q What -- what do you mean by "split the load"?

5 A Well, if -- we would take a portion of the
6 load to a Long Beach discharge, take the
7 remainder to San Francisco.

8 Q And, then, return up to Valdez?

9 A That's correct.

10 Q Can you -- can you give the -- the jury an
11 idea of what your responsibilities were on the
12 Exxon Valdez as a third mate? And let's begin
13 while the ship is out at sea, and you come on to
14 do your four hour shifts.

15 A As -- as a watch standing officer, of course,
16 maintaining of accurate vessel position,
17 plotting, that's your primary function, collision
18 avoidance. There are other things that --
19 compass checks.

20 There's a little bit of celestial navigation
21 involved from -- depending upon the weather.

22 Q Now, the vessel position, would that include
23 making steering naviga -- giving navigational
24 orders?

25 A Yes.

1 Q And would that require you -- would your
2 responsibilities require you to oversee the
3 helmsman to make sure that he is following the
4 orders that you give?

5 A Yes.

6 (1439)

7 Q Let's move to an area of, like, entering the
8 Prince William Sound. Let's say you were on
9 shift during the time that you entered Prince
10 William Sound. What would your responsibilities
11 then be on the bridge?

12 A As a navigation, collision avoidance.
13 Typically, that may also include communications
14 with VTS.

15 Q How 'bout when you were in -- involved in the
16 docking and undocking process. What would your
17 responsibilities as third mate have been there?

18 A I had the aft docking station and I just
19 direct the ABs what to do with the winches.

20 Q When you say aft -- some people might not be
21 familiar with that. Where is that?

22 A The back end of the ship. From midships aft.

23 Q Now, directing your attention to March 22nd of
24 last year, the Exxon Valdez came -- was coming to
25 Valdez that day, is that correct?

1 A Yes.

2 Q Where had it come from?

3 A San Francisco.

4 Q Do you remember how long that trip had taken?

5 A No. I don't, really.

6 Q If you took a look at the Deck Log, would that
7 help you to recall that?

8 A Yes.

9 (Pause)

10 It might take a minute here.

11 (Pause)

12 It would have been on March 18th.

13 Q So, it would have been about four days out at
14 sea?

15 A Yes. No -- yeah. It's approximately.

16 Q Did you -- were you on the bridge that
17 evening?

18 A Yes. I was.

19 Q And when were you on the bridge on the evening
20 of the 22nd?

21 A Well, I'd -- the third officer has supper
22 relief, that being relieving the chief mate so he
23 can go down and eat. So, I was on the bridge for
24 perhaps 20 or 30 minutes. That would have been
25 around 5 o'clock, 5 p.m., 1700. Then, again, I'd

1 relieve him for my regular watch.

2 Q And that would have been about 8 o'clock?

3 A Yes. A little bit before 8:00.

4 Q Who -- you worked the 8:00 to 10:00 shif --

5 the 8:00 to 12:00.

6 A 8:00 to 12:00.

7 Q And who worked the 12:00 to 4:00 shift?

8 A Lloyd LeCain.

9 Q Who were the people, the ABs that worked

10 underneath you?

11 A Paul Radtke and Harry Claar.

12 Q And do you remember who the ABs were that

13 worked under Mr. LeCain?

14 A Maureen Jones and Robert Kagan.

15 Q Prior to March 23rd, 1989 had you worked with

16 either Maureen Jones, or Mr. Kagan?

17 A With Maureen Jones, yes.

18 Q In what capacity had she worked?

19 A She was an AB on my watch.

20 Q Had you ever had an AB on your watch prior to

21 that?

22 A Not on my watch. He had been on the -- the

23 Exxon New Orleans, and that was the prior

24 assignment. But, I believe he was sailing in a

25 different capacity at the time.

1 Q When had -- when was that? Do you remember?
2 A That was the assignment prior to my coming on
3 the Valdez, the last -- the grounding.
4 I don't -- I don't remember the specific date.
5 Might have been in October of '88.
6 Q When you came in to Prince William Sound,
7 where did you pick up the pilot that day?
8 A At Rocky Point.
9 Q And do you remember what time you arrived in
10 Valdez?
11 A No. I don't. Not without...
12 Q Go ahead. You can -- would it help to refer
13 to that?
14 A Yes. It would.
15 (Pause)
16 Well, we were off the dock at 2230 -- 10:30.
17 Q 10:30 that evening?
18 A Uh-huh (affirmative).
19 Q Now, your shi -- your shift would have
20 continued until midnight. What did you do after
21 that?
22 A After the docking?
23 Q Uh-huh (affirmative).
24 A I remained on deck for a short period of time
25 until Lloyd showed up to relieve me.

1 I went into the cargo control room. I had a
2 short conversation with the chief mate. They
3 were separating personal mail. I picked up my
4 mail and went to the stateroom.

5 Q Would you have gone to sleep at that point?
6 A I was up for a short period of time, reading
7 the mail.

8 Q What time were you scheduled to be on duty the
9 next morning?
10 A We relieve at 10 minutes prior to -- I have
11 the 8:00 to 12:00. I'd relieve him at 7:50.

12 Q What did you do then? Did you go and relieve
13 the first mate at that time?
14 A Yes.

15 Q The next morning? What -- what did -- what
16 were your assignments, or your responsibilities
17 during that shift?
18 A That's monitoring the cargo.

19 Q Did you end up -- did you go into town before
20 going to that assignment?
21 A No.

22 Q Tell the jury what -- what you physically do
23 while you're monitoring the cargo?
24 A Basically, you're stuck in the cargo control
25 room watching a board with gauges, monitoring

1 what tanks are doing what, keeping the list and
2 trim where they're supposed to be.

3 Q Do you get any instructions from the first
4 mate as to how to proceed in the loading and
5 unloading?

6 A He write cargo orders that we have to read and
7 sign. If there's anything that we don't
8 understand we have a discussion and get it
9 understood.

10 Q Where was Mr. Kunkel during the time that you
11 were -- you were working on that shift?

12 A I don't remember. I believe he was in his
13 stateroom.

14 Q And after -- you were replaced around noon?
15 About -- that day?

16 A Yes.

17 Q And who would that have -- who would you have
18 been replaced by?

19 A Lloyd LeCain.

20 Q What did you do after you got off work then?

21 A I had lunch. And after lunch I went and
22 checked salinity.

23 Q Would you explain to the jury what you mean be
24 salinity?

25 A In determining how much cargo we can load the

1 chief mate needs to know how buoyant, or how
2 salty the water is and that's basically all it
3 is. It's -- I went down to the engine room, got
4 the salt water -- got water from the deepest part
5 of the ship that we could, put the hydrometer in
6 there, the...

7 Q Do you remember...

8 A ...salinity.

9 Q Okay. Do you remember about what time that
10 would have been?

11 (1870)

12 A That's after I had lunch.

13 Q Did you go into town at all after you had
14 lunch?

15 A No. I didn't.

16 Q How come?

17 A Didn't want to.

18 Q Did you -- did you do any more work that
19 afternoon, or did you go to your stateroom?

20 A I did some paperwork, but that was in my
21 stateroom, perhaps a half hour of reading and
22 then I took a nap.

23 Q What time did you get called back up to go to
24 work that evening?

25 A Well, again, I had supper relief, so I was up

1 at 4:30 to relieve the chief mate five minutes
2 before the hour. Remained in the cargo control
3 room for approximately 20 minutes, not much
4 longer than that, had my dinner and then returned
5 to my stateroom.

6 Actually, I believe I went back -- stopped by
7 the cargo control room for just a few minutes to
8 check with the chief mate about who's going to be
9 doing the topping off.

10 Or that -- that conversation may have taken
11 place before that, but it seems that I stopped
12 back into the control room.

13 Q And what -- what was the conclusion that he
14 reached? Did he tell you you were gonna be
15 involved in the...

16 A Yeah.

17 Q ...topping off?

18 A He said that I would help with the topping
19 off.

20 Q So, after speaking with him did you go back to
21 your stateroom?

22 A Yes.

23 Q When were you called back up then to help Mr.
24 Kunkel?

25 A Actually, I don't -- I don't know that Jim

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gave me a call. He may have, but I just went down with the cargo control room at the approximate time that we had talked about earlier.

Q Would you explain to the jury what you mean by topping off the tanks and how -- how that's accomplished?

A Well, at the end of the cargo the tanks are pretty full. And as we near the end of the load we slow the loading rate down. The chief mate was out on the dock in this particular case watching draft marks, putting as much -- getting as much of the load on as we -- we could. We -- we're not fully laden on this voyage, so he wanted to get down to the marks.

And I was in the cargo control room slowing down the cargo rate as necessary.

Q Now, when you talk -- and you just talked about a number of things, the marks, and the draft rates. Can you use this diagram to kind of tell the -- show the jury what you mean by that?

A These are the draft marks right here.

Q And they're numbers that are made in alongside the tanker?

A Yes.

1 Q They're written in?
2 A Yes. Painted in.
3 Q And from those can you tell how deep in the
4 water the ship is sitting?
5 A Yes. He -- he calculates, or is given a draft
6 at say, whatever the governing draft would be in
7 -- in Long Beach and that's what he's looking at.
8 Be probably more accurate than trying to figure
9 out on the computer how much oil you're gonna be
10 able to load and -- and try to work by ullages.
11 Q So, these draft marks are both in the aft and
12 in the mid-section and...
13 A And forward.
14 Q ...at the forward deck? Okay.
15 And this line right here. Does that have any
16 significance?
17 A Well, that's the -- upper limit. That's our
18 deep draft, I believe. Yeah.
19 Q And when you say deep draft, what do you mean?
20 A Fully laden.
21 Q So, at fully laden this line should be sitting
22 in the water, then?
23 A Yeah.
24 Q And that's why this is not a full -- this is
25 an unladen tanker right here?

1 A Yeah. That's light.

2 Q Did you -- why is it important to have two
3 people -- two mates there to help for the topping
4 off process?

5 A Well, you couldn't hardly have one guy
6 standing on the dock and trying to control the
7 rate of flow of cargo. I mean, it's -- it's
8 important. You don't know what may go wrong.
9 You need someone inside, communicating with the
10 dock and just watching the tanks.

11 Q What are the dangers that are involved in it.
12 I mean, are there any problems inherent in
13 loading a tanker with oil?

14 A Yeah. A number. Yes.

15 Q Just briefly tell the jury what you have to be
16 -- what kind of things you would be concerned
17 with?

18 A Mechanical failure.

19 Q Which would cause what?

20 A Which could cause an oil spill.
21 Ruptured line, a valve that doesn't close when
22 you expect it to close and you overflow a tank.

23 Q Did you have ABs working with you on the
24 topping off process?

25 A Yes. We have two ABs on deck.

1 Q What were their...

2 A We check the...

3 Q ...responsibilities?

4 A Well, they -- we check ullages -- it wasn't

5 quite as critical as a full load, but when the

6 chief mate does his load plan he has ullages that

7 -- for each tank. And we have the ABs that -- as

8 a double check from our gauges inside. We double

9 check that with a sonic tape that the ABs use out

10 on deck.

11 Q And when you say ullages, explain to the jury

12 what you mean by ullages.

13 A An ullage. The -- to tell you how -- at what

14 level the cargo is in the tank.

15 Q And you spoke about something that the ABs

16 have to check the ullage.

17 A It's a -- a sonic tape. It's got a probe on

18 it, lower it down, a tube -- sounding tube into

19 the tank and you just read the ullage out from

20 the tape.

21 Q After you were done with the topping off

22 process, what did you do then?

23 A I remained in the cargo control room for a

24 short period of time. After that I went to the

25 bridge and tested the gear.

1 Q What -- what do you mean when you say you
2 tested the gear for...

3 A Well, we're required to test our steering
4 gear, radar, navigation equipment, lights,
5 sounds, signalling apparatus and...

6 Q Well, let's start with the steering gear.
7 Maybe you could take that pointer again and --
8 and maybe walk the jury through what you did that
9 -- that evening as far as testing the gear up on
10 the bridge?

11 (2276)

12 A On -- on this ship it's a very simple
13 procedure. Basically you're just standing right
14 here. There's an engineer that will go back to
15 the steering gear flat and observe the equipment
16 down there as I'm going through a test and...

17 Q Well, wait a minute. Where's this engineer
18 going?

19 A To the steering gear room.

20 Q Where is that?

21 A That is in the aftermost part of the ship,
22 about one deck below the -- the main deck.

23 Q So...

24 A Back in here.

25 Q And is that in the -- the area where is housed

1 the -- the mechanisms, the hydraulic pumps that
2 turn the rudder?

3 A Yeah. That's right.

4 Q He's down right there looking at those?

5 A Yes.

6 Q Okay. And you're talking with him up there?

7 A Yes. I give him a call and all he does is --
8 well, he'll stand there and watch that -- that
9 everything's functioning properly as I test each
10 pump, and also, the emergency steering.

11 Q What's -- what do you mean by each pump?

12 A Well, there's -- there's two different
13 systems. There's a port pump and a starboard
14 pump.

15 Q But, they're -- one of them is -- acts as a
16 back up, is that correct?

17 A One's a back up for the other. You usually
18 rotate them. Might use the starboard pump on the
19 southbound voyage and the port pump on the
20 northbound.

21 (Pause)

22 Q Now, when you say the pump -- can you look at
23 what's previously been admitted as Plaintiff's
24 Exhibit 52 and point out to the jury where
25 that...

1 A This is the -- the controller switch that we
2 have on the steering unit. It's in the off
3 position now. It's -- this is a port --
4 starboard pump, port pump.

5 Q And it's just basically the -- the system that
6 -- runs the steering console. Is that correct?

7 A Not the steering console, more...

8 Q The what?

9 A Steering gear.

10 Q So, you're sitting in front of that and you
11 -- you, then do what? You make some turns?

12 A Take it from hard right to hard left and time
13 the movement. It's supposed to be within a
14 certain range of number of seconds. 25 seconds,
15 or something like that.

16 Q What's supposed to be within a certain range?

17 A The movement of the rudder.

18 Q In other -- is it -- what' supposed to be
19 timed, from the minute that you make the turn
20 until the...

21 A From...

22 Q ...rudder?

23 A I would take it from -- from, typically left
24 at midships, I take to a hard right. From hard
25 right, and then, swing it all the way to a hard

1 left and time it.

2 Q Now, is there a -- on the console in front of
3 you is there something that -- that you can watch
4 that will show you not only the wheel turn, but
5 also the rudder angle?

6 A Yes. There's a rudder angle indicator. I
7 don't -- for the gear test I don't normally look
8 at the -- the screen. I watch the one that's up
9 forward of me.

10 Q Well, maybe you could...

11 A It's somewhere up here. I think it's -- might
12 be this. Yeah. Looks like it.

13 Q This one right here?

14 A Yes.

15 Q Okay. Okay. After -- is there a -- an alarm
16 that goes off by it -- at all? Is there any
17 alarms on this in case the -- the rudder isn't
18 following your command?

19 A I think that if -- I believe there is. I -- I
20 can't -- it's been a while since I've worked with
21 this. I know there are alarms over on the -- the
22 left hand part of this unit for a pump failure
23 and circuit failures. I don't know if that non-
24 follow up alarm is included in that somewhere or
25 not.

1 Q After testing the -- the hard right, hard
2 left, what do you do? What did you do?
3 (2546)
4 A That would be -- for each pump I would do
5 that. And, also, on each pump the emergency
6 steering.
7 Q What do you mean by that?
8 A The emergency steering?
9 Q Yes.
10 A There's a little rocker switch here that moves
11 -- actually, I don't know -- that's probably a
12 separate system, separate pump.
13 Q Okay. You got to...
14 A It's right here. Just a little rocker arm.
15 Q And that's the instrument directly above the
16 starboard and port pump system. And it's a
17 little push...
18 A Yeah. It's kind of a rocker switch.
19 Q Okay. And that's in case the other two break
20 down?
21 A Yeah. That's correct.
22 Q Okay. What do you -- what did you do, then,
23 after that?
24 A Well, that might not have been the first thing
25 that I did. I would typically go up and turn the

1 radars on. They're on -- we leave 'em on
2 standby, but I power 'em up, let them warm up.
3 Call the engineer. It takes a few minutes to get
4 back. I'd start some other checks. Check the
5 navigation lights, the whistles and...

6 Q Whistles? What whistles?

7 A Well, our sound signalling whistles.

8 Q Would you explain that to the jury?

9 A They're just whistles. You know, if we're
10 making maneuvers. And certain maneuvers require
11 certain signals, sound signals. That's what
12 that's for.

13 Q What else would you check up on the bridge in
14 this steering test?

15 A Just about everything is checked. The
16 electronic navigation is checked, the course
17 recorder.

18 Q The electronic navigation, now what do you
19 mean by the electronic navigation?

20 A Well, the Sat-Nav and the Loran, or the -- you
21 know, they're turned on. You probably haven't
22 gotten a fix up there anyway in, oh, since we've
23 been there -- at least on the Sat-Nav. And the
24 Loran is not -- doesn't come in real strong in
25 that area for us. But, you at least set it up on

1 the right -- right chain, make sure that -- that
2 the proper charts are out, that type of thing.

3 Q What about the gyros? Did you check those?

4 A You check -- you check the gyros.

5 Q Where -- what do you do when you're checking
6 that?

7 A You go back and take a look at the master
8 gyro. We know what the dock heading is, and it's
9 -- you go back and -- and take a look at the
10 master gyros -- two small gyros sitting right
11 back in this corner.

12 Q And they actually have a digital number
13 readout there?

14 A Well, it's not a digital -- it's -- analog, I
15 guess is what you call it.

16 Then, you would check all the repeaters. And
17 you have repeaters up here. You have the
18 repeaters on the -- both bridge wings. Also, the
19 course recorder is set to make sure that the
20 heading on the course recorder is correct.

21 Q Okay. And the course recorder is located
22 where, again?

23 A Right here.

24 Q How 'bout the -- the chronometer? Do you
25 synchronize any watches?

1 A Yes. I don't -- we do -- we check the
2 chronometers every day and -- and the
3 chronometers typically will have some type of
4 continual gain or loss and they're important
5 instruments, but they typically use the Sat-Nav
6 information that displays time. That's highly
7 accurate. And I coordinate, you know, my times
8 from that. And there's not only the course
9 recorder, there's another digital clock here, my
10 personal clock.

11 Q How 'bout the communications systems on board?
12 Do you check those?

13 A Yes.

14 Q What do you do to do that?

15 A You use -- especially communicating with the
16 engine room, use not only our regular telephone
17 system, but you use the sound powered telephones,
18 which are located over -- over here on this
19 console.

20 Q Would -- explain to the jury how those work?
21 How you call somebody up on those?

22 A Well, we have a regular telephone system on
23 board that's much like what you'd find in your
24 home.

25 The sound powered are different in that you

1 don't dial anything. You pick it up and crank
2 and sound powered is just what it is. You speak
3 loudly through it.

4 Q Kind of a last resort?

5 A Well, it's not - not necessarily a last
6 resort. That's usually what you used to find on
7 most ships. But, they're more than adequate for
8 communicating. Also, we have a check with our
9 hand held radios.

10 (2868)

11 Q How 'bout the fathometer? Where -- what is
12 that?

13 A What is that?

14 Q Yeah. What is it?

15 A That graphically displays the depth of water
16 underneath your keel. There's transducer up on
17 -- I believe that was in the bow. I'm not sure
18 if ours are on the bow, or back aft. I -- I
19 don't recall right now, but it transmits pulses
20 and it -- pulses bounce off the bottom and it
21 calculates the time, and therefore gives you
22 the...

23 Q Where would that have been on the bridge?

24 A Well, this is a digital readout, right here.
25 That's actually a part of this bank. There is a

1 -- it's actually mounted on this bulkhead is the
2 fathograph. And what that does is just give you
3 a digital display of the depth.

4 Q Does it have an alarm?

5 A Yes. It does.

6 Q What's the alarm for?

7 A You preset the alarm at the -- usually the
8 master's discretion at some depth that would give
9 you warning that you're getting into waters that
10 you ought to be alarmed about.

11 Q Did you set that that evening?

12 A I didn't set it. Well, I tested it. Yes.

13 Q You tested it and it was working?

14 A Is it -- yes. I recall that.

15 Q Did you set the alarm at a depth -- a certain
16 depth?

17 A No. I don't recall that I set the depth.
18 Typically, I, you know, in Prince William
19 Sound there's -- there's so much water that I
20 don't know where exactly you would set that alarm
21 at.

22 Q About what time would you, then, have -- is
23 this all the tasks that you're doing up here on
24 the gear test?

25 A Well, I -- the radar's turned on and tuned.

1 Tested the lights, the whistle, synchronizing all
2 the clocks. That's -- yeah. That's...

3 Q Would you ta -- do any special tests to see
4 whether the radars were working properly?

5 A Yeah. That's what we're doin' when we turn
6 'em on and tune 'em.

7 Q Do you lock onto a point, or somethin' like
8 that? How -- how would you tune it?

9 (302)

10 A Oh. Okay. Well, I'll try not to use
11 technical terms, 'cause I'm not -- I get confused
12 by 'em myself at times, but essentially if you
13 have a gain, a gain in a tune and you set the
14 radar on a -- as I recall, these things tuned on
15 a 12 mile scale. And you have land mass all
16 around you. You have very definite points of
17 land that you can identify on the chart. You
18 should get the same representation looking at the
19 radar. So...

20 Q What would it look like when you looked into
21 these radars? What would the land show up as?
22 Do you remember the color?

23 A It's a pale yellowish green.

24 Q Is it prominent when you look through those?

25 A If it's tuned properly, yes.

1 Q So, you were -- you were talkin' about you
2 identify the land masses on the radar and compare
3 them to the -- the charts?
4 A Yes.
5 Q So, what time -- I -- I may have asked this,
6 but I can't remember your answer. What time
7 would you have been done, then, that evening with
8 these gear tests?
9 A Oh, I -- again, I'll have to refer to this. I
10 remember something like 2248. That was the
11 actual time of the finish -- the gear test.
12 Q Okay.
13 A But, I -- I would imagine that I had a few
14 other things to do. So, it was shortly after
15 that.
16 (Pause)
17 1948. Excuse me.
18 Q 1948?
19 A 1948 it was.
20 Q Who was up on the bridge when you got that
21 finished?
22 A No one.
23 Q So, you were just up there by yourself?
24 A Yes.
25 Q What did you do after you got done?

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(3170)

A Once we get the gear tested and the -- the pumps -- steering gear pumps are on we remain up there waiting for the pilot to arrive. Basically, you're -- once you have things going up there you just can't leave it unattended. It also -- we had a containment boom strung around the -- the ship. And the engineers couldn't turn their engines over for fear of getting this caught up in the -- in the screw, so.

Q Excuse me. What's a container boom?

A Well, I don't know exactly what it's made of, but it's a boom that they just string around the ship in case we have a spill.

Q Okay. Basically it floats on top of the water...

A Yes.

Q And a little bit below?

A Yes.

Q And the -- the reason that you have it is so that if oil leaks out, the oil rises to the surface and it keeps it in a certain area?

A That's correct.

Q So, on this evening, you're standing up on the bridge. When's the first time somebody came up

1 and joined you on the bridge?

2 A I believe that was the pilot. And I don't
3 know what time that was. "2020, pilot aboard."
4 So, it was shortly after that that he would have
5 gotten on up to the bridge.

6 Q And 2020 converted to 12 hour time is...

7 A About 8:20.

8 Q What did you do when he came aboard?

9 A I was -- I just remained on the bridge. I was
10 listening to weather reports for the sound and
11 Gulf of Alaska.

12 Q Who was the next person that came up on the
13 bridge?

14 A I don't know if it was the -- the agent, or
15 the captain.

16 Q Who was the agent? Do you remember who that
17 would...

18 A I can't remember. All I remember is her
19 nickname, but I don't know her.

20 Q She was a woman?

21 A Yes.

22 Q Did you speak with her at all that evening?

23 A I may have said hello, or something.

24 Q Were you replaced at some time up on the
25 bridge?

1 A Yes. Just prior to starting -- our undocking
2 the chief mate relieved me so I could go down to
3 my station.

4 Q And when you say "your station", what -- what
5 are you referring to?

6 A The -- our -- undocking -- docking/undocking
7 station. Back aft.

8 Q And, so, you go to the back aft. Was there
9 another mate that's out on the deck?

10 A Yes. The second mate would do the forward
11 end.

12 Q And what were your responsibilities during
13 that process?

14 A Again, just direct the activities on deck as
15 far as winch controls and bringing the wires back
16 on board.

17 Q Who was working with you in the aft area? Do
18 you remember?

19 A Maureen Jones, Robert Kagan, and, I believe it
20 may have been Paul Radtke.

21 Q When in the un -- undocking process do you
22 return back up -- did you return back up to the
23 bridge?

24 A (No audible response.)

25 Q Well, maybe I mis -- said that wrong. When

1 did you return up to the bridge?

2 A I -- again, I'd have to refer to -- actually,
3 I'd probably need the Bell Book to tell you
4 exact, you know, the -- within reason.

5 (Pause)

6 'Cause it's...

7 (Pause)

8 Q That what you're looking for?

9 A Yes.

10 (Pause)

11 At 2151...

12 Q Okay.

13 A ...it was.

14 Q So, that would be about 9:51 that -- when you
15 returned?

16 A Yes.

17 Q And where was the ship when you returned to
18 the bridge? Where was it heading?

19 A Well, it was heading towards Valdez Narrows.

20 Q Now, when you came on the bridge -- back up on
21 the bridge, who was there?

22 (3540)

23 A The captain, the pilot, the helmsman, the
24 chief mate.

25 Q Who was the helmsman?

1 A I believe it was Paul Radtke.

2 Q And when you came on board, you -- what was
3 the reason for you coming up on -- on the bridge?

4 A That's -- that was my regular watch.

5 Q Now, while the -- the pilot was on board what
6 were your responsibilities during that time?

7 A I would be taking the engine orders, also
8 monitoring progress of the vessel, ma...

9 Q And...

10 A ...observing the -- the helmsman, making sure
11 the commands are followed.

12 Q When you -- when you take engine orders do you
13 write that down in the -- in the Bell Log?

14 A Yes. Well, not the -- the Bell Book, yeah.

15 Q The Bell Book.

16 A Yeah.

17 Q I'm gonna ask you to -- there are certain
18 check marks that you make in this Bell Book,
19 aren't there?

20 A Yes. It's kind of a short hand for what the
21 orders are.

22 Q Okay. Would you explain -- maybe right these
23 down, the check marks and what they mean?

24 A Uh-huh (affirmative).

25 Q So that if somebody was to look at that they

1 could understand. Well, maybe you could start
2 with slow ahead? What's the mark for slow ahead?
3 A Well, this isn't -- slow ahead. You want me
4 to...
5 Q You can just -- yeah.
6 (Pause)
7 And are those -- those notations, are they
8 kept in the -- the Bell Book there that you have
9 in order to keep track of what orders were given
10 at what time?
11 A Yes.
12 Q Now, is there an instrument on the vessel,
13 itself, that keeps track of this also?
14 A Yeah, the Bell Logger in the engine room.
15 These are only ahead commands. The astern
16 commands are reversed.
17 Q Okay. So, in other words -- maybe you could
18 just give the jury an idea what a reverse sign
19 looks like up there. Is the check the opposite
20 way?
21 A Just -- that's it.
22 Q When the captain arrived on the -- do you
23 remember when he arrived on the bridge that
24 evening? Were you -- you undocked?
25 A No. I don't know what time it was.

1 Q Do you remember him arriving at some point?
2 A Yes.
3 Q How as he dressed?
4 A I remember he had a -- a long navy blue coat
5 on and a cap.
6 Q Would you describe for the jury...
7 A Thanks.
8 Q ...what kind of cap he had?
9 A Navy blue wool cap.
10 Q Well, was it a baseball hat, or was it a
11 stocking cap, or...
12 A Oh, I don't know. I guess it was a Long
13 Island Sailor's cap. I wouldn't know exactly how
14 to describe it. It wasn't a wool ski cap. It
15 was...
16 Q Flat? High?
17 A It was -- flat.
18 Q Small? Large?
19 A Small.
20 Q Did it have brims?
21 A No brims.
22 THE COURT: Mr. Cole, this might be a good
23 place for us to take our break.
24 MR. COLE: Yeah.
25 THE COURT: Take our first break. Ladies and

1 gentlemen, please don't discuss this case among
2 yourselves, or with any other person. Don't form or
3 express any opinions.

4 THE CLERK: Please rise. Court stands in
5 recess subject to call.

6 (3850)

7 (Off record - 10:23 a.m.)

8 (On record - 10:51 a.m.)

9 (Jury present)

10 THE COURT: Thank you. Be seated.

11 Q (Mr. Cousins by Mr. Cole:) Mr. Cousins, when
12 we left off we were discussing the voyage out
13 through the Port of Valdez.

14 A Yes.

15 Q You were at the throttle at that time?

16 A Yeah. I was the watch officer.

17 Q Would you have been -- what were -- would the
18 pilot have been talking directly to the helmsman
19 at this time, or would he have been going through
20 you?

21 A He would give the commands to the helmsman.

22 Q Did the vessel go on automatic pilot when it
23 was in the Port of Valdez at all?

24 A No.

25 Q What happened -- was -- did anything of any

1 significance happen while the tanker was passing
2 out of the Port of Valdez and beginning to enter
3 the Narrows?
4 A It was for all intents and purposes a fairly
5 routine transit.
6 Q Do you remember when the tanker arrived at the
7 Narrows?
8 A I have to refresh my memory.
9 (Pause)
10 We were at Entrance Island at 2220. 12
11 minutes later at Middle Rock in the Narrows.
12 That's -- Entrance Island is pretty much the
13 beginning of the Narrows.
14 Q Maybe you could point out where Entrance
15 Island -- or Entrance Point is?
16 A Okay.
17 Q And Middle Rock?
18 A Right here.
19 Q And that would have been at 2220, which would
20 be at what time -- 24 hour time?
21 A 10:20.
22 Q Was Captain Hazelwood on the bridge when you
23 went through there?
24 A Not at that time, no.
25 Q When had he left the bridge?

1 A Well, perhaps -- I -- 10 minutes earlier -- 15
2 minutes earlier. I -- I don't recall
3 specifically. That's a pretty fair estimate, I'd
4 say.

5 Q 10 to 20 minutes before the -- the thing that
6 you have down for 2220 at Entrance Island?

7 A 10 minutes, 15 minutes. Yes.

8 Q Now, how 'bout the passage through the
9 Narrows? Anything occur at that of any
10 significance?

11 A No. Routine.

12 Q Who was at the helm during that time?

13 A I believe Paul Radtke was.

14 Q And what time did the vessel reach Potato
15 Point?

16 A Potato Point at 2253. 10:53.

17 Q Can you point to the jury where Potato Point
18 is?

19 A That's right here.

20 Q At some point around there did the -- did the
21 watch -- the lookout come in from the bow?

22 A Yes. It changed out, but I don't recall when
23 it was, exactly. It wouldn't have been -- they
24 wouldn't have done it in the Narrows.

25 Q And what's the procedure for -- for that to

1 occur? How -- how does that happen?

2 A On this -- on this particular vessel when
3 we're not in the midst of a maneuver, or if
4 there's not any traffic around, or -- we'll call
5 the bow look out back and switch out the -- the
6 helmsman.

7 The helmsman will then, perhaps grab a cup of
8 coffee and head up to the bow.

9 (Tape: 3613)

10 Q Does the look out come in and...

11 A Relieve the helmsman.

12 Q ...take a break?

13 A Yeah. A short break.

14 Q Who's out on the look out during that -- the
15 time he's on a break?

16 A There is no look out.

17 Q And did that happen in this case? Was Mr.
18 Claar called in at some point from the bow?

19 A That's correct.

20 Q Who called him in?

21 A I may have. I'm -- it seems that I'd asked
22 the captain about if this was a good time to do
23 that. And I believe I was the one that
24 communicated with -- with Claar.

25 Q Where was the captain when you asked him?

1 A He would have been on the bridge.
2 Q And what time would this have been?
3 A My recollection of the time's not that good.
4 It -- it seems that we changed out after the
5 pilot -- before the pilot got off.
6 Q Well, do you remember the pilot asking you to
7 call the captain to come up from his quarters up
8 to the bridge?
9 A Yes.
10 Q When would that have occurred?
11 A That would have been before we reached Potato
12 Point, perhaps five or six minutes before that.
13 We were still in the Narrows, as I recall.
14 Q When the captain came up?
15 A When I gave him the call.
16 Q When did he reach the bridge?
17 A I believe just as we were reaching Potato
18 Point.
19 Q So, that would have been around...
20 A That's 2253, "Potato Point abeam".
21 Q Did the -- when the captain returned to the
22 bridge that evening did he have a conversation
23 with the pilot?
24 A He may have. I really wasn't paying attention
25 to...

1 Q What were you doing during that time?

2 A Well, I would have been standing by the
3 telegraph, which is -- the radar is right there.
4 It's kind of my work station, watching the course
5 being steered.

6 Q What's the telegraph, again?

7 A That's the engine order telegraph to...

8 Q Can you point to that in...

9 A ...change a course.

10 Q ...for the jury?

11 A That's right here.

12 Q Were you overseeing the -- the helmsman at
13 that time?

14 A Yes. I'd keep an eye on his steering.

15 Q What about when the tanker was going through
16 the Narrows? Were you overseeing the helmsman at
17 that time?

18 A Yes.

19 Q And what would you exactly do when you -- if
20 an order -- a steering order was given, what
21 would you physically do?

22 A I would stand and observe whether the order
23 was executed. If there was a command given to
24 come to a different course to steer, I would
25 watch to see if, in fact, he did that.

1 Q Now, when you say an order to come to a
2 different course, would you give the jury an idea
3 of what you're talking about there? Let's say
4 you're heading on 18 -- 180 -- in the direction
5 of 180 degrees, what kind of order would a
6 helmsman expect to hear then, if they wanted to
7 turn to 220?

8 A Depending on the pilot's preference of what he
9 needed to do, he could give him a rudder command,
10 and then, tell him to steady up on a course of
11 220.

12 Q Can you tell us -- just give the jury an
13 example of what the pilot would say?

14 (180)

15 A For example, 20 right and steady up on 220.

16 Q What would you look at to make sure that that
17 occurred?

18 A The rudder angle indicator.

19 Q Which rudder angle indicator?

20 A Well, if I'm standing here, there's one right
21 above where I'm standing is -- I believe that's
22 it right there. I can watch that. You have a
23 pretty good view of this one, also. I tend to
24 -- usually like to look forward.

25 Q And the -- the heading, what would you use to

1 make sure you stayed true up on the heading?

2 A There's a digital repeater up on this board

3 here. I believe it's this one.

4 Q Would it be -- which one would it be here?

5 Can you tell the jury what is a repeater?

6 Digital repeater? What does that do?

7 A Just repeats the gyro heading. It is not --

8 it is not a gyro. It just tells you what they

9 gyro -- where it's heading.

10 Q Now, why is it so important for you to watch

11 over the helmsman to make sure the steering

12 orders are followed?

13 A Usually the pilot would pick it up anyway, but

14 if -- if something were not being done that he

15 had ordered, but usually in the circumstances

16 that we find ourselves tryin' to maneuver a ship

17 seconds can make a great deal of difference. The

18 pilot is usually standing out forward looking out

19 the window. I would catch it, maybe a little bit

20 quicker. Correct the error.

21 Q Is it difficult to steer a vessel? I mean, to

22 physically turn the rudder, the...

23 A No.

24 Q ...steering wheel to cause the rudder...

25 A No. Very simple.

1 Q Why, then, is there so much concern over
2 watching...

3 A 'Cause it's critical. It's not difficult, but
4 -- the act, itself, is not difficult, but it's
5 -- it's critical to the direction the ship is
6 going to take.

7 Q Now, as the pilot got ready to leave what were
8 your -- what did you do, then, after that?

9 A I escort the pilot back to the pilot ladder,
10 give a good -- a quick check of the pilot ladder,
11 make sure it's secure and stand by there with --
12 usually we have an AB standing by, also.

13 Q Would that have been the AB that was out on
14 the bow?

15 A That's correct.

16 Q Does the ship slow down or speed up during
17 that time?

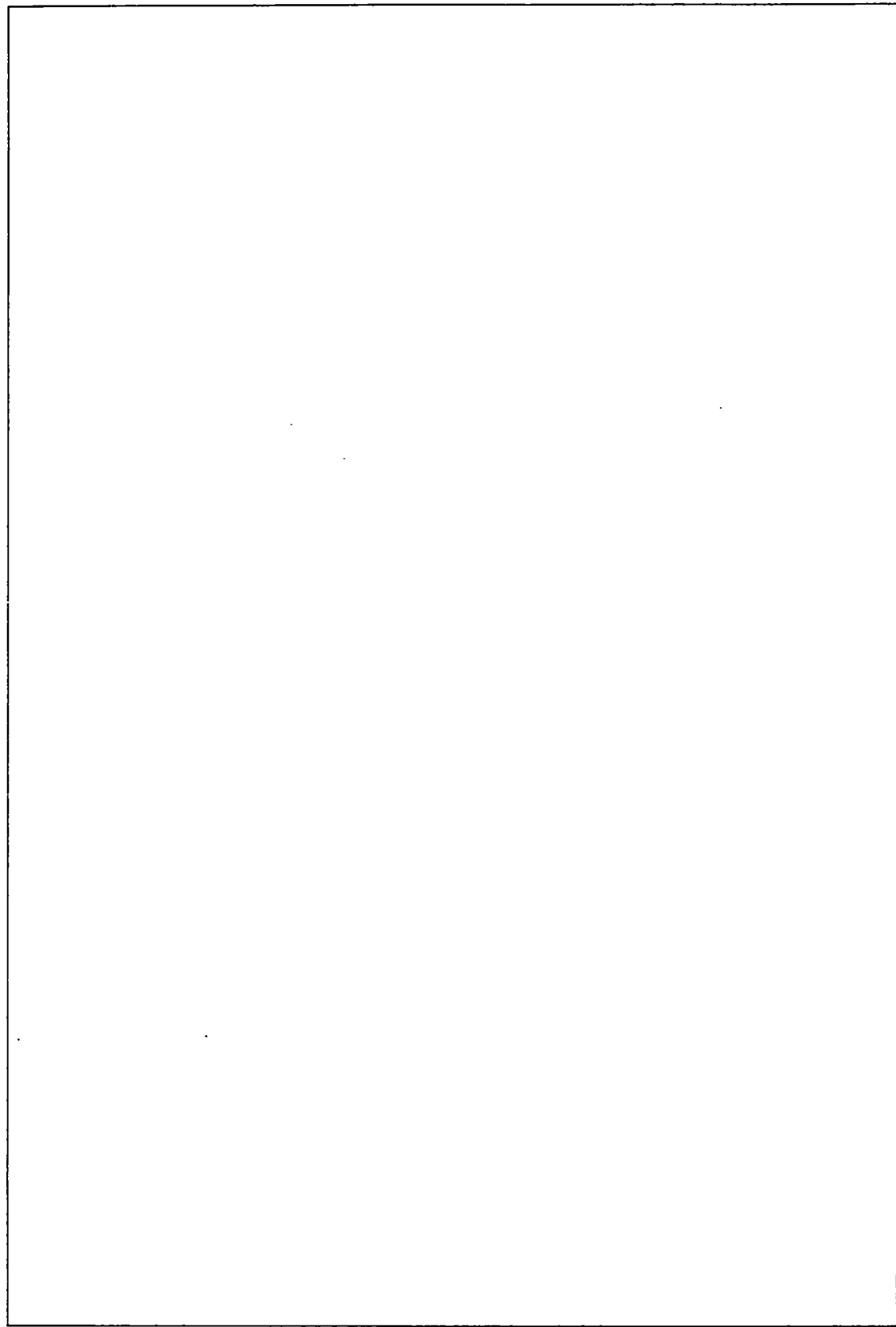
18 A We'd slow down.

19 Q And did you -- about what time did you go down
20 to assist the pilot off the boat -- off the
21 tanker?

22 (330)

23 A Well, you have, "Pilot is logged off at 2324,"
24 so, it takes maybe three or four minutes to get
25 down there.

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1 Q Did you have any problems with disembarking
2 the pilot that evening?

3 A No.

4 Q And after the pilot disembarked what did you
5 do?

6 A Paul Radtke and I stowed the pilot ladder,
7 cradled the crane and I returned the bridge and
8 Paul went back up to the bow.

9 Q When you got to the bridge then, who was --
10 who was on the bridge?

11 A The master and Harry Claar.

12 Q What -- what did you do, then, when you got up
13 to the bridge?

14 A I recall going to the starboard radar. At
15 that time the captain told me to go get a fix
16 right now. I went out onto the starboard bridge
17 wing. As I recall, I took two visual sights,
18 came back in and got a range. We had just -- on
19 the last sight we had just started the turn. I
20 don't remember what the course was, but we were
21 coming to, I believe 200. Went into the
22 chartroom, plotted that fix, came back to the
23 radar -- the starboard radar -- 10 centimeter
24 radar.

25 The captain.

1 Q Let's stop right there, 'cause you said a lot
2 right there. I'd like you to talk about how you
3 take a fix?
4 A Okay.
5 Q You go out -- in this case you talked about
6 going out on the starboard wing?
7 A That's correct.
8 Q Okay. What do you do when you get out on the
9 starboard wing?
10 A The -- at the repeater we have -- on the
11 repeater we have something that we mount on there
12 called a -- an azimuth circle.
13 Q Okay.
14 A What that is is a -- a graduated circle and it
15 has two sight veins on it. And it's...
16 Q What's a sight vein?
17 A It's a sight vein.
18 Q Something...
19 A It's...
20 Q ...you look down?
21 A Yeah. You look through it. Kind of like
22 looking, sighting down the barrel of a rifle in a
23 sense.
24 One of the veins has a very thin piece of
25 wire, the other is kind of like a peephole that

1 you'd look through.

2 Q Okay. And you set that out on the repeater?

3 A Yes.

4 Q And what do you look at?

5 A In this instance I took at...

6 Q Refer to the map if you...

7 A I took a visual sight of -- this buoy and, as

8 I recall, Busby Island Light.

9 Q Now, when you say you took a visual sight of

10 those, what does that mean?

11 A That means I aligned the azimuth circle up and

12 -- and sighted the light through the sight veins.

13 And...

14 Q And what does that tell you?

15 A Well, that -- that gives me a bearing...

16 Q And what...

17 A From my position to the - the light.

18 Q When you say a bearing, can you explain what

19 you mean by that to the jury?

20 A From -- I don't know what the -- I don't

21 recall what the bearing was to say this -- this

22 buoy, but from say it was 325, in other words,

23 from where I'm standing from -- from North you

24 come around 325.

25 Q So, let's say you were -- let's give an

1 example that's a little bit easier.

2 What if you were abeam of this Rocky Point
3 Light and you were heading in the southbound
4 lane. What would the register out on the port
5 side when you looked...

6 (511)

7 A 9 -- 90 degrees less than your heading.

8 Q 90 degrees less than your heading. Okay.

9 And that is because when you're abeam, you're
10 perpendicular?

11 A That's correct.

12 Q Now, once you take these two bearings what do
13 you do? What did you do?

14 A I recall I also took a -- a range.

15 Q And the range -- how do you take a range?
16 Well, let's -- let's start...

17 A From the...

18 Q Let's start a little bit -- what do you mean
19 when you say "a range"?

20 A A distance.

21 Q Okay. And how do you take a distance and
22 measure it?

23 A From the radar. It's outfitted with a little
24 device called a variable range marker. What it
25 is is kind of like a thumbwheel that expands or

1 contracts a -- a circle on the radar screen.

2 Q Does the -- is there a little dot in the
3 center of the radar where your ship is located?

4 A Yeah.

5 Q And, then, are there circles around that that
6 you can move in and out?

7 A No. Well, those are -- they're fixed range
8 rings.

9 Q Uh-huh (affirmative).

10 A And, then, the other is the variable range
11 marker.

12 Q Maybe if -- if I got you to draw that -- the
13 circles around the thing, that might be a little
14 help.

15 (Pause)

16 Can you give the jury an idea of -- I mean --
17 of what it looks like when you look through the
18 radar and your -- the circles, the range finder
19 that you just talked about.

20 A Saying that's the center of the screen, you
21 have fixed range rings that you can dim or
22 brighten as -- whatever your preference. But, as
23 I recall there's six of 'em and they would look
24 something like this.

25 Actually a little bit -- anyway, you'd have

1 six of these fixed range rings.

2 A variable range marker -- if you took it down
3 to zero and started up with it setting a heading
4 for six miles, you'd see a circle, or a line
5 originate here and expand outward, like this. Of
6 course, as it moves it -- this disappears until
7 you finally have a circle.

8 And you can move this circle to whatever range
9 that you want. These don't -- the fixed range
10 rings are fixed. They don't change. Only the
11 scale will change. If this was on a six mile
12 range, then each one of these rings would
13 represent one mile. If it was on a 12 mile
14 range, they would represent increments of two
15 miles between rings.

16 (669)

17 Q Now, can you pick up buoys, then, on the
18 radar?

19 A Certainly.

20 Q And what you would do, then, is you would pick
21 up the -- you would see the buoy on your radar
22 and then you would move the -- the ring -- the
23 variable ring to a point where you could
24 determine how far that was from your ship?

25 A Yes. I -- I don't think that if you're

1 referring specifically to that fix, I think it
2 was a point of land, yeah.

3 Q At then, with the -- when do you look at your
4 clock -- at your watch during this process?

5 A At the -- at the time of the fix.

6 Q At the time of the fix?

7 A Yes.

8 Q When you're putting it down, or when you're...

9 A No.

10 Q ...out on the wing?

11 A When I'm out on the wing.

12 Q So, you just hold your hand up something like
13 this when you're...

14 A Well, I -- I -- yeah. I take the sights real
15 quick and -- and look at my watch. By the time
16 I've gotten in to the radar, normally you'd set
17 up your range in advance so you don't have to
18 waste any time finding the range on whatever the
19 -- you want a distance to. So, you -- you may
20 have lost a -- maybe a second or two, but no
21 more.

22 Q So, then, you went back to the chartroom after
23 taking your range and what do you do at the chart
24 -- in the chartroom?

25 A You plot the fix.

1 Q Can you explain to the jury -- what
2 instruments do you use to plot a fix?
3 A We have triangular protractors to measure
4 angles.
5 Q Okay. And how 'bout -- do you have anything
6 that draws the curve there?
7 A Compasses. Just compasses.
8 Q What is it that...
9 A These are dividers, and compasses are very
10 similar, except one leg has a piece of lead.
11 Q Now, in a compass how can you find out -- how
12 would you use the compass to draw your arc for
13 the range from a particular point?
14 A If something was, say, five miles away, you
15 would draw your scale, find five miles, pick out
16 the point of land that you measured the distance
17 and just draw an arc.
18 Q And that arc would -- on the compass it would
19 have a pencil?
20 A Yes.
21 Q And then, you could draw kind of a partial
22 arc.
23 A Yes.
24 Q And, then, how do you determine the angle that
25 you come out from that point?

1 A Not -- not...

2 Q In other words, place yourself on that arc?
3 How do you -- how do you...

4 A Well, you'd have to -- if you took a bearing
5 off this buoy using the protractor, whatever you
6 sighted out on the repeater, using a meridian and
7 a -- triangular protractors that we have on board
8 measure the angle.

9 (800)

10 Q So, you -- you did all this and you took a --
11 you actually plotted that. Do you remember what
12 the time you wrote down on the plot was?

13 A Well, it's not in the -- let's see -- it's not
14 in the Bell Book. 23. Well, it was on the
15 original chart and it didn't get logged.

16 Q Okay.

17 A If I could see it.

18 Q If I showed you a copy of the -- of the
19 original chart, would that refresh your
20 recollection?

21 A 2339 comes to mind. I think that's probably
22 pretty close.

23 MR. COLE: It's in the cabinet.

24 THE COURT: Pardon?

25 MR. COLE: It's in the cabinet.

1 THE COURT: It might be in the cabinet. What
2 you're looking for might be in the cabinet.

3 MS. HENRY: Your Honor, may I approach the
4 bench? Thank you.

5 (Pause)

6 Q (Mr. Cousins by Mr. Cole:) Does that refresh
7 your recollection of the time?

8 A Yes. 2339, yes.

9 Q Okay.

10 (Pause)

11 Now, 2339 would have been the time that you
12 were doing -- where would you have been,
13 physically, at 2339?

14 A That's the time that I'd finished the two
15 sights.

16 Q So, you were out on the bridge wing...

17 A Taking two sights...

18 Q ...the starboard bridge...

19 A Yes.

20 Q ... wing?

21 A Right.

22 Q And then you came in. And, then, what
23 happened after that? After you got through
24 plotting the -- those -- that -- that fix?

25 A I returned to the starboard radar, assessing

1 what lay before us. That's -- I saw the ice on
2 -- I saw ice on radar prior to getting this fix
3 and -- and at that point the captain said we're
4 gonna divert around the ice.

5 Q What -- what was the starboard radar set at?
6 Do you remember?

7 A It may have been on the -- initially on the 12
8 mile scale.

9 Q Is it common to use the radar at a -- at a
10 greater distance than 12 or 24 miles?

11 A Greater than?

12 Q Yes.

13 A In that area?

14 Q No, more than those?

15 A In that area?

16 Q Yes.

17 A No need to.

18 Q And when you had seen the ice, initially,
19 where -- what did you see on the radar? You said
20 you had seen the ice prior...

21 A Yes.

22 Q And when was that?

23 A In the process of taking a -- this fix. I
24 noticed what appeared to me to be ice in front of
25 us, a number of miles. I don't remember the

1 range exactly. But, I -- the captain directed me
2 to take a fix. I didn't have time to stand there
3 and study the radar looking at the ice. I was
4 following the captain's orders.

5 Q Where was the captain when this -- when he --
6 when you were doing all this?

7 A Taking the fix?

8 Q Yes.

9 A He was standing in front of the -- the
10 console, as I recall.

11 Q Can you point to that?

12 A Here. He was between here and here. He was
13 walking back and forth.

14 Q Was he in a position to see the rudder angle
15 indicator and the heading indicator?

16 A Yes.

17 Q Who would have been watching the helmsman
18 during this time to make sure that he was
19 following the instructions in the turning?

20 A The captain.

21 Q You weren't able to do it during that time,
22 because why?

23 A I'm taking the fix.

24 Q What -- what happened, then, after that?

25 A After the plot and, then, returned...

1 Q You have a conversation with the captain?
2 A I attempt to visually sight the ice. It was
3 very dark night. I knew there was practically no
4 chance of seeing ice, but give it a shot.
5 Q How'd you do that?
6 A Well, with binoculars and with the naked eye.
7 Q Where'd you go to do that?
8 A I was inside, and I'd also stepped just
9 outside the bridge door.
10 Q What was the weather like during that -- about
11 that time?
12 A I recall misty. It had cleared some. I
13 recall it was almost a light rain. Very, very
14 misty night as we approached the Narrows. It
15 seemed to clear up for a while, and then, it got
16 misty again.
17 Q So, it was a little bit tough at the
18 beginning, and then cleared up...
19 A Cleared up, and then it misted up again.
20 Q Were you able to see anything -- any of the
21 ice when you tried to attempt a visual?
22 A No. I couldn't.
23 Q How 'bout the seas? Were -- were there any
24 heavy swells during that time?
25 A No. Calm seas.

1 Q While you were gone was the vessel -- you
2 indicated that it had slowed down. Did it get
3 put up to full maneuvering speed at some point?

4 (1105)

5 A Yes. As 2324 we went back up to full ahead
6 maneuver.

7 Q Did you put the throttle ahead at that time?

8 A No. I was down on deck. That -- the captain
9 did that.

10 Q Now, would you describe what happened then,
11 after you'd taken your fix and the captain has
12 told you his intentions to divert, did -- was
13 there anything else that was discussed at that
14 point?

15 A Not at that point. I was checking to see how
16 this maneuver was gonna progress and that
17 entailed checking the extent of the ice and with
18 those ranges I went back and did -- just did a
19 quick check on the chart. When I returned to the
20 forward part of the bridge the captain said that
21 he had contacted -- I think I initiated the
22 conversation. I said, "Do you want me to call
23 traffic?" And he said, "I already talked to
24 'em."

25 Q Why did you mention -- why did you ask him

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about that?

A Well, see, I didn't know that -- if he had called 'em yet, or -- that's standard procedure that you do call. I was just checking to see whether, you know, if I should call 'em, or if he wanted to talk to 'em.

Q Now, you -- you indicated just a minute ago that you were checking to -- you were taking some ranges to check and see how this maneuver would go.

Is that something that the captain had pointed out what he wanted to do, or were you in your own mind thinking what you wanted the ship to do, or what are you -- what did you mean by maneuver?

A Well, there had -- at this time we'd -- at the time of the fix we were already here in the separation zone. The captain hadn't give me any instructions, or told me exactly what we were going to do, other than we're gonna divert. And I thought pos -- I don't know that he said we'll -- we'll take the in bound lane, but that's what I assumed.

That's when I took the -- and that's right after -- during the time that I was looking for ice visually.

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Returned to the radar, took some ranges, went back into the...

Q The ranges that you took, were they of the ice? Where the ice was? How far away it was?

A Yes. And it was at -- right at that time that the captain told me what he had in mind.

Q So, did you -- when you went back -- after taking the ranges and you went back to the chartroom to take -- am I right? You go back to the chartroom to plot out in your mind basically a rough outline of where you're gonna go?

A Yes. Well, it -- I didn't know exactly where we were gonna go. I -- what I wanted to know was -- and I believe the course that we were coming to as I was going back was 200. And I was -- wanted to know what 200 -- where that was going to lead us, if it was going to get us around the ice or -- or not.

Upon returning to the radar the captain said we're gonna come down to Busby and go around.

I believe I went back into the chartroom and using the -- the ranges that I had had before helped me get a better visual picture of how this new course that he was coming to, 180, would look as far as getting around the ice.

1 Q So, you took it from when he said we're gonna
2 go down to Busby and go around that he was going
3 to put it -- change course to 180, then?

4 A I believe he was already coming to 180.

5 Q When you -- when you first took the -- the
6 first check in the chartroom to determine whether
7 or not you were gonna clear the ice at a heading
8 of 200, what did you find?

9 A Well, I found that if we were gonna use the --
10 the inbound lane that we were gonna be in -- in
11 ice.

12 (1347)

13 Q When you -- when the captain indicated that
14 they were -- that you were going to go to 180,
15 did that take you -- was that going to take you
16 out of the TSS, the vessel -- the VT -- the
17 Vessel Traffic lanes?

18 A Yes. It would and I don't -- at that time,
19 I'm not positive that we were out, and it's when
20 we were coming to 180 that the captain informed
21 me of his intentions to come down to Busby. And
22 he was aware that -- I believe that he was --
23 that we were going to be on the lanes. I may
24 have said something to the effect of -- that we
25 will be out of the lanes, or that the ice is

1 acrost, not only both lanes, but all the way
2 across, extending past the lane.

3 Q Would you take...

4 (Pause)

5 Take a marker and show the jury -- this green
6 one -- where the ice was when you looked through
7 the radar?

8 A Took that -- this being kind of the limits of
9 -- of the ice, as you would look at a silhouette
10 of it on the radar screen in general.

11 Q How -- this -- and this is when you're taking
12 the ranges and looking out and seeing where this
13 is, right?

14 A Correct.

15 Q And was Captain Hazelwood looking at the same
16 radar?

17 A Captain Hazelwood looked at the 10 centimeter,
18 but typically, he'll use the three centimeter
19 when he's maneuvering.

20 Q Was he -- would he have been able to be aware
21 of the ice that was out in front of him through
22 the three centimeter?

23 A Certainly.

24 Q Now, would you describe for the jury what ice
25 looks like on the radar?

1 A Well, it's kind of difficult to describe. It
2 probably may be very difficult to differentiate
3 between a large chunk of ice and a fishing
4 vessel. They might appear the same on radar.

5 The one thing that would tip you off that it
6 is ice is that your -- Prince William Sound,
7 we've been there before and we know that there's
8 an increasing amount of ice being calved off the
9 glacier and ending up out here in the lanes. And
10 when you get number of returns that you're
11 getting and the confines are similar to this,
12 that you know that it's ice.

13 Q Okay. Well, is it a -- is it -- when you look
14 at the radar is it just little dots, or is it --
15 was it a mass across on that one?

16 A It wasn't -- no. It wasn't a mass. There
17 were specific individual targets, pieces of ice.
18 Some of the targets did probably pinged together.

19 Does that answer your question?

20 Q Are there any problems with picking up ice on
21 the radar?

22 A There could be. Depends on the aspect of the
23 ice, if it's -- what type of ice it is. If it's
24 small pieces of ice, you -- you may not pick 'em
25 up. Ice is a -- a fairly good reflector of radio

1 waves. And if they're big enough, you'd get a
2 good return depending on a number of other
3 factors, also, whether your radar is tuned
4 properly, and whether you're operating in foul
5 weather.

6 Q Make any difference how far away, or what
7 scale you're using on the radar?

8 A Yes. It would.

9 Q Can you explain what -- how that effects the
10 picking up of ice on the radar?

11 A Well, I don't know if it's an adequate
12 explanation. It's just that the size of the ice,
13 for one thing, makes -- would make it difficult
14 for -- probably impossible -- well, I won't say
15 impossible, but highly unlikely to pick up ice,
16 say, in a 24 mile range. It's -- just doesn't --
17 not a big enough object probably.

18 Q You indicated that this has been an increasing
19 problem. Is that something that's known
20 throughout the industry? That the ice is a --
21 been a big problem in this area?

22 A I would say so.

23 Q Does the ice at all represent a hazard to a
24 tanker?

25 A Yes. It's...

1 Q Why is that?

2 A It's a very -- very dense piece of material
3 floating around out there and you get a vessel
4 that -- especially the size and mass of a loaded
5 tanker impacting a large piece of ice, you run a
6 good risk of rupturing the hull.

7 Q And the risk of rupturing the hull -- what's
8 the risk of rupture -- what happens when you
9 rupture a hull of a tanker?

10 A Well, whatever is on the other side of the
11 steel is going to come out.

12 Q Are -- are there certain warnings on these
13 charts that you have about the icing conditions
14 in Prince William Sound?

15 A Well, I don't know if there -- there may be a
16 note on -- I'm not as familiar with this chart as
17 I used to be, but -- as far as the notes, but in
18 the Coast Pilots, which we review all the time,
19 there's mention of ice. Yes.

20 Q Okay. The notes that you're talkin' about in
21 this case would be Note E, is that right?

22 A Yes.

23 Q And that says, "During the calving season the
24 Columbia Glacier deposits ice, which may drift
25 into the northern part of the Prince William

1 Sound. Mariners are advised to exercise extreme
2 caution and relate all ice sightings."
3 A That's correct.
4 Q So, when you encounter icing conditions --
5 serious icing conditions, there is something that
6 you need to take into consideration in how your
7 ship is operating?
8 A That's correct.
9 Q During this time that you're talking with the
10 captain, did he ever tell you what course he
11 wanted you to take to get around this ice?
12 A No. There was no course mentioned.
13 Q Did he ever go to the chartroom and point out
14 on the chart what he wanted to do, lay out a
15 track for you?
16 A We did all of this right at the radar.
17 Q Now, so what happened, then, after you -- the
18 tanker started to make its 180 degree turn?
19 A I -- I don't quite...
20 Q Okay. What did you do after -- after going
21 back into the chartroom for the second time and
22 -- apparently, you said the tanker started to
23 turn to a heading of 180?
24 A That -- I believe this is the second -- I
25 believe we may have already been on the -- the

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180.

Q Okay.

A After the first set of instructions from Captain Hazelwood I did go back to the chartroom and look at, you know, abeam -- what abeam Busby is gonna look like, about how far we're gonna be off, and using prior knowledge as to the -- what I determined to be the bottom edge of the ice floe whether we're going to be able to make this turn without any problems.

Q Who was watching the helmsman at this time to determine whether or not the ship was steering properly?

A The captain.

Q And who watched the helmsman make sure that he followed the order to turn from 200 to 180?

A The captain. Maybe I should clarify something, because it -- I may have given the impression that the watch officer, one of his duties, specifically, is to watch the helmsman. That's something that you -- that you do when you're, again, out here, but a conning officer really is the -- the officer that is monitoring the helmsman. If you look at what the watch officer is supposed to do, take telegraph orders,

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provide navigational information, handle any communications if that's necessary. His attention quite frequently can be diverted from concentrating on the helmsman.

So, typically, a good, you know, a good pilot, or a good conning officer doesn't necessarily rely on the watch officer, but as an officer you want to do those things that -- it becomes just second nature that if you're standing there and you hear the conning officer give an order, that -- that you observe the helmsman as well.

Q Let's talk about that just for a minute. Who had the con, then, on that evening while -- after the pilot left the bridge?

A The master.

Q And that would be Captain Hazelwood?

A Captain Hazelwood. That's correct.

Q What do -- what do you mean by having the con? Would you explain that term of art to the jury?

A Well, it's short for have the control of the direction of the vessel.

Q And is there a procedure whereby you -- what happens when somebody wants to be removed from the con, or somebody -- you want to turn over the con to someone else, what do you do then?

1 A Turn over -- say, "You got it."
2 Q Is there any information that's passed between
3 the two officers?
4 A Yes. There'd be course, steering such and
5 such a course. If there were any other specific
6 instructions, they'd pass those along. If there
7 was any -- of course, typically passing that
8 along to somebody that's been there, so...
9 Q How about whether or not it's on automatic
10 pilot?
11 A Yes. That would be stated.
12 Q So, when you were up on the bridge that
13 evening, between the time the pilot was on and
14 the time we're talking about, you were what is
15 known as a watch officer?
16 A That's correct.
17 Q And Captain Hazelwood was the conning officer
18 at that time?
19 A That's correct.
20 Q And your responsibilities were to help him
21 through the things that you've talked about, the
22 telegraph orders, the navigational...
23 A That's right.
24 Q ...points and charting out the potential
25 problems in the future?

1 A Correct.

2 (2052)

3 Q Okay. About what time is all this happening?

4 Do you have an idea of when this -- looking at

5 the chart, the radar, the captain the first time

6 and the -- the tanker coming to 180?

7 A From somewhere in the neighborhood of 2345 to

8 2350 at -- that's not very precise, but that's in

9 that time frame, I'd say.

10 Q Now, you were supposed to get off at 11:50.

11 A That's correct.

12 Q What's the normal procedure for -- for the

13 next person to get called to come up and replace

14 you?

15 A Well, I'd normally call my relief at 20 after

16 11:00.

17 Q Did you do that on this evening?

18 A No. I didn't.

19 Q Why not?

20 A I was on deck.

21 Q That was when you were helping the pilot off?

22 A That's correct.

23 Q Did you -- when you got back up on the bridge

24 did you -- did you call 'em after that?

25 A No. I didn't.

1 Q What time did the other people change up that
2 evening?
3 A At their normal relief time, about 10 minutes
4 to the hour.
5 Q Who came up and replaced Mr. Claar?
6 A Robert Kagan.
7 Q And who was the other AB that came on board --
8 or came -- cam on duty at 10 'til?
9 A Maureen Jones.
10 Q Where did Maureen Jones get assigned to?
11 A Where did she get assigned to?
12 Q Yeah. Where did she go?
13 A Can you -- there was up -- back to the bridge
14 -- I guess she'd -- there was some confusion as
15 to where the look out was going to be posted. In
16 the course of my doing things I missed the fact
17 that the bow lookout had been pulled back to the
18 starboard bridge wing and I -- I recall there was
19 a short phone conversation that I had with
20 Maureen. She'd called and said where's the look
21 out and I said it was up on the bow.
22 So, evidently she had started up towards the
23 bow and we'd asked Paul Radtke if he could catch
24 her before she got all the way up there to let
25 her know that the look out had been shifted.

1 Q And, then she came up to the bridge?

2 A Yes.

3 Q Were you aware of the -- the tanker going on
4 automatic pilot? Being placed on -- when it got
5 placed on automatic pilot?

6 A No.

7 (2210)

8 Q Did you talk to the captain about it at all?
9 The tanker being on automatic pilot?

10 A No. I didn't.

11 Q So, we -- we've talked up to about 11:45 and
12 we're getting to the shift change. The captain
13 has laid out a course that he wants you to take
14 at the radar. What happened then?

15 A I believe we're a little bit further along
16 now.

17 Q Okay.

18 A The -- the -- this is a time when I was back
19 and forth between the chartroom and the radar.
20 By the time they -- the look out and helmsmen
21 were being relieved the captain had already told
22 me that -- of his intentions to come to -- abeam
23 Busby, head back towards the lane at that point.

24 Q Head back toward the what?

25 A The lanes.

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Q The lanes. Okay.

And at some point there was a changing --
shortly thereafter there was a changing of the
watch?

A That's -- that's correct.

Q And when the watched changed what information
was exchanged between the two helmsmen?

A The helmsman would -- but I didn't -- I didn't
hear their conversation. The relieved helmsman
will pass on the course and -- being steered, and
the mode of steering.

Q When did you learn that the tanker was on
automatic pilot?

A When Mr. Claar was relieved.

Q Did you hear any -- I'm sorry. What headings
are announced at that time? The gyro headings?

A Gyro.

Q How 'bout the magnetic heading?

A No.

Q Would you explain to the jury the difference
between a gyro heading and a magnetic heading?

A A gyro -- the gyro tells you is reference to
true north.

Magnetic is referenced toward magnetic poles.
And I think it might help them to see something

1 like this where it shows a magnetic compass and
2 where -- where the true north is. Basically,
3 that's the difference between magnetic and gyro
4 is one is magnetic and one is true.

5 Q Okay. Is there a term for this difference?

6 A You mean a variation?

7 Q Yeah. Okay. And does that change depending
8 where you are in the world?

9 A Yes.

10 Q And in Prince William Sound do you know what
11 it is approximately?

12 A I don't remember. It...

13 Q Do you -- do you check those things at certain
14 points on a voyage?

15 A Oh, yes. Daily.

16 Q I'm showing you what's been identified as
17 Plaintiff's Exhibit 82, which -- do you recognize
18 that?

19 A Yes.

20 Q What is that a copy of?

21 A The Compass Observation Book. Typically each
22 watch will check -- do a compass check.

23 Q Is this a fair and accurate representation of
24 the compass book that was on the Exxon Valdez on
25 March 23rd, 1989?

1 A Yes.

2 MR. COLE: I would move for the admission of
3 what's previously been identified as Plaintiff's
4 Exhibit 82.

5 MR. MADSON: No objection.

6 EXHIBIT 82 ADMITTED

7 THE COURT: Admitted.

8 Q (Mr. Cousins by Mr. Cole:) Now, when you're
9 testing this do you test it -- the distinction
10 between magnetic north and true north while under
11 way?

12 A Yes.

13 Q And do you get a -- a true heading on your
14 gyro, and you get a magnetic heading?

15 A Yes. Actually, you'd -- our purpose for
16 doing this really is to check our gyros. And you
17 work from a -- a magnetic to a true, and compare
18 the true and the gyro heading.

19 Q And then, there's a one final little notation,
20 or variance -- it's called a deviation. What is
21 that?

22 A That's due to vessel structure and where the
23 compass is mounted and...

24 Q Okay. Now, after the changing of the crew
25 members, the helmsmen...

1 A Uh-huh (affirmative).

2 Q ...was the Exxon Valdez placed on a computer
3 program to run up its speed?

4 (2496)

5 A Yes. 2352.

6 Q How does that happen?

7 A How does -- how does it happen?

8 Q How do you do it -- or why do you do it?

9 A That -- to increase the speed. That -- you're
10 -- at full ahead maneuvering, that's as fast as
11 you can go without doing something else, and that
12 something else is starting the load program up.
13 And what that is is a computer control sequence
14 of slowly, gradually increasing rpm.

15 Q And it's done according to a computer program.

16 A That's correct.

17 Q Do you know how long it takes to get from full
18 maneuvering speed up to sea speed?

19 A I don't really recall. It's somewhere in the
20 neighborhood of 40 minutes, I think. You'd need
21 to ask an engineer, I guess.

22 Q And why did you go up to sea speed at 11:52?
23 Why did you...

24 A Well...

25 Q Why did you load up the program to go up to

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sea speed?

A Well, we didn't have any specific instruction -- or, conversation about that, but this was after the captain and I had discussed the impending maneuver. And I took it to be that -- to -- that he wanted some -- a little bit more speed to complete the maneuver.

Q Who made the decision to load the program up?

A The captain.

Q And, again, what time was that?

A I have it logged as 2352.

Q That would 11:52 24 hour time?

A That's correct.

Q How long did the captain stay on board after he gave that order?

MR. MADSON: On board?

Q (Mr. Cousins by Mr. Cole:) On deck. I'm sorry.

A On the bridge. About a minute and a half, I guess. Perhaps two minutes.

Q What did you do -- what were you doing during this time?

A I had another discussion with the captain. Lookin' at the radar again and going through -- going over his instructions.

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Q Why did he -- did he indicate to you at that point that he was going to leave the bridge?

A He asked if I felt comfortable with what we're going to do, and I said, "Yes."

He said, "Do you feel good enough that I can go below and get some -- some paperwork out of the way?"

And I said I felt quite comfortable. Matter of fact, I was asked that twice.

Q How long did you believe he was going to be down below?

A Well, he had indicated that he should be just a few minutes, but -- the full conversation was I should be just a few minutes, but give me a call when you start the turn if I'm not back up on the bridge.

Q Did he tell you what paperwork was so important that he needed -- that he needed to leave the bridge on it?

A No.

(2710)

MR. MADSON: Object. It's inference that isn't necessary, Your Honor.

THE COURT: Objection overruled. That's argumentative.

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MR. COLE: I'll withdraw that.

THE COURT: Mr. Cole, we're in our lunch hour.
Would this be an appropriate time to...

MR. COLE: Uh-huh (affirmative).

THE COURT: ...recess?

We can take our lunch until 1:15. Again,
ladies and gentlemen, don't discuss this matter among
yourselves, or with any other person. Avoid the media
people. Avoid the media's information. Don't form or
express any opinions concerning the case.

We'll stand in recess.

THE CLERK: Please rise. This court stands in
recess subject to call.

(2738)

(Off record - 11:57 a.m.)

(On record - 1:18 p.m.)

(Jury present)

THE COURT: Okay, counsel. One of the jurors
gave me a note saying that she's having -- one of 'em's
having a hard time seeing the -- the evidence with the
plastic overlay because of the glare.

MR. COLE: Judge, at this time the State would
move for the admission of what's been identified as
Plaintiff's Exhibit 83.

MR. MADSON: No objection, Your Honor.

1 I wonder if the witness might not date and
2 sign it, though, just so we can keep it clear?

3 EXHIBIT 83 ADMITTED

4 THE COURT: The exhibit as it is now is
5 admitted, and if it's dated and signed, that's okay,
6 too.

7 Q (Mr. Cousins by Mr. Cole:) Now, Mr. Cousins,
8 when we left off we had discussed the events that
9 had occurred up to the point where the pilot --
10 the captain left the bridge.

11 A Okay.

12 Q Is that about correct?

13 A Yes.

14 Q And...

15 A We discussed the second time that we went over
16 the instructions...

17 Q The second time was right prior to him leaving
18 the bridge.

19 A He would have left, perhaps a minute later.

20 Q What I'd like to do is briefly have you list
21 for me the events as they occurred, so I can
22 write 'em down here, from the time you took the
23 plot at 11:39 until the captain left.

24 11:39 you would have been out on the pilot --
25 on the...

1 A Starboard bridge wing.
2 (Pause)
3 From the bridge wing a quick stop at the
4 starboard radar to collect the range information.
5 Q Okay.
6 A From there to the chartroom to plot the fix.
7 (Pause)
8 Q Okay.
9 A From the chartroom back into the forward
10 section of the bridge?
11 Q Okay. And where did you go from -- where did
12 you do when you were there?
13 A I stopped at the radar again.
14 Q The starboard radar?
15 A Yes.
16 Q Okay.
17 A From there I went to the windows, picked up a
18 pair of binoculars, looked for the ice, briefly
19 stepped out onto the bridge wing, came back in,
20 placed the radar -- I mean, the binoculars in
21 their -- in the holders.
22 Q Can we abbrev that -- abbreviate that looking
23 for ice?
24 A Yes.
25 Q Okay.

1 (Pause)

2 Okay.

3 A From there back to the radar.

4 Q The starboard radar?

5 A Right.

6 Q Had you had your first conversation with
7 Captain Hazelwood at this point?

8 A As to coming abeam Busby? No. Not yet. The
9 only conversation that we'd had was that we were
10 gonna divert for the ice.

11 I'd asked the captain if I should call Vessel
12 Traffic and inform them of what we were doing.
13 He said, "That's already been taken care of."

14 Q When -- when did you say that?

15 A That was at some point when I -- right after
16 looking for the ice.

17 Q Okay. That would have been right here?

18 A Somewhere in there.

19 Q So, we'll just put first conversation with
20 Captain Hazelwood?

21 A That's correct.

22 (Pause)

23 Q Okay. So, you've looked for ice. You've gone
24 back to the starboard radar, and what did you do
25 there?

1 A That's when I took my first set of ranges.
2 Q Uh-huh (affirmative).
3 A Went back to the chartroom, got a visual
4 representation against a chart as to estimate of
5 the ice.
6 Q And where a course of 200 would take you?
7 A Well, no. Not necessarily a course of --
8 where a course of 200 would take us. I believe
9 by that time he had indicated that we were gonna
10 come to 180, but I'm not sure of the chronology
11 there. That's a little fuzzy.
12 Q Okay. So you went to the chartroom again.
13 How 'bout to plot ice?
14 A I didn't make a plot. I just used a set of
15 dividers and I real quick got an estimate of what
16 that looked like in -- in relation to the lanes.
17 Q Okay. If I write estimate of ice in lanes?
18 A Right.
19 (Pause)
20 Q Okay. What was the next thing that you did
21 after that?
22 A Returned to the starboard radar again.
23 Q Okay.
24 A I believe at this time we were initiating the
25 turn to 180...

1 Q And where -- what would you have been doing
2 during that time?

3 (3211)

4 A Well, it's -- it's -- at that point I told the
5 captain that it looked like the ice was across
6 both the lanes.

7 Q Would that have been your...

8 A Actually, beyond the inbound lane.

9 Q What that have been your second conversation
10 you had with Captain Hazelwood after you went to
11 the radar?

12 A Yes.

13 Q And that would have been somewhere in this
14 period?

15 A Yes.

16 (Pause)

17 Q Ice in the lanes, basically?

18 A Yes. The extent of the ice across the lanes.

19 (Pause)

20 Q Okay. Then what happened?

21 A It was at this time that the captain said that
22 we're gonna -- "We're coming to a course of 180.
23 We're gonna bring it down to abeam Busby and then
24 cut back to the lanes."

25 Q This is all in this conversation?

1 A Yes.

2 Q 180. Go 'til abeam of Busby?

3 A Yes.

4 (Pause)

5 Q And cut back into the traffic lanes?

6 A Start to come back towards the lanes.

7 (Pause)

8 Q Okay. What -- what happened, then, after

9 that?

10 A I took another set of ranges and went, again,

11 back to the chartroom briefly.

12 Q Had the shift change occurred?

13 A No.

14 Q So, this goes down, then, into -- the

15 chartroom again?

16 A At least, the -- the helm hadn't been

17 relieved.

18 Q Okay.

19 A I'm not absolutely sure about the lookout.

20 Q Now, these ranges were taken when you went to

21 the chartroom from the ice -- for the ice?

22 A This was for -- for the ice, yes.

23 Q I was wondering while we're at that point

24 right here, would you mind making that line a

25 little bit darker so that people can see exactly

1 the way you saw the ice to be?
2 (Pause)
3 And when you saw the ice in that position did
4 you take any ranges of how far the ice was from,
5 say, Busby Island, or...
6 A Well...
7 Q ...Bligh Reef at that time?
8 A What I did is that I took a range of Bligh
9 Reef buoy...
10 Q Uh-huh (affirmative).
11 A ...a range of the bottom edge of that -- of
12 the ice...
13 Q Would...
14 A ...and just...
15 Q ...this be...
16 A ...backed it up...
17 Q This 'd be Bligh Reef buoy, then? This little
18 marker?
19 A That's correct.
20 Q Okay. And then you took a range of this? The
21 southern edge of the ice?
22 A That's correct.
23 Q And in that way you calculated...
24 A Maybe...
25 Q ...from there to there?

1 A Maybe I could -- can show you a little bit
2 better.

3 Q So, you...

4 A Approximately this...

5 Q They can't see.

6 A ...2339 fix was here. We were coming around
7 to the course of 180 and what I did was just drop
8 a line with a protractor. I just laid the
9 protractor from the fix...

10 Q I'll hold it, maybe, 'cause that way the jury
11 can't see what you're doin' right now.

12 A ...backed up from Bligh Reef buoy. I don't
13 recall what the range was. Got a point here.
14 Measured from here down the -- whatever the
15 distance was that I'd gotten off and I got a
16 visual representation on a chart as opposed to
17 just looking at a -- at the radar as the extent
18 of the ice across the lanes.

19 Q So, essentially you're traveling somewhere in
20 this area...

21 A Down. The fix is right here. By the time I
22 was taking these ranges we were -- oh, probably
23 in here somewhere.

24 Q When you say the fix, the 2339 was right about
25 the Z. Is that about right?

1 A It's pretty close.

2 Q Okay. And you took a fix on the southern
3 edge, and on the buoy...

4 A I took ranges off of this, this and just
5 backed it up and -- from this range backed it up
6 and measured the distance that I had gotten off
7 the radar for the bottom edge of the ice so I
8 could tell where it was in relation to landmarks
9 and the reef.

10 Q Do you remember what that measurement was?

11 A Well, just from having re -- reviewed my
12 statements that, you know, it was approximately
13 nine tenths between the upper edge of this --
14 Bligh Reef.

15 Q Would you put a mark there where the nine
16 tenths extended down to? Where you were talkin'
17 about?

18 A From here in a generally, kind of a
19 northwesterly -- that was the closest point to
20 the reef that the ice approached the reef.

21 Q How 'bout this range? Did you ever take what
22 the eastern edge of the ice was to Busby?

23 A I think I did, but I don't remember.

24 Q Okay. Okay.

25 That's fine. Thank you.

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(Pause)

Now, when you went back to the chartroom here -- we've gotten up to this point -- you had your second conversation with Captain Hazelwood?

A Yes.

(3732)

Q What did you do in the chartroom here? Is that what we were...

A That's where we were talkin' about.

Q Okay. So, this would be ice pack calculations? Is that...

A Yeah. That's it. Also, when captain expects you to check his orders. It's a part of the procedure in a routine to confirm that what he wants to do is proper and right. So, that double purpose.

Q Okay. How 'bout area of ice and...

A Actually one leads to the other.

Q Nav -- checking navigation.

A Right.

(Pause)

Q What did you do after that? What happened after that now?

A The -- upon returning to, again, the starboard radar I told the captain that it looked like when

1 we get down to Busby we'll be entirely out of the
2 system, but that we had plenty of room to make
3 the maneuver.

4 Q So, this would be back to the starboard radar?
5 A That's correct. That's approximately the time
6 that the load program started.

7 Q Okay. Well, when would the crew have changed,
8 then?

9 A Sometime in that period of me going back and
10 forth from the radar to the chartroom, back out.

11 Q Okay. So...

12 A These -- I didn't pay a lot of attention to
13 their changing out. I was doing other things.
14 What you would pay attention to, of course, is
15 when the helm was relieved. And at that time I
16 -- that's -- I was standing by the starboard
17 radar and that was just shortly after the load
18 program was started.

19 Q So, the load program, and then the crew
20 change, or the crew change and then the load
21 program? Or all about the same?

22 A All about the same time.

23 Q And when was the load program up command
24 given?

25 A 2352. 11 -- 11:52.

1 Q And then is when you had your third
2 conversation with Captain Hazelwood?
3 A Yes.
4 Q And that was about the location of the ice?
5 A No. We'd already discussed that. The third
6 and last conversation was, again, going over what
7 he wanted to do as far as making the turn, the
8 point of execution...
9 Q Okay. Navigation orders?
10 A That's -- yeah.
11 (Pause)
12 Q And this was, again, held at the radar?
13 A That's correct.
14 Q Was there ever any course heading given on
15 this?
16 A No. There wasn't.
17 Q Was -- were you ever told a range of -- away
18 from the land in which to turn, or anything like
19 that? Any particular point?
20 A The reference was abeam Busby begin the turn
21 back towards the lanes.
22 Q Any indication as to what rudder to use, or
23 anything like that?
24 A No.
25 Q And at that time, you were told that he was

1 going to leave the bridge?
2 (4093)
3 A His words were, "Do you still feel comfortable
4 with this?"
5 I said, "Yes."
6 He said, "Do you mind if I go down and get --
7 get some paperwork out of the way?"
8 I said, "That'd be fine."
9 And then he said, "Well, I should only be just
10 a minute or so, anyway. If I'm not back on the
11 bridge, give me a call when you start the turn."
12 Q How 'bout "Leaving the bridge instructions"?
13 A (No audible response.)
14 (Pause)
15 Q And when would he have left the bridge, then?
16 A Approximately 2354.
17 Q One or two minutes after the load up program?
18 A Yes.
19 Q Okay. What did you do, then, after Captain
20 Hazelwood left the bridge?
21 A I went to the helm and put it into hand
22 steering.
23 Q Why did you do that?
24 A Because we were about to make a course change.
25 Q And that would have been at Busby?

1 A Correct.

2 (Tape: C-3614)

3 Q Where -- where did you go, then, after that?

4 A I went to the port radar, shifted scales on

5 that, I believe it had been on the six mile

6 range. I shifted it to three mile scale,

7 prepared to take the fix on Busby Light. Set the

8 variable range marker up in advance.

9 By that time we were nearly abeam Busby Light

10 and I went out to the -- went over to the port

11 bridge wing, prepared to take the sight on the

12 light.

13 Q And what time did you take that fix?

14 A At 2355.

15 Q And where was Busby Light at that time?

16 A It was abeam.

17 Q And when you say "abeam", what do you mean?

18 A 90 degrees away from the heading of the

19 vessel. 090 -- bearing 090.

20 Q What -- what happened after you had taken that

21 fix there?

22 A Well, I went to the port radar, checked the

23 range again. Went into the chartroom, plotted

24 the fix.

25 Q Who was watching the helmsman at this point?

1 A There was no one watching the helmsman.

2 Q And while you were in the chartroom what

3 happened?

4 A During my plotting of the fix the look out

5 came back into the chartroom, reported a red

6 flashing light -- five second flashing red light.

7 Q What did that tell you?

8 A I knew that to be Bligh Reef buoy. We'd had

9 that on radar for quite some time.

10 Q Where did she say it was?

11 A She said it was broad on the starboard bow, as

12 I recall.

13 Q Would you tell the jury what broad on the

14 starboard bow means?

15 A We have a system of reporting objects, and we

16 call them points. Broad on the bow is another

17 way of saying four points. Each point represents

18 11-1/4 degrees. So, four points is -- or, broad

19 on the bow is 45 degrees.

20 Q So...

21 A We call those relative bearings.

22 Q So, if you were -- if this were the south

23 anchor -- I'm sure it's a little more pointed

24 than that.

25 A Not much.

1 Q What would -- can you show the jury what broad
2 on the starboard side would -- would mean?

3 A Okay. After I do that I'd kind of like to
4 explain something about this.

5 Q Sure.

6 A Well, approximately like this, if you're...

7 Q And what...

8 A 45 degrees from the heading.

9 Q And, then, what would be the abeam one, so
10 that they can get a reference? 45. Okay.

11 A We call these relative bearings and I kind of
12 take to have a double meaning in that reference
13 -- an individual's reference to some -- an object
14 at a distance, depending on where they're
15 standing on a vessel has a bearing on how they
16 perceive, or where they perceive that object to
17 be in relation to the center line of the vessel,
18 which is where these points originate at, from
19 the center line on. So, you -- as long as they
20 have it on the right side of the ship -- if
21 you're reporting something on the bow, you know
22 at least they're looking out.

23 So, I would take, for example, someone
24 reporting an object being broad on the bow with a
25 certain grain of salt, it may not be exactly

1 broad on the bow because of their position on the
2 vessel, where they're standing on the vessel.

3 Q Well, did it concern you that you had a red
4 light off your starboard side?

5 A No. I knew that we had the red light off the
6 starboard side. I had that on radar.

7 Q What -- would you explain to the jury what
8 having a red light off the starboard side can --
9 can that be a concern in some instances?

10 A In this instance I expected it to be on the
11 starboard bow until we attempted the -- the
12 maneuvers, 'til we -- until we started the
13 maneuver.

14 Q What -- let me rephrase that.
15 What did you do after you learned that -- this
16 information from Ms. Jones?

17 A That was at the end of the plot. I returned
18 to the forward section of the bridge, gave the 10
19 right rudder command to the helmsman.

20 Q And who was the helmsman at that time?

21 A Robert Kagan.

22 Q Where were you when you gave that command?

23 A On the port side of the bridge.

24 Q What did you do after you gave him that
25 command?

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A I stepped over and grabbed a flashlight that was hanging on the -- a bracket on the bulkhead. She'd call the captain and inform him that we were beginning the turn.

Q Where was the captain?

A In his office.

Q What else did you tell him?

A There was a -- a short conversation, but I told him it looked like we may get into the bottom edge of the ice.

And he responded by saying, "Is it going to be -- does it look like it's going to be a real problem?"

I said, "No. I don't think that it will." That -- my intent was just to ease it around the corner.

The conver -- the conversation went to whether the second mate had arrived on the bridge, yet.

Q Who asked that?

A The captain.

Q Had you called the second mate at all?

A No. I hadn't.

Q And what else did you talk about?

A Well, we -- the conversation went, "Has Lloyd shown up yet?"

1 And I said no. I was going to give him a call
2 as soon as we complete the maneuver and get
3 squared away in the lanes, I'd give him a call.

4 The captain inquired about had the -- the
5 lookouts had got everything straightened out and
6 there was an additional bit of conversation that
7 didn't really -- it was just a kind of a
8 commentary.

9 Q What was that?

10 A Oh, I think probably in reference to no one
11 really complaining about they've headed in the
12 wrong directions is sometimes some of the more
13 experienced sailors might tend to do if they
14 walked down four or five flights of stairs and
15 headed one way and had to turn around and come
16 back.

17 I mean, that's how -- that's what I took it
18 to be.

19 Q Say that again? What -- I didn't catch that.

20 A I think the comment was, "Well," I don't
21 exactly remember the phrase, but God bless the
22 young, or something like that. And I just took
23 that to be a -- a reference to that no one was
24 squawking about the fact that I told somebody to
25 go in the wrong direction. In reference to the

1 look outs.

2 Q Where were you when you were making this phone
3 call?

4 A There's -- a phone that is nearly directly
5 behind, or aft of the port rail, or on that
6 partial bulkhead between the -- the chartroom and
7 the nav area.

8 Q Maybe you could point that out?

9 A Well, I've lost...

10 (Pause)

11 That would be either here or here. One of
12 those.

13 Q And during this time were you watching Mr.
14 Kagan?

15 A I had my back to the helmsman at that time.

16 Q How long did -- did the conversation between
17 you and Captain Hazelwood occur -- or take?

18 A In the process of sitting now and kind of
19 trying to reconstruct it and -- and -- and timing
20 it, it appears that the conversation lasted
21 perhaps a little bit more than a minute and a
22 half.

23 Q When you said it looks like we're not going
24 -- we may still run into the lead edge of the
25 ice, what did you mean by that? When you were

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-- in this conversation?

A Yes. I expected that we were turning. My -- my estimate was that the vessel was going to just apparently skirt the bottom edge, or perhaps even come very, very, very close to the ice.

Q Okay. Would you -- do you -- would you mind pointing out to the jury what you mean by that?

A My thought was that as we were by that time -- after the fix -- just below Busby that my intent was to have the -- the vessel gradually follow a track something similar to this, and that -- that there was a chance that -- or, we might nudge a piece of ice up in here.

Q So, you knew that you would be hitting...

A It was -- it was my intent not to do that, but I informed him that there was a possibility that that may happen.

Q Okay. Did you tell him about what time you'd be cutting through that gap, or anything?

A That's what I thought we were doing at the time.

Q What happened, then, after you ended the phone conversation?

(544)

A I returned to the port radar. It became

1 obvious then that we hadn't done anything.
2 That's really the first time that I observed the
3 rudder angle indicator.
4 Q Is that the first time you looked at the
5 rudder angle indicator?
6 A (No audible response.)
7 THE COURT: Was that a yes, or no?
8 A Yes.
9 Q (Mr. Cousins by Mr. Cole:) When you looked at
10 it what did it read?
11 A As I recall six or seven degrees right rudder.
12 Q What was the course heading at that time?
13 A I don't recall. It seems like it was 180 and
14 some tenths, or -- not real clear on that.
15 Q What did you do then?
16 A I said get the rudder at 10 right. I stepped
17 out -- from there I stepped out to -- I -- I
18 believe I paused for a moment at the -- again at
19 the same radar, went out the port bridge wing,
20 took a look back at -- at Busby Light.
21 Q Why did you do that?
22 A Busby -- Busby Island Light is a -- a sectored
23 light.
24 Q Okay.
25 A And by looking back it would have been a -- a

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quick tell whether I was standing into that red sector of that particular light.

MR. COLE: Judge, I'm gonna ask him to come a little bit closer so that he can show this to the jury.

THE COURT: All right.

Q (Mr. Cousins by Mr. Cole:) Step up here and grab your stuff.

(Side conversation.)

A Feel like I'm on a leash.

MR. COLE: Is that (indiscernible - away from mike).

THE COURT: Yes, sir.

Q (Mr. Cousins by Mr. Cole:) What do you mean by a red sector?

A This is a dangerous, hazardous area and this is a -- a white light in all points of the compass except for this area right here, which defines the hazardous area. And we call it a sector light. It's -- it's a different color. It's red. From here to here is white.

Q Okay. Now, is it marked on the map in any way?

A This is red sector.

Q And what's the definitions? Is there a dotted line that goes out from that?

1 A Yes.

2 Q And if you cross over that what type of lights
3 would you expect to see?

4 A You would go from white to red. It's not
5 necessarily a clearly defined area where if you
6 were on this side of the little dotted line you'd
7 definitely see white, and if you were just
8 standing on the dotted line, you'd necessarily
9 see red because of the -- the way these things
10 are constructed. You would see a bleeding of
11 white into red, or red into white in this. And
12 then, kind of a narrow part of this portion of
13 the sector, but you would definitely see the red
14 sector if you were a tenth or so inside.

15 Q What did you see when you were?

16 A I saw a white light.

17 Q On -- on Busby?

18 A Yes.

19 Q What about on -- could you see Bligh Reef?

20 A Oh, yes. We saw Bligh Reef from up here.

21 Q And what color was it?

22 A That's red flashing.

23 Q Now, let me get this -- pull this back a
24 little bit.

25 Who was watching Mr. Kagan while you were out

1 checking the Busby Island Light?

2 A No one.

3 Q What did you do, then, after you came back in
4 off the wing?

5 A At that time I had ordered a right 20.

6 Q Why did you do that?

7 A Because we hadn't turned.

8 Q When you came back in did you look up at the
9 heading indicator?

10 A I probably did, but to sit here today and say
11 that I did, I can't call -- recall specifically
12 that I did.

13 Q How did you know that you hadn't turned?

14 A Just by using the radar I could tell we hadn't
15 turned.

16 By the time that I'd ordered the -- the 20
17 right, I believe, then, that there had been a --a
18 -- the beginning -- the initial part of the turn
19 had started.

20 Q When you had been talking with Captain
21 Hazelwood prior to this, when did he indicate
22 that he would be back up on the bridge?

23 A He said he ought to be just a couple minutes
24 more and he'd be finished up and be back up.

25 Q Now, did you watch the vessel turn after you

1 ordered 20 degrees right rudder?

2 A This is -- there's somethin' I'm not real
3 clear on, and at a later date through the various
4 investigations, primarily with the Justice people
5 I became aware of a -- what appeared to me to be
6 a fix, so, I mean, there's a very good chance
7 that I went back into the chartroom after
8 ordering the 20 right and I believe that -- I
9 believe that I did do that, because those were
10 the reference points that I had been using all
11 along.

12 (910)

13 Q You have a photograph here.

14 Now, you, when you were plotting these fixes
15 and making your marks, you were doing 'em on a
16 -- a chart that was on board the ship that
17 evening?

18 A Yes.

19 Q And after the grounding, at some point that
20 chart was taken?

21 A Uh-huh (affirmative).

22 Q I'd ask you to take a look at what's been
23 marked for identification as Plaintiff's Exhibit
24 30 and 29 and ask you if you recognize those two
25 pictures?

1 A Yes. I do.

2 Q Would you start with what's been identified as
3 Plaintiff's Exhibit 29 and tell -- what is that a
4 picture of?

5 A This is a picture of the -- section of the
6 traffic separation scheme down to and including
7 Bligh Reef, depicting the fixes that I took and
8 our grounding position.

9 Q Is that a fair and accurate picture of the
10 actual chart that you had that evening?

11 A Yes.

12 MR. COLE: I would move for the admission of
13 what's been previously identified as Plaintiff's
14 Exhibit 29.

15 MR. MADSON: No objection

16 EXHIBIT 29 ADMITTED

17 THE COURT: 29's admitted.

18 Q (Mr. Cousins by Mr. Cole:) And can you tell
19 the jury was Plaintiff's Exhibit 30 -- is that
20 -- what is that a picture of?

21 A It's a -- an expanded section of the chart
22 showing the 2355 fix off of Busby Island Light.
23 It's showing these marks that I referred to that
24 I believe to be something that I did in haste.

25 Q Is that a fair and accurate photograph of that

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chart?

A Yes. It is.

MR. COLE: I would move for the admission of what's previously been identified as Plaintiff's Exhibit 30.

MR. MADSON: No objection.

EXHIBIT 30 ADMITTED

THE COURT: 30's admitted.

Q (Mr. Cousins by Mr. Cole:) Now, on Plaintiff's Exhibit 30 there are two scratch marks. Would you explain to the jury why you think you put that there?

A Well, for one, I don't -- I couldn't imagine anyone else doing anything else with this chart after the grounding, but again, as I had a chart -- a copy of the chart and matched up what these arcs would correspond with, there were, indeed, points of reference that I was using all along. And that being, I believe, the northern tip of Reef Island.

Q Okay. Maybe you can use this to show the jury what you mean. Dividers up here, and what you mean by how these scratch marks got on this?

A Instead of using the compasses -- the compasses being like the dividers, except with a

1 piece of lead, and quite frankly they were
2 sloppy, they had a lot of slop in 'em, so -- and
3 it takes extra time to -- and care from moving
4 from a -- the distance scale over where you want
5 to scribe, so in haste I believe that I did pick
6 up a pair of dividers and scribe into the paper
7 ranges.

8 Q And can you give the -- the jury an idea how
9 you would have done that with those dividers?

10 A Yes. Whatever that range was from here real
11 quick, and just scratch into the paper, and
12 again, that line just scratched into the paper.

13 Q Okay. Thank you.

14 (Pause)

15 Who would have been watching Mr. Kagan while
16 you were scratching these into the -- in the
17 chartroom?

18 A No one.

19 Q After you got done with that -- well, let me
20 ask, do you remember the other AB coming in at
21 any time during that period of time and informing
22 you about the red light at -- at Bligh Reef?

23 A That was prior.

24 Q Okay. When would that have happened?

25 A That was at the 2355 fix.

1 Q Did she come in after that?

2 A Shortly after that. I think just about the
3 time that I was giving the 10 right command she
4 came in and corrected herself. She initially
5 reported the light as a five second light, and
6 returned to inform me that it was a four second
7 red flashing light.

8 Q After you came out of the chartroom, then,
9 what did you do? And this is after you've
10 scratched in on the chart.

11 A Being that I don't specifically remember doing
12 that I -- I don't...

13 Q Well, what do you remember next happened?

14 A Being at the radar. This is a time when I'm
15 becoming very concerned about the movement of the
16 vessel towards the -- the reef. I ordered a hard
17 right and I called the captain.

18 (1170)

19 Q Hard right means steering how many degrees to
20 the right?

21 A On this vessel 30 degrees.

22 Q And is that a command that you use often?

23 A I don't know that it's often, no.

24 Q Did you know...

25 A It depends...

1 Q ...how long...

2 A ...on the circumstance...

3 Q Do you know how long it would take you if you
4 were going in a straight line to turn at 90
5 degrees, executing a hard right order with a
6 fully laden tanker? Would you have any idea?

7 A I don't...

8 Q How far forward would you have gone...

9 A The advance?

10 Q Right. The advance of the tanker if you had
11 ordered a hard right with a fully laden tanker?

12 MR. MADSON: Excuse me. I think some more
13 foundation is necessary. At what speed, for instance?

14 THE COURT: Objection sustained as to
15 foundation.

16 Q (Mr. Cousins by Mr. Cole:) What happened when
17 you ordered a hard right?

18 A I turned to call the captain.

19 Q Were you watching the rudder at all during
20 this time?

21 A I observed it at 20 right. That was just
22 before the hard right command. I gave the hard
23 right command, called the captain, told him that
24 I thought we were getting into serious trouble.
25 He said, "Where is the rudder?"

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And I said, "It's at hard right."

I turned, it hadn't moved to hard right. It was still at 20. At that point we suffered the first shock and within a matter of seconds we were hard aground.

Q "The first shock." What do you mean by that?

A The first, initial contact with Bligh Reef.

Q Were you on the phone when that happened?

A No. It was at the end of the conversation, yeah.

Q Did you -- what did you tell the captain at that point?

A There was nothing else to say.

Q He -- did he realize it?

A I believe so. There was, you know, a mutual hang up of the telephones.

Q How long did you -- would you describe what -- what you heard, or what you felt when the tanker first hit?

A I guess it could be described as a rumbling.

Q And how long would it have -- did you get a sense of where that rumbling started from and ended, or -- or anything like that?

A Well, somewhere up forward and there were a series of jolts that seemed to let up for just,

1 like a split second and we just stopped. The
2 vessel head was still swingin', swinging rapidly
3 to the right. I had ordered the hard left, by
4 then.

5 Q What do you mean the vessel was swinging
6 rapidly to the right?

7 A Well, the vessel head was still swinging --
8 swinging right.

9 Q Why did you order a hard left?

10 A I knew we were -- we were hard aground. My
11 fear was that -- that we were sliding down the
12 reef -- the rear of the vessel, or the aft end of
13 the vessel was swinging in towards the rocks. We
14 had people in the engine room. Typically, if
15 you, you know, you don't want to endanger -- try
16 to do somethin' for 'em, you know.

17 Q What were you worried about actually
18 happening?

19 A Hulling the -- the engine room.

20 Q What happens when you hull the engine room?

21 A Well, you have people down there, for one
22 thing. Another thing is that you're probably
23 gonna lose your ship.

24 Q When you say lose your ships it sinks or
25 capsizes?

1 A Correct.

2 Q How long did it take -- who -- who actually
3 turned the -- the wheel on the hard left?

4 A I did.

5 Q Why did you do it?

6 A I think Mr. Kagan didn't understand the -- the
7 command. He hesitated. I was standin' right
8 there and I spun the wheel.

9 Q Had you ever worked with -- had you ever had
10 Mr. Kagan on your ship before?

11 A No.

12 Q Why wasn't Mr. LeCain up there and had -- and
13 replacing you?

14 A My intent was not to call him until we were
15 through the maneuver, complete the maneuver, get
16 squared up in the lanes, and then call him.

17 Q Were you aware of Mr. Kagan's capabilities at
18 the helm?

19 A No.

20 Q Were you aware that he had had trouble at the
21 helm in the past?

22 MR. MADSON: Your Honor, I'd object. That's a
23 leading question that implies this witness should know
24 something that he doesn't.

25 THE COURT: Objection overruled.

1 Q (Mr. Cousins by Mr. Cole:) Were you aware
2 that he had had problems in the past?

3 A Another second mate had talked with me about
4 something that had happened on a prior voyage and
5 that...

6 MR. MADSON: Your Honor, I would object to the
7 hearsay, Your Honor.

8 THE COURT: Mr. Cole.

9 MR. COLE: It goes to his state of mind, Your
10 Honor.

11 THE COURT: It's not being offered for the
12 truth of the matter. It's being offered for state of
13 mind. I'll overrule the objection.

14 Q (Mr. Cousins by Mr. Cole:) Go ahead. You
15 were saying you had learned from the other second
16 mate about a problem that had occurred?

17 A Yes. And I -- that happened in the -- one
18 other critical part of the passage in the
19 Narrows, I believe. And that Mr. Kagan had quite
20 some difficulty in steadying up on a course.

21 (Pause)

22 Q After the vessel came to a stop -- well, when
23 do you -- do you remember looking at a clock at
24 all aft -- during the time the vessel hit, or
25 when it came to a stop, or any time in there?

1 A Well, I did and whatever I wrote down,
2 whatever I recollect is off by several minutes,
3 but as what I recollect was 0004, which is the
4 time that I logged as the plot I took after we
5 were hard aground.

6 (1550)

7 I now think that, you know, that's incorrect.

8 Q And would you -- the 004, that's -- would you
9 explain to the jury where you came up with that
10 number -- why?

11 A With what? 000...

12 Q 004. Is that what you put on the chart?

13 A Yes. As the time of grounding.

14 Q And you -- you know think that that's wrong?

15 A Yes. I do.

16 Q What is it -- does the time 0004 have any
17 significance to you? I mean...

18 A I could have misread the digital clock that
19 was on the console. Actually this -- now, this
20 plot was made a few minutes after the vessel was
21 hard aground. I was just in error in
22 recollecting the time.

23 Q You didn't look -- did you have your watch
24 right in front of you when you hit?

25 A Well -- I -- this one.

1 Q Did you have it in front of you?

2 A No. I say that I was concerned about what
3 time it was at that point, I don't think I was.
4 I was more concerned about the casualty to the
5 vessel.

6 Q After the hard left, how long did it take for
7 the vessel to start steadying up and stop its
8 right turn?

9 A I don't recall. I'd have to refer to the
10 course recorder.

11 Q Are you familiar with the course recorder
12 that's on board there?

13 A Fairly familiar.

14 Q Is it a pretty fair and accurate
15 representation of the course that was taken that
16 evening?

17 A I would say so.

18 Q According to the course recorder what time did
19 you steady that vessel?

20 A Well, it appears to have stopped the right
21 swing at approximately 12 minutes after.

22 Q 12 minutes after midnight?

23 A Yes.

24 Q And would you have been at the helm at that
25 point that it steadied up?

1 A No. I was -- Kagan was always at the helm.

2 Q Okay. After you'd turned the hard left what
3 did you do?

4 A Hard left I went out to -- well, I watched the
5 -- the rudders start to swing. I swung it. I
6 saw that it was coming back left. I went out
7 onto the port bridge wing and turned on the
8 bridge wing flood light that shines down onto the
9 main deck, directed that over the side of the
10 ship in attempt to see if I could see oil coming
11 out, or...

12 Q Prior to going out on the bridge wing had
13 Captain Hazelwood arrived on the bridge?

14 A I believe he had, but that -- of course, when
15 you look at the diagram of this, it's -- the
16 bridge entry is behind me. He's -- he would be
17 entering from -- from here. And I'm standing up
18 -- up forward. I would be standing approximately
19 -- well, right here. My direction -- my focus is
20 directed out this way from spinning the wheel to
21 hard left, I...

22 Q How long would you have been at the wheel?

23 A A second. Just a...

24 Q Just enough to turn it, and then did you...

25 A Just to turn it and look to see that the

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rudder was moving, and then...

Q Did you turn the wheel over to Mr. Kagan, or did you let it swing back, or what happened, then, after you left?

A I gave the command hard left. There was hesitation. I was standing right there. I said, "Hard left," again. Then he responded, "Okay. Hard left." And I watched the rudder start to swing back left. From there I went out to the port bridge wing.

Q And you would have gone out through the port wing doorway...

A Yeah. Right...

Q Do you specifically remember seeing Captain Hazelwood on your way out?

A No. I don't.

Q How long would you have been out on the port wing?

A Probably for a few minutes.

Q Did Captain Hazelwood join you out there?

A I -- when I came inside I -- I met the captain. He was standing in this -- this area. I'm not sure where he had come from, if it was from the starboard side, this way.

I remember havin' just a few words with him,

1 probably right here.

2 Q Okay. You're pointing to the area around the
3 letter 14 on the diagram there.

4 A That's the approximate area. Somewhere --
5 somewhere over on that -- this side of the
6 steering stand as I recall.

7 Q I'd like to do the same thing that we did
8 before, Mr. Cousins, with the time period after
9 Captain Hazelwood left the bridge at between
10 11:53 and 11:54.

11 What would you have done after he left the
12 bridge that time?

13 A Switch steering modes, go to hand steering.

14 Q Okay.

15 A I switched that -- yeah. Okay. To helm
16 steering mode. Okay.

17 See to the port radar. Set up the variable
18 range marker in advance of taking the fix on
19 Busby Island Light.

20 Q Okay.

21 A Proceed out on the port bridge wing. Set up
22 for taking the visual on the light.

23 Q And did you go all the way out there to the
24 end and set up the azimuth?

25 A The azimuth circle was already out there.

1 Q But you had to go out to the end, there?
2 A Yeah.
3 Q And you took your -- your fix, then, at 11:55?
4 A Yes.
5 (Pause)
6 Q Where would you have gone, then, after that?
7 A Briefly to the port radar.
8 (Pause)
9 From the port radar back into the chartroom,
10 plot the fix.
11 Q And when did Maureen Jones come in?
12 A Just as I was finishing up that fix.
13 Q Finished fix. Then, after that -- after she
14 came in? Finish plotting?
15 A Finish -- well, I was finished plotting when
16 she gave the report of Bligh Reef Buoy.
17 Q And then, what did you do?
18 A I went out to the forward part of the bridge,
19 the -- the nav area. Gave the 10 right command.
20 Picked up a flashlight on the near bulkhead and
21 called the captain to inform him that we'd
22 initiated the turn back towards the lanes.
23 (Pause)
24 Q And, then, after the flashlight, the first
25 telephone...

1 A Correct.

2 Q ...conversation.

3 A Uh-huh (affirmative).

4 MR. MADSON: Your Honor, I think this has all
5 been asked and answered before and written down once.
6 I think we're redoing the same thing, if I remember
7 from my notes correctly.

8 THE COURT: That may be right.

9 MR. COLE: This part?

10 THE COURT: I don't know, but there's no
11 objection, just a statement by Mr. Madson.

12 MR. MADSON: Well, I object to the question,
13 then, Your Honor, as asked and answered.

14 THE COURT: I don't recall that this has been
15 asked and answered, but if it has we'll let him answer
16 it again.

17 (2130)

18 Q (Mr. Cousins by Mr. Cole:) You had your first
19 telephone conversation and that lasted
20 approximately how long?

21 A At least a minute and a half.

22 (Pause)

23 Q And that conversation you spoke about the --
24 the possible ice problems and Mr. LeCain and the
25 watch?

1 A Correct.

2 Q What happened after that conversation, then?

3 A I turned, again, to the port radar.

4 (Pause)

5 That's my recollection of the first time --

6 looking at the angle indicator.

7 Q The rudder angle indicator?

8 A Correct.

9 Q And that would have been the one at the

10 forward bulkhead?

11 A Yes.

12 Q Okay. What did you do after that?

13 A I told Mr. Kagan to go ahead and get it all

14 the way over to 10 -- 10 right.

15 (Pause)

16 Q What -- what did -- when you looked at the

17 rudder angle indicator, what did it look -- what

18 did you see?

19 A It look -- it looked as though it was six or

20 seven degrees right.

21 Q What did you do after that?

22 A I stepped out on the port bridge wing.

23 Q When -- when did Ms. Jones come in?

24 A Oh, that's -- yeah. That's way back at the

25 first...

1 Q Well, she came in the first time when you were
2 in the chartroom?
3 A Yes. And then she came in just second later.
4 And it would be sometime in here.
5 Q Put a line right there?
6 A Uh-huh (affirmative).
7 Q That be accurate?
8 A Yes.
9 Q Then, after the second 10 degree, you went out
10 on the port...
11 A Bridge wing.
12 Q Okay.
13 A Looked back at Busby Island light.
14 (Pause)
15 Q Okay. And after coming back in where -- what
16 did you look at? What did you do?
17 A I would have gone back to the port radar. I
18 believe that's the -- the ranges that I had taken
19 at that I believe are indicated by the scratches
20 and scribe marks on the chart.
21 Q So, you would have gone to the chartroom,
22 then, from there?
23 A I believe so.
24 Q When you came out of the chartroom, where did
25 you go?

1 A Back to the radar -- port radar.
2 (Pause)
3 Q What happened after that?
4 A Well, actually, I think we skipped something.
5 I ordered the 20 right before I would have gone
6 to the chartroom.
7 (Pause)
8 Q And then you went to the chartroom and then
9 you came back to the port radar...
10 A Correct.
11 Q And then what happened?
12 A I ordered the had right at that time. I
13 believe there was a -- perhaps, 15 to 30 seconds
14 before I ordered the hard right.
15 Q And did you see the rudder come around to 30
16 degrees when you ordered a hard right rudder?
17 (2384)
18 A No. I didn't. At that time I had turned. I
19 said hard right and -- and I turned, picked up
20 the phone, called the captain.
21 Q So, that would have been your second telephone
22 conversation?
23 A That's correct.
24 Q Did you know that -- the heading of the ship
25 at this time?

1 A I can't recall what it was at this time.
2 Q And how long did that conversation last?
3 A Moments.
4 Q And what happened after -- what happened at
5 the end of that? What happened after that?
6 A At the very end of the conversation that's
7 when the vessel suffered its initial shock,
8 impact on Bligh Reef. From there that was the
9 hard left and out to the bridge wing.
10 Q Are you -- write "initial grounding"?
11 A Yes.
12 Q And then you gave the counter rudder command
13 of hard left?
14 A That's correct.
15 Q And from there what hap -- from there you went
16 out to the port, or the...
17 A Port bridge wing. Turned on the bridge wing
18 floodlights.
19 THE COURT: Mr. Cole, this is gonna be a good
20 time to break.
21 Don't discuss the case in any fashion with
22 anybody. Don't form or express any opinions. We'll
23 come back in about 10 or 15 minutes.
24 THE CLERK: Please rise. This court stands in
25 recess subject to call.

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1 (2528)
2 (Off record - 2:38 p.m.)
3 (On record - 2:59 p.m.)
4 THE COURT: Be seated. Thank you.
5 You may resume, Mr. Cole.
6 Q (Mr. Cousins by Mr. Cole:) Mr. Cousins, after
7 you came in from the port wing and spoke to the
8 captain, what -- what did you do next?
9 A Upon entering the bridge I stated, "Well,
10 we're hard aground."
11 The captain said, "Get a fix. Get a position
12 down on the chart."
13 Q And is that fix -- did you take that fix and
14 plot it on the -- on the chart that morning?
15 A Yes.
16 Q Is that set forth in the photograph that you
17 have in front of you?
18 A Yes. It is.
19 Q Would you -- pointing to that -- hold that up
20 and point to the jury its...
21 A That's right here.
22 Q Right there. Is there an intersection of a
23 couple lines there at that point?
24 A Yes. Indicates two different ranges.
25 Q And so you would have plotted the fix of the

1 vessel as right in the intersection of those two
2 range markers?

3 A Yeah. Someone might get a little confused if
4 it was stated that way and they look at the
5 photograph, as it -- there's really two positions
6 that are close together. I believe the -- the
7 first one may have been somewhat in error
8 because, again, I used the compasses that are --
9 have some degree of slop in it. At the point, of
10 course, I think we were all shaken somewhat by
11 the grounding. That's the initial moments of
12 after the grounding. And...

13 Q What...

14 A ...my first -- my first fix is the uppermost
15 of these.

16 Q Okay. There's two...

17 A Yes.

18 Q ...dots along this one line. Is that correct?

19 A Yes.

20 Q They're running along here?

21 A Yes.

22 Q And that would be just north of the five
23 fathom mark, right there? That would be your
24 first fix?

25 A Well, the -- the uppermost, or northernmost

1 point was the first fix. The one just -- just
2 below it is the second fix.

3 Q And that would be above the letters SH?

4 A Correct.

5 Q What does SH mean?

6 A That's an abbreviation for describing the type
7 of bottom.

8 Q And did you show the captain that fix?

9 A He looked at it.

10 Q What happened next? Do you -- do you remember
11 anyone coming in on the bridge while you were
12 plotting that fix?

13 A I don't know if it was while I was plotting,
14 but within minutes the chief mate was on the
15 bridge.

16 Q And did you tell him anything?

17 A I told him that we were hard aground, that the
18 captain was aware of it and he's up here on the
19 bridge.

20 Q What did you do after you plotted that fix?

21 A Returned to the forward part of the bridge
22 again. I believe we stopped the engines at that
23 time. It seems that there were -- was a
24 telephone call to the engine room.

25 Q By looking at the bell marker could you tell

1 when the engines were shut down?

2 A Well, probably quicker if I look at the Bell

3 Book.

4 Q Okay.

5 A No, actually. Yeah. I would have to look at

6 the Bell Logger.

7 (Side conversation)

8 Q (Mr. Cousins by Mr. Cole:) Have you seen the

9 Bell Logger for this -- for the Exxon Valdez on

10 that evening?

11 A Several times.

12 Q I'm showing you what's been marked for

13 identification as Plaintiff's Exhibit 17. Do you

14 recognize that?

15 A Yes.

16 Q What is that a representation of?

17 A It's a printout of engine speed and speed

18 changes.

19 Q And is that the whole portion of the Bell

20 Logger from the time that you left the dock, or

21 just a part of it?

22 A I'd -- I believe that's most of it.

23 Q Is that a fair and accurate representation

24 from at least 11:24 on, 'til the engines were

25 stopped at 1:41 on the 24th?

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A Yes.

MR. COLE: I would move for the admission of what's previously been identified...

MR. MADSON: May I see that, Your Honor, one last time?

(Pause)

Your Honor, could I voir dire the witness for just a second with regard to this before I object or...

THE COURT: All right.

VOIR DIRE EXAMINATION OF MR. COUSINS

BY MR. MADSON:

Q Mr. Cousins, you've indicated that this seems to be -- appears to be an accurate reproduction of a portion of the Bell Logger, correct?

A Yes.

Q What about the little notations on there? Grounding, for instance, do you agree with the time or -- where that's stated on there, where midnight is and program up, things like this?

A Not the -- the load program up doesn't seem to be in the proper place.

Q Anything else?

A Well, I guess the -- the time of the grounding, that's -- I think that's kind of an estimate on somebody's part.

1 MR. MADSON: Your Honor, I would object. It's
2 not a true and accurate reproduction as far as the
3 notations are concerned. If they're removed from
4 there, I'd have no objection at all.

5 THE COURT: Is it your intention to eliminate
6 those two parts?

7 MR. COLE: Well, I'm gonna establish them at a
8 later time. I'll just put a piece of tape across
9 there.

10 THE COURT: All right. Is there any reason
11 for it to go into evidence now if you're going to
12 establish it at a later time.

13 MR. COLE: No. There are no...

14 THE COURT: Okay.

15 DIRECT EXAMINATION OF MR. COUSINS, CONTINUED,
16 BY MR. COLE:

17 Q (Mr. Cousins by Mr. Cole:) Do you still have
18 the Bell Logger in front of you?

19 A No. I don't.

20 THE COURT: Mr. Madson, except for those to
21 portions you have no objection to the exhibit?

22 MR. MADSON: Well, Your Honor, I don't know.
23 I didn't -- maybe if I could ask the witness if there's
24 any more things on there that he -- might be incorrect,
25 or he can't say for sure on. Then I'd object to those,

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too.

THE COURT: Well, I thought you'd done that already, but I'll give you a last opportunity.

MR. MADSON: No. I was introduc -- objecting to the introduction of it in its entirety unless they're all removed, but...

THE COURT: Except for those two, the load program up timing, and the grounding timing, is there any other inaccuracies in that exhibit that you can see?

A Not that I can see, Your Honor.

THE COURT: Okay. It will be admitted if those are eliminated. And those can be reinstated if there's a foundation for them later on.

Q (Mr. Cousins by Mr. Cole:) What time did you shut down the engines the first time after the grounding?

A Well, I see that was omitted from the Bell Book, and referring to the Bell Logger that was 12:20, although I haven't found it in here yet.

(Pause)

I really don't see the start or stop of this.

Q This is the 24th.

A This is the 24th?

Q What did you do after the engine was shut

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down?

A The captain instructed me to go below, along with the look out and start waking people up, informing 'em of our situation.

Q And did you do that?

A Yes. I did.

Q When did you return to the bridge?

A Approximately 15 minutes later.

Q What happened when you returned to the bridge?

A To the best of my recollection there was the chief mate and the master having a conversation about his initial assessment of the damage to the vessel. I don't really know what the context of that conversation was because I was not included in that.

(3229)

Q Were you ordered to start the vessel forward again?

A At some time later.

Q And what -- what hap -- what were you ordered to do?

A I was given a series of engine orders increasing it to full ahead.

Q What was the purpose of those -- were any steering commands given at that time?

1 A Yes. I believe there was. I -- I don't know
2 exactly what those commands were.

3 Q Do you know what time the -- well, where were
4 you standing during this time?

5 A At the engine order telegraph -- right here.

6 Q And where was the captain standing?

7 A Up here.

8 Q And where was the helmsman?

9 A At the helm, right here.

10 Q How long -- how long before you stopped the --
11 you were told to stop the engines of the Exxon
12 Valdez?

13 A Well, I'm gonna have to refer to this.
14 (Pause)

15 Q Can you tell from the Bell Logger?

16 A Yes. I was just looking through here. If
17 this is the same as that, it's 0141.

18 Q What -- what was the purpose of these rudder
19 commands and running the ship ahead forward?

20 A Well, it -- I didn't really know what the
21 purpose of it was. I assumed that it was a
22 result of whatever the chief mate and the captain
23 had talked about in the conversation that I
24 wasn't included in.

25 Q What did you -- what did you, personally,

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believe was going on?

MR. MADSON: Well, Your Honor, I'll object to relevancy. I don't know as it matters what he believes since he doesn't know what the captain was doing.

THE COURT: I don't see how it's gonna assist the finder of fact, Mr. Cole. The objection is sustained.

Q (Mr. Cousins by Mr. Cole:) Do you remember telling anybody else what the purpose was of trying -- of running the vessel ahead and using the rudder? Have you talked to other -- been interviewed at other times about that?

A Well, at the NTSB hearing at the Federal attorneys.

Q How 'bout an interview you had with Investigator Delozier that day? That morning?

A Yes. We -- I believe we would have discussed that, running the engines.

Q Do you remember what you told him was the purpose of using the throttle and the rudder?

A I told him that initially I thought there might be an attempt to extract the -- or, extricate the vessel from the reef, based on part of a conversation that I overheard on the radio.

Q Who had that -- who was -- who was having that

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conversation?

A The captain and, I believe captain of the port.

Q Do you remember talking to the NTSB and telling them the -- a reason for these rudder commands and the engine being put ahead full -- full ahead?

A yes.

Q What did you tell them?

A Essentially the same.

Q And that is? What did you tell 'em?

A That I thought that perhaps that we may be tryin' to pull the ship off the reef.

Q Did you -- during this time did you -- until the engine stopped, did you see Mr. Kunkel come back up to the bridge?

A I don't recall that he was back on the bridge while the engines were running. He may have been, but I really can't place him there at that time.

Q What did Captain Hazelwood tell you when you stopped the engines at 141?

A He said something to the effect of, "We're definitely not going anywhere," or -- we hadn't moved, essentially from running the engines.

1 Q Did he characterize that in -- in a sense of
2 the ship being in danger, or not?

3 (3615)

4 A Well, I -- I don't think he had to
5 characterize it that way. We all knew that we
6 were in danger.

7 Q Did he indicate that what he had done had put
8 -- placed the ship in danger by moving it ahead?

9 A No.

10 Q After the vessel was shut down, what -- what
11 did you do?

12 A I remained on the bridge, kept rechecking the
13 vessel position, keeping an eye on it to see
14 whether it was shifting on the -- on the reef.

15 Q Did you have any communications with Captain
16 Hazelwood that morning?

17 A Very little. The extent of our conversation
18 was -- I believe the rest of the morning was he
19 queried me about what happened. There might have
20 been some other talk about where he -- he would
21 let me know where he was going, if he was going
22 to the cargo control room to discuss matters with
23 the chief mate, or whether he would go down to
24 the radio operator's radio shack to make calls to
25 the company.

1 Q When was the anchor dropped?

2 A I'm unclear about that. It seemed that the --

3 they had it logged here as start lowering the

4 starboard anchor at 0448 that morning. I -- I

5 believe that's correct. It may not be, but it

6 seems that it might -- it seems that -- that

7 order was given around the time or shortly after

8 the Coast Guard boarded.

9 Q When did the Coast Guard board the vessel?

10 A 0338.

11 Q Were you on the bridge when they first started

12 radioing indicating that they were in the area?

13 A Yes.

14 Q Do you remember how -- how long prior to the

15 boarding that would have been?

16 A No. I don't recall.

17 Q Did you have any contact with the Coast Guard

18 that morning?

19 A Yes. At some point I had fielded a call from

20 Commander of the Port. I don't recall the

21 context of the conversation without reviewing it.

22 Q Did you talk with the investigators that came

23 on board that morning?

24 A Not -- later that morning. Much later.

25 Q Did you give a urine sample?

1 A Yes.

2 Q And was a blood sample drawn from you at a
3 later time?

4 A Actually, I think the -- it was taken -- yeah.
5 I guess it was taken later that day.

6 Q Would you tell the jury what the Exxon alcohol
7 policy is for use of alcohol on the -- on the
8 vessel?

9 A The policy's been termination.

10 Q And is that the same thing for possession of
11 alcohol on the vessel?

12 A Yes.

13 Q Did you have any alcohol in your possession on
14 the 23rd or the 24th?

15 A No.

16 Q Were you aware of any alcohol on board the
17 Exxon Valdez...

18 A No.

19 MR. COLE: I have nothing further, Your Honor.
20 (3951)

21 CROSS EXAMINATION OF MR. COUSINS

22 BY MR. MADSON:

23 Q Good afternoon, Mr. Cousins.

24 A Afternoon.

25 Q I have neither met with you, or spoken with

1 you regarding this case, have I?
2 A That's correct.
3 Q Is it fair to say, sir, that a lot of other
4 people have questioned you over the last 11
5 months?
6 A A number of parties.
7 Q You've had plenty of time to go over previous
8 statements and to think about this incident?
9 A Well, I've had plenty of time to think about
10 this incident. I haven't really found the desire
11 to wade through all the statements and material.
12 Q What I'm getting at, sir, is that you have had
13 time to at least know -- at this point, you
14 haven't lost, let's say, your memory of what
15 happened?
16 A I don't think that I'll ever forget that.
17 Q The events are still fairly fresh in your mind
18 now, right?
19 A Yes.
20 Q Let me go back to the beginning, as Mr. Cole
21 did, and ask you something about your maritime
22 experience.
23 You said you got your third mate license in, I
24 think, February of 1986?
25 A Yes.

1 Q Prior to that time you said you were -- you
2 were an AB, is that right?
3 A That's right.
4 Q Able seaman?
5 A Yes.
6 Q Now, that requires some kind of Coast Guard
7 license action, does it not, to get that license?
8 A No. It's not really a license, it's a
9 certification.
10 Q Certification.
11 A Yeah.
12 Q That certification -- does it mean something?
13 Let me ask you that?
14 A It's -- yes. It's supposed to mean something.
15 Q As opposed to say, an ordinary seaman, what's
16 the difference?
17 A An ordinary seaman is one that -- I won't say
18 without skills, but has certainly not had the
19 time or experience an AB has, or the knowledge of
20 seamanship skills.
21 Q So, an AB, then, is tested and found -- at
22 least he's certified, then, by the Coast Guard
23 that he has certain seamanship skills?
24 A Yes.
25 Q Okay. Included in that would be the -- the

1 ability to steer a vessel, would it not?
2 A The ability to understand commands. Quite
3 different than the ability to steer.
4 Q Okay. What -- explain the difference.
5 A The only way that you learn how to steer is
6 steering. And you can't go into a Coast Guard
7 licensing office and demonstrate a steering
8 skill. What they ask you is do you understand
9 rudder commands.
10 Q Okay. In other words, to steer a vessel
11 means, basically, you want to go from point A to
12 point B, and you do that yourself, right?
13 A That's right. Yes.
14 Q That's different than saying understanding
15 steering commands, which is merely following an
16 order to, you know, 10 right, 10 left, something
17 like that...
18 A Yes.
19 Q ...correct?
20 A Yes.
21 Q How 'bout a heading? Can you -- is that all
22 also part of it, put the ship on a heading of
23 200, 245, something like that?
24 (Tape: C-3614)
25 A That's part of the skill of being a helmsman,

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yes.

Q Now, can an ordinary seaman act as the helmsman on a vessel?

A At sea, the -- only at sea. They wouldn't be allowed in harbors and bays.

Q And following steering commands is, would you say, generally pretty simple?

A I'd say it's about the simplest thing you can do, yeah.

Q In other words, if you gave a command to somebody and said 10 degrees right rudder, that helmsman has to know his left hand and his right hand, correct?

A That's right.

Q And has to be able to see a 10 on an indicator somewhere? Right?

A Yes.

Q That's basically it?

A That's all.

Q And these are routine commands, are they not? They're given all the time?

A Yes.

Q Can't steer a ship without giving commands as to where it's going to go?

A Right.

1 Q I got a little off the track here, but anyway,
2 you were -- were you an ordinary seaman, then an
3 able seaman, then third mate?
4 A That's correct.
5 Q So you kind of worked your way up the ladder?
6 Is that correct?
7 A Yes.
8 Q Once you're at the AB level, able seaman
9 level, when you want to say, get your license to
10 become an officer, what do you do? What do you
11 have to do?
12 A Well, first of all you have to qualify time-
13 wise for the Coast Guard to even allow you to sit
14 for the exam.
15 Q How much time is required?
16 A Three years of actual sailing time. Takes
17 about -- took me approximately five years to get
18 three years of sea days in.
19 Q And then you said there's an exam. Now, this
20 requires some formal training in addition to just
21 being on a ship and having experience?
22 A Well, if you're a particularly adept student,
23 you could do it on your own without any formal
24 education.
25 Q In other words, a degree from a college isn't

1 required or something like that?

2 A No.

3 Q And so you studied on your own to take your
4 third mate license?

5 A I attended a marine licensing school in New
6 Orleans.

7 Q Where?

8 A In New Orleans.

9 Q I see. How long did that take?

10 A I think I may have spent four weeks, perhaps
11 four weeks in the school.

12 Q Is that kind of a concentrated course for the
13 taking of the exam?

14 A Not just for the exam. It covers a broad
15 range of subjects that you would find in the
16 exams.

17 Q And you did take the exam and passed it and
18 became a third mate, right?

19 A That's right.

20 Q Now, the third mate license -- that is called
21 a license, is it not?

22 A Yes, it is.

23 Q That enables you to do certain things that an
24 able seaman cannot?

25 A That's correct.

1 Q For instance, you are an officer rather than
2 just an ordinary or able seaman?
3 A That's right.
4 Q You can stand the watch and I think you said
5 on a vessel of any size?
6 A Yes.
7 Q By standing the watch, that means you can be
8 the officer on the bridge in control and direct
9 the vessel?
10 A That's right.
11 (0152)
12 Q Then you said you got your second mate's
13 license in about February of '89, I think?
14 A Yes.
15 Q What added or what other necessary education
16 experience is necessary to get the second mate's
17 license?
18 A Well, it's, if you will, just in a sense,
19 graduating to the next level -- your level of
20 expertise is expected to increase in, for
21 example, celestial navigation. That's primarily
22 the major...
23 Q Would you explain what celestial navigation
24 is?
25 A It's the measuring of the celestial bodies and

1 applying that to fixing the position of the
2 vessel.

3 Q In other words, that's different than say,
4 taking it off an electronic instrument, right?

5 A That's correct.

6 Q You have to actually go out there and...

7 A Measure it with a sextant.

8 Q ...measure. That's the old fashioned way. Is
9 that right?

10 A That's the old fashioned way.

11 Q But it might come in handy some day if all
12 your equipment breaks down, right?

13 A Exactly.

14 Q Then after receiving -- and you said you
15 received your second mate's license, did you ever
16 ship out on a vessel as a second mate?

17 A Never.

18 Q Actually, you only had it let's say, for a
19 month or so prior to this incident, correct?

20 A That's about it.

21 Q So even though however you were a third mate
22 on the Exxon Valdez, you were qualified to be
23 there as a second mate? Right?

24 A Yes.

25 Q Why -- I guess the question is why does a

1 person with a second mate license actually be on
2 the ship or a vessel as a lower rate, third mate?
3 How does that happen?

4 A For one thing, available jobs. There aren't
5 many jobs available for second mates at that time
6 and if there were, they would probably go to an
7 individual that's probably had the license a lot
8 longer than I have.

9 Q So basically if you wanted to work at that
10 time, you'd take a job as a third mate, right?

11 A Yes.

12 Q I imagine there's a difference in pay, is
13 there?

14 A I hope so, yes.

15 Q You intend to go on and get further licenses
16 like first mate, captain?

17 A I had that in mind, yes.

18 Q That's the normal sequence of events for
19 seaman, is it not, I mean, officers?

20 A Yes.

21 Q You indicated you also had a radar
22 endorsement?

23 A That's required.

24 Q That's another test you had to take?

25 A Yes.

1 Q Now, with regard to your actual experience.
2 How many years would you say you've been on
3 vessels altogether?
4 A Approaching 13 years.
5 Q And as a third mate, how long?
6 A My first assignment was in January of 1987.
7 Q And where was that, sir?
8 A Just for a number of days -- you want me to
9 recount the vessels or...
10 Q Well, just briefly, if you could. I mean I
11 don't want to go to every trip and everything
12 like that. But what type of vessels and what
13 coast you were on and things like this.
14 A The first assignment of any duration and that
15 was only for approximately two weeks, a bit more
16 than two weeks, was aboard the Exxon Charleston
17 which trades...
18 Q Was that a tanker also?
19 A That's a product carrier on the East Coast.
20 Q When you say product carrier, what does that
21 mean?
22 A Clean pro -- refined products.
23 Q Gasoline?
24 A Gasoline, chemicals.
25 Q Okay. I didn't mean to interrupt, but please

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go on.

A From there I was shifted to vessels on the West Coast.

Q So you've had experience on both coasts. Is that correct?

A Very limited experience as third mate on the East Coast. That was that matter of 15 or 17 days on the Exxon Charleston. The rest of my third mate time has been on the West Coast.

Q What about standing, say, a bridge watch as a helmsman before you got your third mate license? Were you doing that on both coasts too?

A Yes.

Q So, you actually were -- let's say steering -- not steering, excuse me, but following steering commands for a number of years. Is that right?

A Yes.

Q Now, with regard to -- what number of ports, say for instance -- what, on the West Coast would you normally call at?

A On the West Coast, San Francisco, Long Beach. I've been into Puget Sound one or two times.

Q Do those places have a VTS system?

A San Francisco does. The VTS -- isn't one per

1 se in Long Beach. The Channel Islands, there's a
2 Vessel Tracking System much different than say,
3 San Francisco, or here in Prince William Sound.
4 Q You were aware of the one in Prince William
5 Sound. Is that correct?
6 A Yes.
7 Q How about Puget Sound? Do they have one down
8 there near Seattle?
9 A In Puget Sound, yes. I've been in that.
10 Q Is there something called an active system, a
11 VTS system and a passive system?
12 A Yes.
13 Q What's the difference?
14 A That would take a passive system, for example,
15 a Channel Island traffic separation scheme is
16 being the passive system in that there is no --
17 no center to communicate with, no report-in
18 points. It's simply a charted scheme, looks much
19 the same as the one you see on the chart here.
20 There's just no participation with any agency,
21 Coast Guard or local.
22 Q In other words, there may be a chart where
23 you're supposed to stay in certain lanes but you
24 don't communicate by radio with a center?
25 A That's correct.

1 Q Then what about an active system? What does
2 that mean?

3 A I take an active system to be one such as the
4 one in San Francisco, the Puget Sound, Prince
5 William Sound.

6 Q Where you communicate with a center?

7 A Yes.

8 Q Tell them where you're at or what your
9 intentions are?

10 A Yes. Give them ETA's, positions.

11 Q And of course, you're familiar with the system
12 in Prince William Sound. I think you've already
13 indicated that, right?

14 A Yes.

15 Q Would you -- you believe that to be an active
16 system then, right?

17 A Yes, I do.

18 Q When you were in, say, Valdez Arm, say in the
19 vicinity of Bligh Reef or Busby Island and in the
20 Arm going into the Narrows and into the Port of
21 Valdez, did you understand that you had -- that
22 there was radar coverage by the Coast Guard in
23 that area?

24 A I understood that to be the case.

25 Q And I think you said you made perhaps a total

1 of 26 to 30 trips total on the bridge, not
2 necessarily as a third mate but on the bridge
3 into Prince William Sound?

4 A That's a rough estimate. That's AB time as
5 well as third mate time.

6 Q And you -- in about half of those or more than
7 half of those, you said you were as a third mate?
8 I may have got that wrong. If my notes are
9 incorrect, please don't hesitate to stop me.

10 A About half of the time, I would have been on
11 some -- some part of the transit, I would have
12 been on the bridge as a third mate.

13 Q And I think that you said on the Exxon Valdez,
14 there were a total of three transits, three
15 trips, including the one on -- in March of last
16 year?

17 A I believe that's correct.

18 Q Is it fair to say, sir, that from the number
19 of trips you were -- you made in Prince William
20 Sound that you were quite familiar with the
21 charts of the area?

22 A Yes, I would say so.

23 Q Is it fair to say that you were familiar with
24 the navigational hazards?

25 A Yes.

1 Q Did you know where Bligh Reef was?
2 A Yes.
3 Q Did you know where Busby Island was?
4 A Yes.
5 Q Potato Point?
6 A Yes.
7 Q In other words, you were familiar with all the
8 things to worry about or concern yourself about
9 in that area?
10 A Yes.
11 Q You indicated, I think, in response to one of
12 Mr. Cole's questions that you don't know if you
13 could have obtained a Coast Guard endorsement --
14 pilot endorsement for that area or not? I
15 believe that's what you said. Is that correct?
16 A I had never inquired.
17 Q So, do you know what's involved in taking the
18 -- say, examination for that?
19 A No, I don't.
20 Q At the same time, you felt that you were
21 confident in your ability to know the area of
22 Prince William Sound?
23 A Well, I generally understand what a pilot test
24 would most likely include.
25 Q What would that be?

1 A They may ask you to draw the Sound or draw the
2 Arm, draw the Narrows, give specific bearings on
3 say, their -- to line up for their transit of the
4 Narrows, that type of information.

5 Q Basically, it's not a driving test, right?

6 A No, it isn't.

7 Q It's a knowledge test?

8 A Yes.

9 Q You know the roads and the rules of the road,
10 type of thing?

11 A Correct.

12 (0560)

13 Q Based on your knowledge and experience of the
14 area, sir, is there any reason why you believe
15 that you were not competent and qualified to --
16 you know, to be on the watch of a vessel in
17 Prince William Sound?

18 A No.

19 Q The other times you were in Prince William
20 Sound, were they all on -- I guess I want to say
21 tanker vessels like the Exxon Valdez?

22 A Not necessarily like the Exxon Valdez. We
23 have only one other like that. They're tankers.

24 Q Well, like, there's one other -- a sister
25 ship, is it?

1 A Yes.

2 Q When I say like, I mean in general.

3 A Tankers.

4 Q Is there a big difference between tankers, the
5 way they handle, operate or anything like that?

6 A There could be -- yeah, there would be some
7 differences, primarily due to size and power of
8 the vessel.

9 Q With regard to the Exxon Valdez itself, did
10 you feel that you knew its operating capabilities
11 and its handling characteristics?

12 A Yes, I'd familiarized myself with that. I
13 didn't necessarily consider myself an expert,
14 but...

15 Q And Mr. Cole asked you a number of questions
16 about all the equipment that's on board the Exxon
17 Valdez. Is it correct or fair to say that
18 there's a lot of equipment, I mean, if you want
19 to call it equipment, but technical equipment to
20 aid you in your job?

21 A Yes.

22 Q You've got -- did you say two radars?

23 A Two radars.

24 Q Port and starboard?

25 A Yes.

1 Q I don't want to go through all of that again,
2 but is there any equipment you could possibly
3 think of that you would have wanted on board that
4 vessel, if you had your choice?
5 A You mean after the fact?
6 Q In addition -- in addition to what was already
7 there.
8 A Do you mean as we sit here today, talking
9 about the grounding?
10 Q No. Let's go back before the grounding, okay?
11 A No.
12 Q It was in your opinion at that time fully
13 equipped?
14 A Yes.
15 Q What about after the grounding? Do you think
16 you needed something else?
17 A Not that would have really aided in preventing
18 the grounding.
19 Q You were familiar then with all the necessary
20 navigational and operational equipment on board?
21 A Yes.
22 Q You used it all on many occasions?
23 A Yes.
24 Q And with regard to radar, you were qualified
25 certainly to operate the radar and had been

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examined and actually plotted targets. Is that part of the examination?

A Yes.

Q You had been alone on the bridge at other times in Prince William Sound, correct?

A Yes.

Q As a standing -- as an officer -- watch officer?

A Yes.

Q And on those occasions, you felt confident with your abilities to do the job at hand?

A Yes.

Q Now, when you arrived in Valdez, I think you said that the first job, of course, is to dock the vessel and your job at that time was to be in the aft or rear part of the ship to assist in the docking...

A Yes.

Q ...oversee the docking?

A Yes.

Q Exactly what's involved in doing that? I mean you don't handle the lines yourself? You tell people what to do?

A Yes, sometimes I do handle the lines but primarily, it's to direct the undock -- I mean

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the undocking.

Q Is there generally enough crew members on board to do that job or is that why you have to pitch in sometimes?

A Occasionally, we find ourselves a little short. Now, if everything goes the way you hope it will go, the way it's been planned, that's fine but you know, when you have machinery on ships sometimes, things happen and you find yourself a little shorthanded at times.

Q Going back to the question I just asked you when you said you were alone on other occasions, on those occasions were there other captains on the vessel other than Captain Hazelwood?

A Yes.

Q Another question in that area. Do you get evaluations in your job on a regular basis?

A Well, I won't say on a regular basis, but I...

Q Well, on any kind of basis?

A Yeah, on some kind of basis. Whenever they decide that -- someone decides that they should be evaluated.

Q How do they do that?

A How do they do...

Q How do they -- how are you evaluated?

1 A Well, there are a number of areas that the
2 company has identified that are factors in one's
3 performance and each area is evaluated by the
4 master and the next -- or the chief mate. In my
5 case, they would -- I assume talk about what help
6 I was to the chief mate, what abilities I had as
7 far as getting my other work done besides the
8 bridge work.

9 Q And in these evaluations was your navigational
10 ability or, you know, capabilities considered?

11 A Yes.

12 Q Were weaknesses also pointed out? In other
13 words...

14 A Yes.

15 Q ...if the first mate or captain thought you
16 were weak in handling the vessel...

17 A Sure.

18 Q ...they'd point that out to you?

19 A Yes.

20 Q In your evaluation, sir, were you evaluated
21 well as far as your abilities were concerned?

22 MR. COLE: Judge, I object. Hearsay.

23 THE COURT: Objection overruled. He's asking
24 for the witness's own opinion.

25 A Reasonably well.

1 Q Did Captain Hazelwood evaluate you on one
2 occasion?
3 A Yes, he did.
4 Q And he had an opportunity then to observe your
5 capabilities and weaknesses, if any?
6 A Yes.
7 Q Did he rate your navigational skills and ship
8 operational skills exceptional?
9 A I really don't recall what they were.
10 Q Well, do you know if they were rated poorly or
11 bad?
12 A Well, that I would remember. I really don't
13 remember what the rating was but it was not bad
14 or poor or anything.
15 Q Can you think of any instance, sir, where you
16 ever gave Captain Hazelwood any reason to believe
17 that you would not follow directions or otherwise
18 be a competent third mate?
19 A No.
20 MR. COLE: Objection. Speculation.
21 THE COURT: Objection overruled. He can
22 answer the question.
23 Q Can you answer the question, sir?
24 A Would you repeat that?
25 (0860)

1 Q Is there anything from your experience, that
2 is where Captain Hazelwood was in a position to
3 evaluate you, see your performance that would
4 cause you any concern about having him believe
5 you weren't competent or capable?
6 A No.
7 Q On your trips through Prince William Sound, I
8 think you said that your jobs or your position
9 required you to maintain positions, avoid
10 collisions, do navigation and also give steering
11 orders, if necessary?
12 A Yes.
13 Q Is this essentially what a captain does also?
14 A I think that you might want to divide those
15 responsibilities up a little bit. If you have a
16 conning officer and a watch officer, there's a
17 division of the workload.
18 Q Sure. I think you said the conning officer is
19 the one who is actually giving the orders --
20 steering orders?
21 A Correct.
22 Q And the watch officer is doing other tasks?
23 A He would provide any navigational information
24 that would be pertinent that the conning officer
25 would request and of course, collision avoidance.

1 Q And you've been both, right? The conning
2 officer and watch officer?
3 A Yes.
4 Q Now, when you were on the Exxon Valdez on this
5 trip, was your watch hour -- was your watch
6 always the same -- I mean the same hours that you
7 worked?
8 A Yes.
9 Q And that again, was...
10 A 8:00 to 12:00.
11 Q 8:00 to 12:00?
12 A Yeah.
13 Q 8:00 in the morning to 12 noon?
14 A Yes.
15 Q And then at 8:00 at night to 12 midnight?
16 A Correct.
17 Q In your off hours, what can you do besides
18 sleep? I mean can you work overtime if you want?
19 A It's kind of the thing that you want to do,
20 but you have a number of other duties that we
21 need to perform. The third mate was designated
22 the safety officer and that entails inspecting
23 life boats, making sure the equipment is in
24 proper operating condition, checking the
25 emergency equipment that we have in our

1 solus (ph) lockers. That is one of the duties...

2 Q Sounds like -- oh, excuse me. Sounds like all

3 the things you don't have time to do on your

4 regular watch. Is that correct?

5 A You can't -- no, you can't do those on the

6 watch.

7 Q How about paperwork? Do you have additional

8 paperwork assignments?

9 A Yes.

10 Q Now, prior to this particular trip to Prince

11 William Sound on the Exxon Valdez, I think you

12 said you had -- the crew members -- you had

13 worked previously with Maureen Jones and Mr.

14 Kagan on prior assignments?

15 A Yes.

16 Q Where was the assignment with Mr. Kagan? Do

17 you recall?

18 A That was on the Exxon New Orleans. He was

19 assigned as a maintenance personnel for tank

20 cleaning. He wasn't -- he wasn't on my watch,

21 but you know, we were on the same ship.

22 Q So, I imagine you knew him person -- you knew

23 him personally, right?

24 A Well, yeah, I knew of him.

25 Q When you came into Prince William Sound then,

1 were you on the bridge at the time the pilot came
2 on board, do you recall?
3 A Yeah, I believe I was.
4 Q And do you know who that pilot was? Do you
5 remember?
6 A I believe it was Captain Murphy.
7 Q The same pilot that was on board, coming up?
8 A Yes.
9 Q And where did you -- do you recall where you
10 picked him up at?
11 A Stopped at Rocky Point.
12 Q Is that the pilot's station, sir?
13 A Yes. Actually, I think they hied back up in
14 this.
15 Q They what?
16 A Just below -- below the light.
17 Q Right off of Rocky Point?
18 A Yes.
19 Q How did they do that? I mean, do they have a
20 small vessel that -- boat that comes out to meet
21 you or is that how that happens?
22 A Yes.
23 Q You slow down and get in the position to allow
24 them to come alongside?
25 A Yes.

1 Q How do they actually physically get on your
2 vessel, the ship?

3 A Well, when we come in light, we put the
4 accommodation ladder over for them and they just
5 climb up the ladder.

6 Q Is it just a rope ladder or...

7 A No, this is the accommodation ladder. It's
8 kind of like a gangplank, I guess you would --
9 could refer to it as that but we call them an
10 accommodation ladder. It's kind of a metal
11 stairway up the side of the ship.

12 Q And once the pilot is on board, he more or
13 less guides or directs the vessel in through that
14 part of Valdez Arm and the Narrows and to the
15 berth. Is that correct?

16 A Yes.

17 Q What does a captain normally do during this
18 time?

19 A Well, make sure that the pilot is doing
20 everything that he's supposed to do.

21 Q That seems to be pretty routine, isn't it?
22 Pilots seem to do what they normally do?

23 A Yeah.

24 Q Had you seen Captain Murphy act as a pilot
25 before on other occasions?

1 A I may have but I couldn't tell you where or
2 when.

3 Q Was there anything that you observed on the
4 trip in to Valdez on the 22nd that caused you any
5 concern at all about Captain Murphy's ability as
6 a pilot?

7 A No.

8 Q Did he seem competent and qualified?

9 THE COURT: Mr. Madson?

10 MR. MADSON: Yes, Your Honor.

11 THE COURT: I wonder if counsel could approach
12 the bench just a minute, please? (Pause)

13 MR. MADSON: If I can get through all this
14 stuff here.

15 THE COURT: Turn the back room off on this.
16 (Whispered Bench Conference as follows:)
17 (1124)

18 THE COURT: I'm willing to take this up now
19 as a matter we had in chambers up now. I'm willing at
20 this time if counsel wants to let the jury go back to
21 the jury room and then clear the Court and then decide
22 what we're going to do if anything, if you want to do
23 that at this time.

24 MR. COLE: That's fine. It's up to Mr.
25 Madson.

1 MR. MADSON: I would be disagreeable.

2 THE COURT: Okay.

3 (End of Whispered Bench Conference)

4 (1144)

5 THE COURT: Okay, ladies and gentlemen, we're
6 not finished quite for the day but I'm going to have
7 you go back to the jury room momentarily to take a
8 matter up outside your presence that needs to be
9 addressed. I'll bring you back in and give you some
10 instructions before you do go home for the day.

11 In the meantime, don't speculate on what we're
12 doing in your absence. Don't discuss the matter in any
13 fashion among yourselves or any other person and don't
14 form or express any opinions. If you would go the
15 jury room at this time, we'll call you back as soon as
16 we can which I expect to be around ten minutes or so.

17 (Jury not present)

18 (1200)

19 THE COURT: All right, Mr. Cole made the Court
20 aware and also made defense counsel aware of a matter
21 that needs to be taken up in camera. We will be
22 clearing the court room. The media will be barred from
23 covering this. The public will be barred from this
24 proceeding as well and I expect it to take about ten
25 minutes.

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We'll put it on a sealed tape and we'll take it up in camera and then we'll go back on the record with the public present if necessary before we recess for the rest of the day. We'll take just a two or three minute break in order to clear the court room. The media room will be shut down. The curtains will be closed and the doors will be locked. Stand in recess.

THE CLERK: Please rise. This Court stands in recess.

(1230)

(Off record - 3:56 p.m.)

CONTINUED