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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 27, 1990
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ARLIS

H & M Court Reporting
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Alaska Resources
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Anchorage Alaska

BEFORE THE HONORABLE KARL JOHNSTONE
Superior Court Judge

Anchorage, Alaska
February 27, 1990

APPEARANCES:

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PROCEEDINGS

FEBRUARY 27, 1990

(Tape: C-3643)

(0700)

THE CLERK: The Superior Court for the State of Alaska, Judge Carl S. Johnstone presiding, is not in session.

THE COURT: Thank you. You may be seated.

Mr. Cole, are you ready with your next witness?

MR. COLE: Yes, Your Honor.

MS. HENRY: The State would call Steve Tuttle. Sir, would you step forward.

THE CLERK: Sir, there's a microphone right there on top of the counter. If you could attach that to your tie and remain standing and raise your right hand, please.

(Oath administered.)

A I do.

STEVEN TUTTLE

called as a witness in behalf of plaintiff, being first duly sworn upon oath, testified as follows:

THE CLERK: Please be seated. Sir, would you please state your full name and spell your last name

A Steven Tuttle, T-u-t-t-l-e.

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THE CLERK: And your current business mail address?

A 605 West Fourth Avenue, Room 57, Anchorage, 99501.

THE CLERK: And your current occupation, sir?

A With the division of law enforcement, special agent, employed by the U.S. Fish and Wildlife Service.

(784)

DIRECT EXAMINATION OF MR. TUTTLE

BY MS. HENRY:

Q Sir, how long have you been with the U.S. Fish and Wildlife Service?

A I've been employed by the Fish and Wildlife Service for approximately eleven years.

Q And as a special agent during those eleven years?

A No. As a special agent, I've been employed for approximately six and half years.

Q What are your responsibilities?

A The responsibilities of a special agent would be one of a criminal investigator, which would involve investigating violations of federal wildlife laws.

Q Is part of your department's responsibility,

1 as a result of the oil spill caused by the Exxon
2 Valdez, the collection and inventory of animals
3 and birds that were killed as a result of the oil
4 spill?

5 A Yes, it was. One of our primary duties was
6 just that.

7 MR. MADSON: Your Honor, I'm going to object
8 to this testimony. It's totally irrelevant.

9 THE COURT: Your objection is overruled, Mr.
10 Madson.

11 Q Go ahead. Was that one of your
12 responsibilities?

13 A Yes, that is correct.

14 Q Was it also one of the department's
15 responsibilities to oversee the rehabilitation
16 centers' for the live birds and otters?

17 A That is correct.

18 Q Were spill coordinators assigned to different
19 areas?

20 A Yes. Approximately the first week in May oil
21 spill coordinators were assigned to various
22 locations, including Seward, Homer, Kodiak and
23 Valdez.

24 Q Now, what would happen if someone found an
25 animal or bird who appeared to have been killed

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as a result of the oil spill?

A The collection system that was established had those individuals transfer those animals, whether they are alive or dead, to a representative of the fish and wildlife service and that individual would catalogue by species and store, if it's a dead animal, in a secure location. If it's a live animal, we would make sure that the animal had proper care and was sent to an existing rehab facility.

Q All right. Were statistics kept as to the number of animals that had been killed by the oil spill? And birds.

A Yes. Part of the collection process involved the cataloguing and each oil spill coordinator was responsible for tallying those totals and reporting those totals to our regional office.

Q And the regional office would have a grand total?

A That's correct.

Q Now, do you have the statistics as of October 18, 1989?

A Yes, I do. That was supplied to me by our public affairs office here in Anchorage.

Q And how many birds have been killed by that

1 date as a result of the Exxon Valdez oil spill?

2 MR. MADSON: Your Honor, I'll object. He's
3 relying on hearsay. He has no personal knowledge about
4 how many birds...

5 MS. HENRY: Perhaps I could do some more
6 foundation.

7 Q Did you review the statistical report that was
8 filed as of October 18th, 1989?

9 A Yes, I did.

10 Q And who was that filed by?

11 A Who is?

12 Q Who is it compiled by?

13 A It is compiled by our regional oil spill
14 coordinator, who passes it along to our public
15 affairs officer who makes it available to the
16 public.

17 Q And so it is published as a public document?

18 A It is available to the public. As to whether
19 it is published, it probably is in the way of
20 newspaper articles. Things of that nature.

21 Q And have you reviewed those statistics in that
22 report?

23 A Yes, I have.

24 Q And based upon your personal knowledge and
25 your responsibilities in overseeing portions of

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this, are those statistics accurate?

A If the oil spill coordinators followed the collection and cataloging procedures which were initiated by law enforcement personnel, then those figures would be reasonably correct.

Q Do you have any reason to believe that they would have followed the procedures you set up?

A No, I do not.

Q How many birds were killed as a result of the Exxon Valdez oil spill?

MR. MADSON: Your Honor, I'll still make the same objection.

THE COURT: Sounds like it's going to be based on something he's read or heard from something else. It's not a public document because we're not admitting the document here.

Do you wish to be heard any further on your...

MS. HENRY: Your Honor, in that case I would attempt to admit the public document. May I approach the clerk?

THE COURT: You can have it marked and proceed further. But do you want to be heard any further on the objection on hearsay as to his testimony?

MS. HENRY: Yes, Your Honor.

(Pause.)

1 MS. HENRY: Your Honor, this witness is in the
2 enforcement arm of the department. As part of that,
3 set up the procedures that would be followed by the
4 individual oil spill coordinators in each city in order
5 to make sure that the animals, live and dead, were
6 collected and that appropriate statistics were kept.

7 The oil spill coordinators then, following
8 these procedures, would keep the statistics and then
9 turn them into the regional coordinator, who actually
10 prepared this document.

11 Under 803, subsection 8, which indicates an
12 exception to the hearsay rule, being public records and
13 reports, this would be included as a public record or
14 report kept by the public agency during its ordinary
15 course of duties. And the factual findings in the
16 report were resulting from an investigation made
17 pursuant to authority granted by law.

18 Additionally, the statistics are a combination
19 of statistical information compiled by several oil
20 spill coordinators. And 1006, which indicates
21 summaries of voluminous writings can be put into one
22 document.

23 And, therefore, under the public records
24 exception and the 1006, which indicates summaries can
25 be introduced, I would request that either the witness

1 be permitted to give the bottom line figures or that
2 the document of the statistical summary be introduced,
3 which is the Plaintiff 158.

4 THE COURT: All right. The witness will not
5 be permitted to testify. It's hearsay what he has to
6 say. I don't know about that document at this point.

7 If that's all you have for it, the document
8 won't be permitted in either as a public record.

9 It sounds to me, from what you said, it's an
10 investigative report by law enforcement personnel. An
11 investigative report prepared by the government. When
12 offered by in the case in which he's a party; these are
13 not within the exception to the hearsay rule under
14 subsection B. of that rule.

15 MS. HENRY: Your Honor, I'm not introducing it
16 as an investigatory report. I'm introducing it as a
17 public record of statistics kept by a public agency in
18 the course of their duties.

19 THE COURT: Well, so far, you haven't laid a
20 sufficient foundation for it. The objection's
21 sustained.

22 MS. HENRY: All right.

23 Q (Mr. Tuttle by Ms. Henry:) Sir, the oil spill
24 coordinators were required to keep statistics of
25 birds or animals that were turned in to them

1 whether alive or dead. Is that correct?

2 A That is correct.

3 Q And how was that procedure set up?

4 A Before the oil spill coordinators were
5 assigned, law enforcement personnel were
6 dispatched to the various locations: Valdez,
7 Homer, Seward, Kodiak.

8 (1100)

9 At that point I was dispatched to Seward and I
10 initiated the deployment of personnel, be they
11 volunteers or employed by oil spill cleanup
12 companies. And there was a certain procedure
13 which they had to follow.

14 And that was, in the event of collecting dead
15 animals, they would designate on a map, where it
16 was collected. It would be collected en masse at
17 a central repository when they returned from
18 being out at sea.

19 We would then assume that property. We would
20 inventory all the property by species. Being
21 that these animals were very much covered with
22 oil, it was difficult to ascertain species. For
23 someone not familiar with bird identification, it
24 would be very difficult for them to ascertain
25 what species. That's why fish and wildlife

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individuals were called in.

In doing that inventory system, a written sheet, a written tally was kept for all the dead animals and each day that tally, that total of that day, would be called into the regional office.

I personally did such inventories and the tallies for dead birds in quantities ran from anywhere from 100 to close to 400 birds a day.

Then law enforcement personnel, through a rotational basis, would continue this process; continue to keep the tallies until the oil spill coordinators were assigned to each location. At which point, law enforcement personnel were excused from that duty.

The oil spill coordinators then continued that same process of maintaining that log, that tally of animals, both live and dead.

Q Was it made clear to, first, the agents and then the oil spill coordinators that it was their duty to keep these tallies and to report them to the regional oil spill coordinator?

A Yes.

Q And is a part of the responsibility of business of your department to maintain

1 information regarding the status of wild animals
2 and birds in the state of Alaska?

3 A For species that the fish and wildlife service
4 has jurisdiction over, yes.

5 Q And that would include?

6 A Migratory birds.

7 Q And would it also include any marine animals?

8 A Yes. Marine mammals, including: sea otters
9 and polar bear and walrus. Fish and wildlife
10 service has primary jurisdiction over those
11 marine mammals.

12 (1217)

13 Q And I'm showing you what's been marked as
14 Plaintiff's Exhibit 158 for identification.
15 Would you, please, identify what that is.

16 A Looking at Plaintiff Exhibit 158, this is a
17 cumulative summary of totals provided by the U.S.
18 Fish and Wildlife Service of birds, sea otters,
19 eagles, both live and dead, that had been
20 affected by oil.

21 Q Is it also broken down by region?

22 A It is broken by the regions: Kodiak, Homer,
23 Seward, and Valdez.

24 Q All right. And is that document available to
25 the public?

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A Yes, it is.

MS. HENRY: Your Honor, at this time, I would once, again, move into evidence Exhibit 158 under subsection 8 of Rule 803.

That this is a public record. It is a data compilation from a public office or agency's input; it's regularly conducted and regularly recorded activities on matters observed pursuant to duty imposed by laws to which there was a duty to report what factual findings resulting from investigation made pursuant to authority to them by law.

(1280)

MR. MADSON: I would have the same objection, Your Honor. I don't believe this witness is the person who has the foundation and knowledge necessary to show whether that's a public document or not.

It doesn't purport to state that. And I think we need, if it's a public document, it has to be somebody that had access to it and made it public. And I don't think that's been shown.

Secondly, and perhaps more importantly, I would renew my objection under Rule 403; that even though it may be marginally relevant, it's outweighed by the danger of unfair prejudice, waste of time, and goes into other issues, which certainly are not

1 important here.

2 Captain Hazelwood isn't charged with killing
3 birds or anything of that sort.

4 THE COURT: The relevancy objective is
5 overruled. It's probative of one of the elements of the
6 case; the statements prove here.

7 And, as to public record, I'm going to
8 overrule your objection on that, Mr. Madson. It comes
9 in under 803 (8) at this time.

10 EXHIBIT 158 ADMITTED

11 Q (Mr. Tuttle by Ms. Henry:) In reviewing that
12 document, sir, you're already indicated that that
13 document includes animals that were collected
14 alive and also animals and birds that were
15 collected dead. Is that correct?

16 A Yes, it does.

17 Q And it's also divided into the different
18 areas, is that right?

19 A That's correct.

20 Q Are there subtotals and grand totals on each
21 stat?

22 A On this there appears both subtotals as per
23 collection region and grand totals at the bottom
24 of the page.

25 Q And how many birds have been killed as a

1 result of the Exxon Valdez oil spill, total?
2 A Cumulative grand total for dead birds, 36,471.
3 Q And how many sea otters?
4 A Cumulative total for dead sea otters, 1,016.
5 Q And how many eagles?
6 A Cumulative total for dead eagles, 144.
7 Q Thank you, sir. That's all the questions I
8 have.
9 (1366)
10 CROSS EXAMINATION OF MR. TUTTLE
11 BY MR. MADSON:
12 Q Well, sir, I'm looking at Exhibit 158. And
13 where on here does it say that this is a public
14 document? Is there anywhere on the face of this
15 that indicates that the public has access to this
16 and how?
17 A On top of the page it says "FWS, Fish and
18 Wildlife Service, PAO,...
19 Q PAO.
20 A ..."Public Affairs Office". So that document is
21 through the Public Affairs Office, who deals with
22 media releases.
23 Q Do you know if this was ever released to the
24 media?
25 A That particular document?

1 Q Yeah.

2 A I'm not aware.

3 Q So you're assuming that because there's a
4 number up on the top that says USFWS-PAO. You're
5 assuming that it would be or is accessible to the
6 public.

7 A Yes. Certain parts of it have been released,
8 as far as totals. I've seen that in newspaper
9 articles.

10 Q Well, what's the purpose of just having parts
11 of it released and not all of it?

12 A Apparently, there's some interest as to how
13 many birds and how many otters were impacted by
14 the oil.

15 Q And in that regard, which statute do you
16 operate under that requires you to accumulate
17 totals of birds? Or of migratory birds or
18 anything that have been injured or killed by the
19 oil spill?

20 A We were acting under the authority of Title
21 16, United States Code, 703.

22 Q And that just keeps data collection? Is that
23 what that is?

24 A No. It address the Migratory Bird Treaty Act.

25 Q So, what does it do? I mean, what are you

1 supposed to do under the Treaty Act?

2 A The...

3 Q You enforce -- well, let me withdraw that.

4 You're an enforcement officer, right?

5 A That's correct.

6 Q And you work for the state of Alaska?

7 A No. United States Fish and Wildlife Service.

8 Q Oh, I'm sorry. Fish and wildlife service.

9 You would enforce, let's say, hunters are out

10 there killing way too many migratory birds, for

11 instance. Even though it may be legally in the

12 season, are you involved with illegal hunting,

13 let's put it that way?

14 A Yes. Among others, yes.

15 Q And then you basically keep status of how many

16 birds, let's say, are killed in the hunting

17 season? What variety? What types?

18 (1455)

19 A No, not necessarily. Anything that impacts a

20 species that the federal government, meaning U.S.

21 Fish and Wildlife Service, has jurisdiction over.

22 U.S. Fish and Wildlife Service, division of

23 law enforcement, would have the authority to look

24 into, be that an oil spill or be that hunting.

25 It could mean anything, as far as -- any

1 environmental condition, man or natural, that
2 impacts a federally protected species.

3 Q Well, who owns these birds and mammals?

4 A The people of the United States.

5 Q In other words, they're not owned by the state
6 of Alaska, as far as you know?

7 A No, they're not.

8 Q They're not property of the state of Alaska?

9 A No. They're...

10 MR. MADSON: Well, Your Honor, I would renew
11 my objection at this time based on the witness's
12 answers.

13 They're not state property. There's no
14 damage. There's no dollars. And that's what this case
15 is all about. It's risk or damage of over \$100,000.

16 This has absolutely nothing to do with it.
17 It's strictly for prejudicial value.

18 THE COURT: All right. You may be heard now.

19 MS. HENRY: Thank you, Your Honor.

20 With regard to the last objection, it does
21 need to know what the state must prove and that is that
22 the risk of damage by widely dangerous means occurred
23 and the state must show that the oil spill was a widely
24 dangerous means.

25 Widely dangerous means, definition, includes

1 definitions of poisonous things. And showing how many
2 animals were killed, as a result of the oil spill,
3 shows that the oil spill is a widely dangerous means...

4 THE COURT: All right. Mr. Madson, I see no
5 reason to change my ruling at this time. You went to
6 foundation on it. And the objection is overruled. The
7 testimonies stands.

8 Are you finished with the witness at this
9 time?

10 MR. MADSON: Just one last question, perhaps.

11 Q (Mr. Tuttle by Mr. Madson:) Sir, if a animal
12 dies as a result of oil, let's take a sea otter,
13 for instance.

14 The oil coats the outside of the animal.
15 Correct?

16 A Yes.

17 (1563)

18 Q As if then -- allows, requires, -- I don't
19 know if it requires, but it -- the animal will
20 die because it loses its heat insulation value
21 of its coat. Is that correct?

22 A It's my understanding that the insulating
23 quality of the fur is depleted due to the oil on
24 the fur.

25 Q And that, sir, is not poison, is it? That's a

1 different form of death other than poison.

2 A Hypothermia is different. Rather than
3 ingesting from licking the fur, is that what
4 you're saying?

5 Q Yeah.

6 A Which the sea otters can do, either way.

7 Q They can do it either way.

8 A Right.

9 Q We can say of all these animals, which died of
10 what type -- what type of death they -- was
11 caused by the oil.

12 A Whether ingestion of oil or by hypothermia?

13 Q Right. That's right. You can't say from
14 looking at these figures.

15 A No, you can't say from looking at those
16 figures.

17 MR. MADSON: I have no other questions, Your
18 Honor.

19 MS. HENRY: I have no other questions, Your
20 Honor.

21 THE COURT: You're excused.

22 (Witness excused.)

23 (1602)

24 MR. COLE: Your Honor, at this time the state
25 would call Captain Robert Beevers.

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THE CLERK: Sir, if you'd raise your right hand please.

(1602)

(Oath administered)

A I do.

ROBERT A. BEEVERS

called as a witness in behalf of the plaintiff, being first duly sworn upon oath, testified as follows:

THE CLERK: Please be seated. Sir, would you please state your full name, and then spell your last name?

A Robert A. Beevers, B-e-e-v-e-r-s.

THE CLERK: And your current mailing address, sir?

A 18606 Engebretson Road.

THE CLERK: Spell the road.

A E-n-g-e-b-r-e-t-s-o-n. Granite Falls, Washington.

THE CLERK: And your current occupation, sir?

A I'm a retired merchant marine captain and my present occupation is retired and part-time consultant. And I run a small business besides.

(1705)

*

DIRECT EXAMINATION OF CAPTAIN BEEVERS

1 BY MR. COLE:

2 Q Captain Beevers, I think your collar is right
3 inside there.

4 A Oh.

5 Q Captain Beevers, why have you been called upon
6 to testify in this matter?

7 A Well, I was originally called by the state
8 after the Exxon Valdez grounded to advise the
9 state on maritime matters and to go out to the
10 ship and look the ship over; determine anything
11 we could, interpret documents for the state, and,
12 then given my knowledge in the maritime field, in
13 determining what happened.

14 Q Would you tell the jury how long have you been
15 involved in the maritime industry?

16 A Okay. I first started to sea in 1963 as an
17 unlicensed seaman. 1967 I got my original third
18 mate license. And in 1973 I got my master
19 license. And I sailed steady -- go off steady
20 from 1963 until 1987, when I retired.

21 Q Did you attend any maritime schools to get
22 your third mate's license?

23 A I didn't attend a maritime academy. I went to
24 a school sponsored by the master, mates and
25 pilots union that lasted 60, 90 days, something

1 like that, in which you have an intensive study
2 period on just the duties of a third mate and
3 navigation. The various things required by the
4 Coast Guard to take and pass the test.

5 Q We've heard testimony that some tanker
6 captains, masters, have attended school, a
7 maritime school, academy, and have gotten their
8 third mates license after graduation.

9 How was your acquiring of your third mates'
10 license different from that?

11 A Well, in order for me to sit for third mates'
12 license, I had to have a minimum of three years
13 sea's years sea time on deck. I had to have an
14 able seaman ticket. And then take the, well, the
15 same test that a graduate of a maritime academy
16 would take to pass a third mates' exam.

17 Q So it would be just a little bit different
18 route to getting the same results?

19 A Yes.

20 Q Since 1973 when you began working as a master,
21 how much of your career -- well, let me ask you
22 this.

23 How much of your career has been spent working
24 on oil tankers?

25 A From the time I got my third mates' license, I

1 made one trip on a freighter. My first trip on
2 the license was on a Victory ship, maybe 65 days.

3 Q What's a Victory ship?

4 A Oh, that's a old freighter. World War II type
5 freighter. Captain Hazelwood knows, I'm sure,
6 about Victory ships, too. Then my only other
7 freighter was in 1985. I was captain on a small
8 freighter that went to Antarctica.

9 Other than that, all of my sea time has been
10 on tankers.

11 Q How much time have you worked in the Prince
12 William Sound trade?

13 A Okay. I originally came up in 1977 when they
14 were just preparing to open the pipeline. And
15 the oil companies had chartered three vessels to
16 make trips in and out of Prince William Sound so
17 that all the captains that were going to be
18 involved in the tankers could get their pilotage
19 for Prince William Sound.

20 And I did that and obtained my pilotage. And
21 then within a year after that, let's see, in the
22 latter of '78, I believe, I was on the Overseas
23 Juneau on my first trip in and out of Prince
24 William Sound. And from that point on, with the
25 exception of the freighter trip, basically it's

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been Prince William Sound to Long Beach; Prince William Sound to Panama. That trade.

Q The time that you got your pilotage, was there a group of tanker captains aboard with you that time?

A Yes.

Q Explain how that happened.

(1940)

A Oh, well. Like I say, they were planning on opening their pipeline. Prince William Sound wasn't a place that too many large ships frequented up to that point, so it had been determined by the Coast Guard that pilotage was going to be required from Cape Hinchinbrook into the dock.

In an agreement between the state pilot association and the Alyeska Terminal and the oil companies, it evolved that they would go from Rocky Point to the dock and the ship's captains would get pilotage from Cape Hinchinbrook to Rocky Point.

So, they chartered these vessels while they were waiting for the pipeline to open and made trip after trip in and out of Prince William Sound so that everyone could make the required

1 number of trips that they needed and then sit for
2 a test and pass the pilot's test.

3 Q Would you give the jury an estimate of how
4 many trips that you made in and out of Prince
5 William Sound while you were working that trade?

6 A Okay. I would, it would be hard to say
7 exactly, but I would say 50, 60 maybe. Something
8 like that.

9 Q Would you be working year round during those
10 years?

11 A Yes. We, during that time, my company had
12 decided we'd work, to set the schedule, we'd try
13 to work four months on, four months off, four on.
14 So that would effectively change the seasons
15 where you would rotate winter, summer.
16 Basically, that was so we could each have a
17 chance of having Christmas at home and change the
18 seasons around.

19 Q During your time period that you worked in the
20 Prince William Sound trade, were you also placed
21 on vessels that didn't have pilotage?

22 A Yes. As things worked out, we had captains
23 that were coming around, come in the trade, that
24 hadn't obtained their pilotage. And while on
25 vacation I made trips on vessels for Maritime

1 Overseas to ride with people that were getting
2 their required trips for pilotage.

3 Q What is Maritime Overseas?

4 A That was the company I worked for at the time.

5 Q And did they own the tankers that you were the
6 captain of?

7 A Yes.

8 Q Back to the time that you were aiding in the
9 piloting of these tankers, can you give the jury
10 an idea of how many times this would have
11 occurred?

12 A I really can't now, but -- I really can't say.
13 It wasn't a lot of trips as a pilot, but it was,
14 I don't know, from a few to several.

15 Q Now did you take any trips other than through
16 the Prince William Sound during that period of
17 time? In and out of Prince William Sound, did
18 you make any trips to the Persian Gulf?

19 (2061)

20 A Oh. Yeah. Twice during that time on the
21 Overseas Juneau we diverted off from our Prince
22 William Sound, West Coast and Panama run and went
23 to the shipyard in Singapore and from that point
24 went to the Persian Gulf to pick up a load of oil
25 to take to a discharge port.

1 In affect there, what they were doing, was
2 picking up a load of cargo so they didn't have to
3 make a trip back empty.

4 Q Let's talk about some of your experience in
5 ice. Have you made any trips to Antarctica?

6 A Yes. I made the one trip in 1985 on a
7 freighter in which we left the United States and
8 went to Antarctica to provide all the -- once a
9 year they send a freighter down there to provide
10 all the goods that the National Science
11 Foundation and the people that are handling the
12 logistics of all the scientific experiments going
13 on need. And it's a once a year thing.

14 You go down and they have to send a Coast
15 Guard ice breaker down to break a path into the
16 McMurdo Sound basin and then we come down and
17 followed the ice breaker in. Discharge the cargo
18 and then come back out.

19 Q Did you encounter icing conditions during that
20 time?

21 A Oh, yes. Yes. Uh-huh.

22 Q Have you made any trips to the Soviet Union?

23 A Yes. During the, a few years back when the
24 tanker business was in a slump, there were
25 several tankers cleaned up and used to carry

1 grain to the Soviet Union. I made several trips
2 there. This was back in the, oh, early-mid
3 '70's.

4 And in one of those trips we were sent to
5 Leningrad in February. And it was unusually cold
6 winter. They had a -- the Baltic was froze. And
7 we followed an ice breaker in and out through the
8 Baltic Sea, approximately 200 miles in and out,
9 to go to Leningrad to discharge the load of
10 grain.

11 Q Did you encounter icing conditions during your
12 trips in and out of Prince William Sound?

13 A Yes. We would occasionally have ice coming
14 off the Columbia Glacier and drifting out across
15 the traffic lanes. Yes.

16 Q Can you give the jury, were there certain
17 period where that was greater than others?

18 A Oh, yes. It varies from time to time.
19 They'll -- some trips you come in, there was no
20 ice at all. Other trips you come in, there's
21 quite a bit of ice is calved off and drifted out
22 across the lanes. Sometimes it's problem;
23 sometimes it isn't.

24 Q What type of tankers were you operating in and
25 out of Prince William Sound while you were in

1 that trade?

2 (2236)

3 A Okay. The first tanker I was captain on was
4 the Overseas Juneau. That was 120 thousand ton
5 steam, steam-driven tanker. The next one that I
6 was on, just for short period of time, was the
7 Overseas Ohio, which is a 90 thousand ton, double
8 hulled, steam tanker. Then I was on the Overseas
9 Boston, which is 121 thousand ton diesel, motor
10 ship. And then the last ship I was on before I
11 retired was the OMI Columbia. It's a 136
12 thousand ton diesel.

13 Q Just a quick question about diesel vessels.
14 How do you start and stop a diesel engine on
15 these tankers?

16 A Well, they're controlled from a lever, either
17 on the bridge, if you're in bridge control, or a
18 lever in the engine room that acts the same as
19 the lever on the bridge.

20 And how that's done, as far as the bridge
21 officer's concerned, you merely push the lever to
22 which -- if you want to stop, you push the lever
23 to stop. And the reaction in the engine room is
24 it cuts -- the fuel is cut off to the engine.
25 It'll come to a stop.

1 If you want to restart or change directions
2 then, you just push your lever to ahead. And to
3 start the engine, they have a reservoir of air
4 which will kick it over to get the engine moving
5 and that pulls the fuel into the cylinders and it
6 fires under compression.

7 Q Is there any warming up that needs to be done
8 on a diesel?

9 A Normally, if everything is going right, they
10 normally have the lube oil heated up. They have
11 the fuel oil heated. They need to heat the heavy
12 fuel oil in order to be able to use it. And it's
13 something you could start -- you could start a
14 diesel cold, I believe. But, normally, they do
15 keep them heated. That's part of the engineer's
16 duties in operation a ship.

17 Q Where else have you acted and have you
18 travelled as master of tankers? Can you give the
19 jury -- have there been other parts of the world
20 that you've travelled as a master of a tanker?

21 A Oh, yes. Years back now. Some of the ships
22 that I was on when I first got a master's license
23 were chartered to the Navy on military sea lift
24 command. And with that we went to the Persian
25 Gulf to Viet Nam to the Philippines, Guam,

1 Hawaiian Islands. Go to Spain, for example. All
2 over the world. Up and down the east coast. The
3 Caribbean area. In and out of almost every port
4 that has a refinery there.

5 Q Your license, did you ever get pilotage in any
6 other areas besides Prince William Sound?

7 A Yes. Cook Inlet. During my time off in, I
8 think '82 and '83, I made enough trips in Cook
9 Inlet to qualify to sit for pilot's license for
10 pilotage from sea to Anchorage.

11 Q Now, during this time that you were working,
12 who were you mainly employed by? During the time
13 you were working in the Prince William Sound
14 area.

15 A Okay. My primary employer at that time was
16 Maritime Overseas.

17 Q And how did Maritime Overseas operate? Did
18 they own the oil or what was their...

19 A No. No. How that works is, they're strictly
20 a transportation company that own ships. And
21 they charter the ships to various oil companies
22 either on a voyage charter or time charter, and
23 carry oil for whatever. If it's a six month time
24 charter, for six months they will make whatever
25 trips that particular oil company wants.

1 If it's a longer charter, two years say, then
2 it's the same thing.

3 And as the charters expire, they will put the
4 tanker on the market for another charter and
5 perhaps another oil company pick them up.

6 So, during that time I worked on the ship that
7 was chartered to Exxon, chartered to Sohio,
8 chartered to ARCO, and Chevron and maybe some
9 other companies. But those four, I'm sure that
10 we would charter to them at various times.

11 Q Would your responsibilities as a captain
12 change depending on which oil company you happen
13 to be chartering for?

14 A No. Your master's responsibility is the same.
15 What would change would be the various paper work
16 that each oil company required and, basically,
17 they're the same. They're just a different form,
18 but the same information is required.

19 Q Did you have any policy operation or bridge
20 manuals that were handed out by Maritime
21 Overseas?

22 A They had, I don't think they called it that.
23 They had a manual with instructions. And I don't
24 know if it was, now, called Master's
25 Instructions. But it's an operating manual to

1 tell you how they would like you to operate their
2 vessel, yes.

3 Q And how about the oil companies that you
4 worked under? Did they distribute bridge manuals
5 also?

6 A They probably did. I don't remember
7 specifically getting bridge manuals. I know we
8 got all of their updates and all of their letters
9 that they sent to their fleet. While we were
10 under charter to them, they would send those to
11 them. They may well have sent out a bridge
12 organization manual.

13 However, in our case, the company we're
14 working for, their operation manual would be what
15 we would go by.

16 Q Well, what is the purpose of having a bridge
17 operation manual?

18 (2540)

19 A Well, so that you will do things and operate
20 the ship in a manner that the company expects you
21 to.

22 Q And to your knowledge, has your work with all
23 these companies allowed you to acquired any
24 special knowledge as to the maritime customs that
25 have evolved in the safe operation and navigation

1 of crude oil tankers?

2 A Well, I would say so, because we've worked for
3 several different oil companies. And worked, you
4 know, in the industry all that time. Worked for
5 all the major oil companies and got to see how
6 each one of them did things, along with how many
7 company, as a transportation company, did things.

8 Q Let's talk about the maritime industry a
9 little bit. Specifically, the tanker industry.

10 Generally, what type of crews did you have?
11 What type of ship personnel were contained on a
12 tanker that you were master of?

13 A Well, you would have your, of course, your
14 master. Then you have your deck officers. And
15 that consists of a chief officer, who is the
16 second in command of the vessel and your right-
17 hand man, as a master on a tanker.

18 You have a second officer, who normally does
19 the detail work on upgrading your charts, keeping
20 your charts corrected, your sailing directions,
21 make sure the bridge and the bridge equipment and
22 supplies are in good order.

23 And then your third officer, which is usually,
24 that's the junior member of the staff. And other
25 than his bridge duties, he's normally left with

1 the duties of taking care of inventorying and
2 inspecting fire fighting and safety equipment.
3 Things of that sort. And there's other details
4 you give him.

5 And that takes care of the deck officers.

6 You have a radio officer, which is self
7 explanatory. He handles the vessel's radio
8 traffic. Does the electronic maintenance,
9 normally, and stands a radio watch for safety.
10 They're being done away with here, I think, now.

11 But then you have your engineers. Chief
12 engineer, he's in overall charge of the operation
13 of the engine room.

14 The ships I was one normally had a first
15 assistant, second assistant, and third assistant.
16 And they do various duties in the engine room as
17 laid out by the chief engineer and help maintain
18 and operate the plant and the ship's equipment.

19 Your unlicensed departments would be your deck
20 department, which is, normally, -- when I was
21 sailing, it consisted of nine men. You had six
22 AB's and 3 ordinaries. They've now reduced that
23 down on most of them to just six AB's.

24 Your engine unlicensed would vary, depending
25 on the ship. You'd have a pumpman. You normally

1 have a three, on most of them, had three oilers.
2 A pumpman and possibly a wiper, as a clean up
3 man, which some ships have done away with. Some
4 don't -- that changes from ship to ship.

5 And then you have your steward department that
6 takes care of the cooking, cooking and quarter
7 cleaning. And that could be anywhere from -- use
8 to be four or five men. Some of them three. Now
9 I understand they're down to two.

10 Q Now, I'd like to talk a little bit about the
11 people that worked under you.

12 Were you given a choice in who you got to
13 choose as an able-bodied seaman?

14 A No. The ships I was on was unionized. The
15 company just called the union and they sent the
16 people out. Now, I did have the choice when they
17 came out of approval or disapproval of them.

18 You had to have a good, naturally, you had to
19 have a good reason if you turned a man down and
20 didn't take him. And I also had the right that,
21 if he didn't perform his job in a prescribed
22 manner that, if I had a legitimate legal reason
23 to dismiss him, I could dismiss him.

24 My officers, they come out of unions, but a
25 lot of them worked for the company. And there,

1 again, if they didn't perform like you wanted,
2 you had the right to do something in that regard.

3 Q The able-bodied seaman that worked under you,
4 when they were at watch, what were their
5 responsibilities?

6 A Okay. Normally, at sea their duties are
7 steering the ship and lookout when they're on
8 watch. During working hours, if one man -- when
9 you don't need a look out, you'll have one man
10 standing a wheel watch. The other man would be
11 doing some sort of maintenance around the vessel.

12 That's -- they're other duties besides at sea
13 would be cargo watches in port. They -- do any
14 valve turning, any line handling, any putting out
15 your fire fighting equipment, taking off blanks,
16 putting long (ph) blanks, looking for leaks,
17 operating the equipment for cruel oil washing if
18 you're in a discharge port. Generally, doing
19 whatever the watch mate then tells them in order
20 to operate the ship.

21 Q How does someone become qualified to get his
22 AB license?

23 A Okay. Well, they start out as an ordinary
24 seaman. Now, year's back it was three years as
25 ordinary to become an AB. Then it dropped to 12

1 months to get a limited AB ticket. And, now, I
2 understand there's six months plus special
3 training. I'm not just sure on the latest thing.

4 But, basically, still you can -- as ordinary
5 season. Then you can go to the Coast Guard; take
6 a test in which they cover various things that
7 they would expect an able seaman to do.

8 And, if he can pass that test, they give him a
9 little written test along with practical
10 knowledge, talking to him about tying knots,
11 reading the compass, various things that he would
12 need to know. And, if he passes that test, then
13 they'll give him an able seaman endorsement.

14 Q In this test taking procedure, are they
15 required to demonstrate skills in ship handling?

16 A In steering? No. What they would probably do
17 is run through a routine of rudder commands and
18 ask them what they would do, which is -- lets the
19 inspector know that they have an idea about it.
20 But there's no way that they can take them out
21 and see if they can steer a ship.

22 Q Well, how does an able bodied seaman then
23 acquire the ability to steer a vessel if it's not
24 tested?

25 A That's hands-on experience learned on the

1 ship.

2 Q How could you tell, as a master, whether
3 someone was qualified to steer a vessel?

4 A Well, what you have to do is get in open water
5 and put it in hand steering and let them steer
6 and observe how they steer. Give them a few
7 course changes. See how they respond to that.
8 How they do that.

9 What I always tried to do with the new men
10 when we left port is, I'd make them steer for
11 their two hours of wheel watch and then review
12 the course recorder. See if they could do the
13 few minor course changes that we would give them.

14 And, if they did fine on that, and I had
15 experience in the past on other vessels and
16 seemed okay, well, that was -- that ended it.

17 If I wasn't satisfied with their steering,
18 well, then they continued steering by hand for a
19 trip maybe or a week, whatever you felt was
20 necessary.

21 Q Is there a difference between someone who is
22 qualified to steer to be an able bodies seaman
23 and someone who you would have confidence in
24 steering the vessel in say tight or closed
25 waters?

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(3068)

A Oh, yes. What the Coast Guard would call qualified to steer is anyone that's passed an AB test. And what -- for steering in close quarter situations or, you know, in tight waters, you would want someone you had confidence in either someone who had been on the ship with you in trips past that you knew could steer, or someone who had already that trip proven that he was capable of steering.

 Now, occasionally, it comes a time, if you change all six AB's at once, then you're not sure of any of them. So you have to watch very closely in the first trip, you know, decide which ones are good helmsmen, which ones aren't'.

Q Would the master, the caption, have the discretion to place an AB, whatever AB, at the helm that he wanted?

A Oh, yes.

Q Why would you do that?

A Well, if you were unsure of a man, you would -- and you were in a tight situation, you would just tell that man, you know, you'd change your watches around. You'd probably put him on lookout and the other AB on the wheel. Of, if

1 necessary, keep someone over from the previous
2 watch to steer until you got out into open water
3 and they let the AB, that you weren't certain of,
4 take over.

5 Q I'd like to shift the focus here to, how do
6 you explain the relationship between the master
7 and the chief engineer on board? What type of
8 reporting duties does the chief engineer have to
9 the master?

10 (3170)

11 A Okay. The chief engineer handles the
12 maintenance and basically the running of the
13 operation of the engineer room. Now, the chief
14 engineer is still a crew member under the master.

15 But as the engineer room and machinery become
16 more important, his job has become more
17 important. But part of his duties besides
18 operating and running the engine room is to
19 report fuel consumption to the master.

20 He needs to report any requirements that he
21 needs in the way of fuel, lube oils, what have
22 you, so it can be ordered, maintained, you know,
23 and to maintain the vessel. He needs to report
24 any problems with any of his engineers or
25 personnel underneath him that he's aware of to

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the master.

And every day he gives a noon slip with the engine room data that he's logged in the engine room in regards to miles on the engine slip, fuel consumed, so that the master can be kept aware of the operation of the engine room. And any damage to the engine room, any equipment failures, things like that. Anything that would -- that would in the normal routine operation of the ship be something that was important enough the master should know, it's his obligation to advise him.

Q With the coming of importance of the machinery on board these tankers, does the master's responsibilities towards that, have they decreased towards the engine room and its...

A No, no. They've never decreased the master's responsibilities.

Q How important is a chief mate on board a tanker?

A Well, as I said, he's your right hand man in operation of the vessel. The chief mate now a days stands a watch, depending on the ship. Normally, I always had the chief on the four to eight watch.

The chief mate takes care of the hands on part

1 of the cargo loading, the discharging,
2 ballasting, any tank washing that you would have
3 to do, the general maintenance of the vessel, the
4 ordering of all the supplies and equipment used
5 by the deck department. And, he keeps track of
6 all the crew overtime in the deck department for
7 review by the master and turning in.

8 Depending on the ship, normally, you don't
9 give the chief mate any of the various voyage
10 abstracts and reports because he's got enough
11 paperwork, but depending on your second and third
12 mates, you may even have the chief mate doing
13 some of that. So he's very important to the
14 operation of the vessel.

15 Q What's abstracts?

16 A This is a form with various information that
17 you need to turn in to the company and/or the
18 charterer in order to determine how much oil --
19 you'll have an abstract with loading information
20 on how long it took you to load, what time you
21 docked, undocked; various times so that, for
22 billing and for charging a company for your
23 charter or in case it's a charter and there's a
24 problem for -- it's a method to keep track of the
25 oil, keep track of what the ship is doing, keep

1 track of the various financial charges back and
2 forth.

3 Q When you began sailing as a master on these
4 tankers, how did the loading process get
5 accomplished?

6 (3430)

7 MR. MADSON: Your Honor, I hesitate to object,
8 but I think we're getting pretty far afield. I mean,
9 we're talking in 1977 how a ship was loaded. I don't
10 know what in the world the relevance this has to
11 anything here.

12 MR. COLE: I'll tie it in.

13 THE COURT: All right.

14 Q How did the loading of a tanker occur at that
15 time?

16 A Oh, in -- say when we started the...

17 Q In the beginning.

18 A Oh, in Valdez? At that time the ships that I
19 was on did not have inert gas. They were open.
20 They loaded them the same way as they loaded
21 tankers for 50 years. I guess, it was open
22 ullage caps with a screen and the mates...

23 Q What do you mean by open ullage caps?

24 A Okay. Well, that's -- was a gauging cap that
25 you could measure your oil through this open cap.

1 At that point the mate on -- would be out on
2 deck going from tank to tank checking. And there
3 was a tremendous amount of walking. A lot of --
4 because each tank had to be checked individually.

5 Well, as they modernized the ships and went
6 into a little -- got a little more modern and
7 revamped them, they went into an automatic
8 gauging system. They went to the inert gas
9 systems that had a closed tank then where you
10 didn't have to look in each tank. You used your
11 automatic gauging systems. They had built in
12 back up systems that you could check which is --
13 at each tank if you needed.

14 And it evolved to the fact that the chief mate
15 was then usually in the cargo control office
16 instead of out on deck running around.

17 Q Would it be fair to say that it's become
18 fairly automated in some of the more advanced
19 vessels?

20 A Yes. It's become more and more automated.
21 And it's -- due to the ships getting bigger and
22 the crews getting smaller, that's the only way
23 that they could keep operating, is by trying to
24 reduce the physical work load that was put on the
25 mate's loading.

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Q And as a captain, were you aware of the cargo loading and unloading process that occurred on the vessel that you happened to be...

A Oh, yeah. Yeah.
(3574)

Q Did your responsibilities as to that lessen with the greater automation of this?

A No. No.

Q Would you tell the jury, Captain Beevers, what are the responsibilities of a tanker captain?

A Okay. First the master's in overall command of the vessel. He's in charge of the safety of his crew and vessel at all times. The master's -- he has the responsibility of a safe navigation.

He has responsibilities of watching a pallet, if you have a pallet on board. He has the responsibility of maintaining discipline on his ship if necessary.

He has the -- despite the fact that most of the companies -- that the companies pay their crew members direct now, he has the financial responsibility of seeing that they do get their monies legally.

If he has the -- he's the company's

1 representative in all business matters pertaining
2 to the ship, whether -- if he has to purchase
3 stores or equipment, the master's the man that is
4 responsible for the money for that.

5 He's responsible for all of the government
6 papers, custom's forms, immigration, that you'd
7 have to file for sailing.

8 He's responsible for the safety of the cargo
9 on board.

10 He's -- on and on and on. It's just, I...

11 Q Is he responsible for the command of the
12 engine room?

13 (3690)

14 A Overall, yes. The chief engineer makes the
15 decisions. The chief engineer, certainly, if
16 there's a -- if the chief engineer make a mistake
17 that's beyond what the captain would be aware of,
18 then the chief engineer's going to have to accept
19 some of the responsibility, but ultimately the
20 master's responsible for the engine room also.

21 Q What about in emergencies? What are his
22 responsibilities in emergencies?

23 A Okay. It's up -- the master's there, again,
24 responsible for safety of the crew, safety of the
25 vessel. He's the responsible -- it's his duty to

1 be sure in an emergency notify anyone he needs
2 for assistance and aid.
3 It's his responsibility to try to keep the
4 damage to a minimum. Any -- anything that
5 happens in the operation of a vessel is,
6 basically, reverts back to the master.
7 Q Does he make decisions as to whether or not
8 to, say for instance, abandon the vessel?
9 A In an emergency, abandoning the vessel would
10 certainly be something the master would -- make
11 that decision. In an emergency, if you needed to
12 call for salvage, that would be the master's
13 decision.
14 If you needed to...
15 Q Well, let's stop at that.
16 A ...get outside help,...
17 Q What do you mean by call for salvage?
18 A If you needed help in -- if you needed to get
19 someone to help get your vessel out of trouble,
20 it would be up to the master to make the decision
21 as calling for him.
22 Q Are there such things as salvage agreements in
23 the...
24 A Yes.
25 Q ...in the industry?

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A Yes.

Q Would you tell the jury what a salvage agreement is?

A Well, it would be an agreement between a company that's trying to salvage your vessel and the vessel. And they have -- the standard is, that everyone, I think's, aware of in the industry, is Lloyd's open form, which is, basically, it's a little more complex. But basically, that's a no cure, no pay.

You take the job with the idea that you will have saved the ship or you will not get paid.
Now,...

Q If you do save the ship,...

A You get a percentage of the value of what you've saved. And that's determined by a board of insurance people and salvage people.

The other way is a -- by being hired on a cost plus basis or a contract basis. And that's -- it just depends on the situation which one that you would go. And that's another decision that -- those decisions normally in the actual practice are made, through communications, by people in the home office.

But if it comes does to it, that's a decision.

1 If there's no decision made and one needs to be
2 made immediately, that's, again, the master's
3 responsibility.

4 Q Would you describe for the jury, why are
5 pilots required in certain parts of the ship's
6 travel?

7 (3938)

8 A Yes. The various governments around the
9 world, including the United States, if they
10 determine that for the safe operation of vessels
11 it's prudent to have an experienced seafaring
12 person with local knowledge and experience in the
13 local area to assist ships coming in and out.

14 And so they've set up in each country and each
15 has set up various rules for their pilots; what
16 areas they need them in and what their training
17 should be, what they need to know.

18 Q So the concept of pilotage and having a pilot
19 aboard, that's not something that's unique to the
20 United States?

21 A No. This is world wide and it's been in
22 practice for many, many years. But years back,
23 say in sailing ship times, it was normally an
24 option, an optional thing.

25 Now, most federal and state laws and

1 international, various other country laws, they
2 require them in certain areas.

3 Q Can you give the jury an idea of different
4 parts of the world that require pilotage where
5 you've sailed?

6 A Almost every place that I mentioned earlier
7 and I've been to there's, other than Antarctica
8 -- there's no pilotage down there -- but most
9 every other...

10 Q In Africa?

11 A They would have pilots there in, any place
12 that I've been in Africa they've had a...

13 Q What's the pilot's responsibility once he
14 comes on board in these particular places?

15 A Okay. The pilot will come aboard. Discuss
16 his job and what he's going to do with the
17 master. And his responsibilities are normally to
18 assist the master in getting the vessel safely in
19 port.

20 In practice, what's this means is that, he
21 normally takes the con of the vessel and then he
22 will maneuver the vessel using his local
23 knowledge and experience into the port.

24 But there, again, always the pilot is under
25 the -- he's working under the master. If the

1 master decides this pilot is unfit or this pilot
2 is drastically wrong, the master has the option
3 of stepping in and taking the ship away from him.

4 Now, I will say this, you need to -- you have
5 to know it. It's not a light decision to make.
6 You need to know where your vessel's at. You
7 need to know, when you take over, what you're
8 going to do then because...

9 Q When you say when you take over, you mean take
10 over from the pilot?

11 A When the master -- yes. If you take over from
12 the pilot and assume the con, you have to be very
13 aware of the area that you're taking over and so
14 that you don't take over and do something to
15 damage your ship.

16 Q If you don't have a problem with the pilot,
17 what are your responsibilities during the time a
18 pilot's on board?

19 A Okay. If the -- what normally happens, your
20 responsibility is still the same. You're in
21 charge of the vessel. But what normally happens
22 is that, when a pilot comes aboard is that, if
23 you're in a tight situation, suppose you're
24 docking or undocking or you're in a narrow
25 channel, a master should be on board so that he

1 can watch the pilot, watch his moves, and so that
2 he can best, because, after all, the master
3 should still know his ship better than a pilot
4 just coming aboard.

5 (Tape: C-3644)

6 (0003)

7 He should be there to take over in case
8 there's something major happens. He should be
9 there in case the pilot makes minor error to,
10 normally, instead of taking over, he would just
11 correct him or just mention it to him. You have
12 to be there to do this.

13 Now, once you're out in an area where it's not
14 an immediate damage, the master can kind of step
15 back and relax or you can go down below for a
16 minute, if you're not in an area where you're
17 needed on the bridge.

18 Q When have the pilots, in areas when you've
19 been required to have a pilot, where are the
20 pilots during that time?

21 A They're on the bridge conning the vessel.

22 Q Have you ever had a situation where a pilot
23 was not on the bridge conning the vessel where he
24 was required?

25 A No.

1 Q You indicated that you had pilotage from
2 Prince William Sound to Rocky Point.
3 A Yes.
4 Q Where would you pick up and drop off the pilot
5 on your trips in land and out?
6 A We would pick up the state pilot just off
7 Rocky point and proceed into the terminal. And
8 then we would, out bound, we would drop him off
9 from Rocky Point.
10 Q What was your understanding of your
11 responsibilities while in Prince William Sound
12 without the pilot on board?
13 A From Rocky Point out?
14 Q Yes.
15 A Okay. At that point I was normally the only
16 person on the vessel with pilotage and I assumed
17 my responsibility was to be on the bridge
18 piloting the vessel in and out.
19 Q What about if you had to go to, say for
20 instance, the rest room during this time?
21 A There's usually facilities right on the bridge
22 on most of the modern ships. It's just a matter
23 of stepping into the -- usually it's off in the
24 back of the bridge off the chart room, stepping
25 into the bathroom facilities there, and right

1 back within a few seconds or a minute's time.

2 Q What about message that you had to send back,
3 to say Valdez or to other ports. How would you
4 do that?

5 A Well, that's...

6 MR. MADSON: Your Honor, unless it's clear
7 that he's speaking only from his own knowledge and his
8 own experience and this is no way is probative of what
9 was done on the Exxon Valdez, I guess I wouldn't
10 object. But I think that should be made very clear.

11 THE COURT: I don't understand. Are you
12 objecting or you're not objecting, Mr. Madson?

13 MR. MADSON: Well, it's not relevant, Your
14 Honor, unless it's made very clear that it's from his
15 prior experience. So, I think with that in mind, I
16 would object, because I don't know how we can keep that
17 separate. This is just his experience. When he was
18 there. No way relates to what was done on March 23rd
19 and March 24th of last year.

20 THE COURT: Objection as to relevance is
21 overruled.

22 Q (Captain Beevers by Mr. Cole:) What type of
23 messages would have to be sent off during the
24 period in and out?

25 A Okay. Normally, on your depart, when you

1 leave the dock, you normally have to give your
2 last line and gangway weight information to the
3 local agent, which is usually done VHF from the
4 bridge. They have a portable radio. So that's
5 taken care of right on the bridge.

6 You normally have a departure message which
7 you send. Usually after Hinchinbrook is where
8 most people take departure.

9 Q Where do you send that to?

10 A Okay. You'd have a message to send to -- in
11 my case, I would have a message to send to my
12 company that I departed. I'd have a message to
13 send at that time usually to the charterer, which
14 ever oil company had the vessel chartered, and
15 usually a message then to the terminal that you
16 were proceeding. And then...

17 Q How would you send those messages?

18 A You just -- I'd write them out and give them
19 to the radio operator and he would, as when we
20 had telex, he would telex them off.

21 (0190)

22 Q Would you explain to the jury what sailing
23 coastwise means?

24 A That's from port -- you're sailing from a port
25 in the United States to another port in the

1 United States.

2 Q What does sailing under the register mean?

3 A Registry is -- that's a foreign trip. That
4 doesn't have to be a foreign trip. You have to
5 be ready to make a foreign trip. And so you
6 might leave -- leaves under registry on the way
7 to Panama and stop in Long Beach for fuel, crew
8 changes. Something of that sort and know that
9 which time it's a -- I think you have to get in
10 and out within 24 hours to do that.

11 But it means that you're taking your cargo
12 foreign, if you're under registry, as a rule.

13 (0220)

14 Q What determines whether you are sailing
15 coastwise or under registry?

16 A Where your voyage orders tell you to go.
17 Whether -- if you're going to Panama, then you'd
18 be under -- they have a dual certificate now, so
19 it's no -- the change is, not anything that you
20 do in a fact on the ship. It's a change in the
21 way the agents -- what you turn in to the
22 customs.

23 Coastwise, there's no customs involved in
24 anything. But if you're going foreign, you have
25 customs. You have the certified crew list to

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get. You have papers to file that with.

Q What do you mean by dual certificate?

A Well, years back you had a -- your register was -- you were under enrollment if you were coastwise. So you had a big -- your certificate of registry set enrollment. And I probably mentioned coastwise.

Then, if you went foreign, you had to go down to the Coast Guard and they would issue another registry that -- I forgot the wording -- but you're under registry and something about sailing foreign.

Well, that was basically a waste of everyone's time changing each time, so they went to a dual registry, which is the ship's register now says postwise registry, I believe is how it's stated. And that is used, as far as the ship is concerned, for both.

And like I say, what makes a difference is the port that you're taking your cargo to.

Q If a vessel was travelling from, a tanker, from San Francisco to Valdez and back to Long Beach, would you be travelling coastwise or under the register?

A You're coastwise.

1 Q And upon reaching Cape Hinchinbrook, if you
2 had pilotage endorsement to navigate that vessel
3 between Cape Hinchinbrook and Rocky Point, would
4 you be a pilotage vessel or a non-pilotage
5 vessel?

6 A Repeat that, please.

7 Q If you were engaged in a San Francisco to
8 Valdez and then back to Long Beach, upon reaching
9 Cape Hinchinbrook, if you had pilotage
10 endorsement to navigate the vessel between Cape
11 Hinchinbrook and Rocky Point, would you be a
12 pilotage vessel or a non-pilotage vessel?

13 A It would be a vessel that required pilotage.

14 Q Where would you be allowed to proceed under
15 your federal license?

16 A Under my license I'd be -- I would be allowed
17 to go as far as Rocky Point.

18 MR. COLE: Judge, do you want to take a break.
19 This is a break. It doesn't make any difference. I
20 can go forward.

21 THE COURT: Okay. We'll take a 10 or 15
22 minute break.

23 Ladies and gentlemen, remember my instructions
24 not to discuss the matter among yourselves. Not
25 to form or express any opinions. And please pay

1 particular attention to my cautions about media
2 information. Avoid any media information
3 concerning anything concerning the oil spill.
4 Screen it. Walk away from it. Anything that
5 gets you away from it.

6 We stand in recess.

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

9 (Off record - 10:00 a.m.)

10 (0339)

11 (On record - 10:30 a.m.)

12 THE CLERK: Court now resumes it's session.

13 (Jury present.)

14 THE COURT: Mr. Cole.

15 MR. COLE: Thank you, Your Honor.

16 Q (Captain Beevers by Mr. Cole:) Before we
17 being, would you tell the jury how often have you
18 been called to testify in the past as an expert?

19 A How many times?

20 Q How many times have you been. What have done
21 since you retired?

22 A Okay. I've done a small amount of consulting.
23 I've done my other business and kind of relaxed
24 and enjoyed myself.

25 In the past, I've testified on matters for

1 Maritime Overseas. Matters for Central Gulf
2 Lines involving operations of the ship and
3 various customs duties that came forth on a
4 couple of those cases. And testified in cargo
5 cases, when I worked for Maritime Over -- United
6 Maritime that, well, over events that happened.
7 During that I testified about that later on.

8 Q When you say testified, do you mean gave
9 depositions?

10 A No. Well, I've given depositions on personal
11 injuries. Things of that sort. The one I just
12 mentioned is a court case in New York involving
13 sharing, average sharing, on a machinery failure
14 during a voyage.

15 Q Did you visit the Exxon Valdez at any point?
16 (0410)

17 A Yes. Within a few days after it had grounded
18 and while it was still on Bligh Reef lightering
19 off, I went out with a team sent out by your
20 office to look for various documents, papers,
21 inspect what we could inspect, as far as bridge
22 equipment. Things of that sort.

23 Q Did you make any other trips out to the Exxon
24 Valdez?

25 A I believe all together I made three trips to

1 the Valdez. I made two fairly early on when it
2 was still on Bligh Reef. I made one trip later
3 on after it had been moved around and anchored
4 and was preparing, just before it left, when it
5 was preparing to leave.

6 Q And during that time did you get a chance to
7 walk around the bridge and observe the equipment
8 that was on...

9 A Oh, yes. Yeah. That was part of what we went
10 out to check originally.

11 Q What material have you reviewed prior to
12 coming in and testifying in this case?

13 A Well, I believe I looked at everything that we
14 picked up on the vessel during my two trips out
15 there. I've reviewed the statements that were
16 taken by the Coast Guard and by the FBI and by
17 whoever, the state troopers. I've reviewed all
18 of the statements that they took.

19 I reviewed the grand jury material. All the
20 exhibits, all the statements there. And
21 documents. Just about everything that has been -
22 - come in, I think I've reviewed it.

23 Also courtroom testimony of Mr. Cousins and
24 Mr. Kunkel.

25 Q Did you review the NTSB material?

1 A NTS? Yes. NTSB material. I reviewed all of
2 that.

3 Q Do you know how many pages of material that
4 comes to?

5 (0510)

6 A Quite a bit. It -- I've got a big box that's
7 approximately this long full of notebooks with
8 the material in it. So, that's -- I wouldn't
9 have, you know, as far as pages, I couldn't
10 hazard a guess even. But it's considerable.

11 Q With this information in mind that's been
12 provided, has it enabled you to reach any
13 opinions concerning the conduct or actions taken
14 by the master of the Exxon Valdez on March 23rd
15 and March 24th of last year?

16 A Yes.

17 Q I'd like to begin with the captain returning
18 to the vessel on the evening of the 23rd. Do you
19 have any opinion about that activity and whether
20 or not that constitutes bad judgment?

21 (0550)

22 MR. MADSON: Your Honor, I'll object to that.
23 We're asking to have one witness evaluate somebody else
24 in his opinion whether it's good judgment or bad
25 judgment. That's an issue the jury has to decide in

1 relationship to the instructions the court gives in a
2 case. Not personal opinions.

3 THE COURT: We're not going to get to that
4 yet. The question, do you have any opinion. The form
5 of the question is so broad, Mr. Cole. I'm going to
6 require you, if you're going to ask this witness
7 opinion questions, to be very narrow and specific with
8 them so they'll give some assistance to the jury here,
9 if they get admitted.

10 MR. COLE: Okay.

11 Q (Captain Beevers by Mr. Cole:) What is your
12 opinion as to the actions taken by the master
13 prior to the Exxon Valdez undocking that evening?

14 MR. MADSON: I'd still object. First of all,
15 we don't know if he has an opinion. And secondly, if
16 he does, it's without sufficient foundation and it's
17 irrelevant.

18 THE COURT: Objection sustained. Objection,
19 as to the foundation and the form of the question,
20 sustained.

21 Q Have you reviewed information about when the
22 captain returned to the vessel that evening?

23 A Yes, I have.

24 Q And have you formed any opinions about how the
25 captain acted at that time period?

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A Yes.

Q What are those opinions?

MR. MADSON: And I would object again. Acted in what respect and how and what relevance does that have to something that occurred hours later.

THE COURT: Objection, as to the form of the question, is sustained, Mr. Cole.

MR. COLE: Can I have just a minute?

(Pause.)

(0629)

Q (Captain Beevers by Mr. Cole:) Do you have an opinion as to the captain's judgment in returning late to the vessel?

A Yes.

Q What is that opinion?

MR. MADSON: Your Honor, I object, again. I think judgment is not an issue here.

MR. COLE: Judge, can we approach the bench?

THE COURT: Yes.

(Whispered bench conference as follows:)

(0640)

MR. COLE: Judge, judgment is a very important thing.

THE COURT: I understand that. I'm not ruling on the admissibility (indiscernible - whispering).

1 You're going to have to ask a question that's very
2 specific about his judgment, returning late to the
3 vessel. Is that your question?

4 MR. COLE: Yes.

5 THE COURT: Well, what are you going to
6 discuss with him, he shouldn't have returned late?

7 MR. COLE: Yes. He's going to say why.

8 THE COURT: Mr. Madson?

9 MR. MADSON: Well, Your Honor, there's
10 absolutely no connection between that and the events
11 that occurred later. It does not, whatsoever -- it's a
12 side issue designed only to confuse the jury and
13 prejudice the jury under 403.

14 If it has any relevant value it is so little
15 and so small, then he should not be allowed to enter it
16 (indiscernible - whispering) to confuse the jury.

17 THE COURT: What information does he have to
18 support his opinion? Does he know...

19 MR. COLE: When he got back. When he left.
20 What he was doing before. What his responsibilities
21 are, prior (indiscernible - whispering). What things he
22 has to take care of.

23 MR. MADSON: Your Honor, this is not a Coast
24 Guard proceeding regarding...

25 THE COURT: However, I think that it has

1 weight and your argument goes to the weight. It should
2 be given to it, not to responsibility -- I'm going to
3 let this question in.

4 Mr. Cole, would you be very specific with your
5 questions regarding his opinion. The rules very
6 clearly require you to ask if he has an opinion. And,
7 if the defendant wants to require disclosure, or I want
8 to require disclosure at the (indiscernible -
9 whispering), I'm going to require you to.

10 And on this case I want you to only ask him if
11 he has an opinion and what it is, I want you to
12 disclose, based on my own requirement and, Evidence
13 Rule 705 the underlying facts or data to his opinion,
14 before you ask for the opinion.

15 MR. COLE: Okay.

16 THE COURT: Okay. This is, he read a book
17 full of things. Normally, that would be okay, but
18 Evidence Rule 705, may, if the court requires
19 otherwise, disclose on direct examination the
20 underlying facts or data that support this opinion.

21 MR. COLE: What -- just basically, what
22 specifically...

23 THE COURT: I'm not going to tell you how to
24 do this, Mr. Cole, you're on your own.

25 (End of whispered bench conference.)

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(0738)

THE COURT: Okay. At this time the objection as to the form of the question will be sustained. Under Evidence Rule 705, Mr. Cole, until a little better foundation.

Q (Captain Beevers by Mr. Cole:) Captain Beevers, what information specifically did you review concerning the time period from of what the captain was doing between 7:30 on March 23rd and 8:30 when he came aboard?

A That's 8:30 p.m.?

Q 8:30 p.m.

THE COURT: Is that 7:30 p.m.?

Q 7:30 p.m. to 8:30 p.m. on March 23rd, 1989.

A Okay. Let's see, I read the interview with the taxi driver, Mr. French. I read Patricia Caples' interview. I read the statement by -- first statement -- the chief mate's statement, Mr. Kunkel. I read Mr. Cousins' statement regarding that period.

Q Did you read statements by Mr. Glowacki?

A Chief -- yeah, I read the chief engineer's statements, the radio officer's statement, and...

Q Did you see any information decal -- security logs that would have indicated when...

1 (0820)

2 A Yeah, the -- the Alyeska logs for the -- kept
3 at the gate by the guards. That was part of the
4 documents and statements and literature that I
5 read.

6 Q Did you read any of the deck logs that would
7 have told you when the vessel was...

8 A Yes, I...

9 Q ...cast off?

10 A I've reviewed the deck log for that day.

11 Q And based upon all this evidence, have you
12 reached any opinions as to the conduct of the
13 master, Joseph Hazelwood between 7:30 and 8:30
14 p.m. on March 23rd, 1989?

15 A Yes.

16 Q Would you tell the jury what that opinion is?

17 MR. MADSON: I still would raise my same
18 objection, Your Honor.

19 THE COURT: Your objection on relevancy is
20 overruled.

21 A Could you repeat the question?

22 Q Would you tell the jury what that opinion is?

23 A Well, my opinion is, from all the documents
24 that I read, is he was up town with the radio
25 officer, chief engineer. And they had been

1 drinking and stopped by to pick up a pizza and
2 had another drink. Got in a taxi. Came back to
3 the ship.

4 And my opinion of what all this led to is that
5 he should have been on the vessel earlier. He
6 came late. All the cargo was done. The vessel
7 was ready to sail. And, basically, they were
8 waiting -- waiting to get the paper work done.
9 Get the boom away and sail.

10 And by being late, the bad judgment in coming
11 back late comes in in a fact that, this reduced
12 the captain's time to review the ice report,
13 weather, such things as that. And this may have
14 eliminated one of this options in the fact that,
15 if the ice report would have indicated ice was
16 very bad, he could have made a decision at that
17 time to remain at the dock until he could arrange
18 undocking in order to have a day light transit
19 through the area of ice. This is one option that
20 was open to -- to the master in -- that evening
21 in making his decision on what to do.

22 Q Have you ever stayed over night?

23 (0937)

24 A No. I haven't. However, I brought a ship in
25 at one time, the Overseas Boston, and was

1 relieved to go on vacation in Valdez and my
2 relief was -- the ship was scheduled to sail at
3 night. My relief didn't sail. He waited until
4 he could make a day light transit through the
5 ice.

6 Q Now, have you reviewed information concerning
7 the vessel's travel approximately a half an hour
8 after docking until the vessel reach Potato
9 Point?

10 A Yes. There, again,...

11 Q What evidence have you reviewed on that?

12 A Captain Murphy's statement. Mr. Cousins's
13 statement. The, I believe, -- can't recall -- be
14 the statement from the wheelsman, at that time,
15 Radtke, I believe, or Claar. And I believe
16 that's all that had any -- that's all I can think
17 of now that had any direct relationship to that
18 you're mentioning.

19 Q And have you reached any opinions on Captain
20 Hazelwood's failure to be on the bridge during
21 the transit through...

22 MR. MADSON: I'm going to object. It's a
23 leading question.

24 THE COURT: Can you rephrase your question,
25 Mr. Cole?

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Q (Captain Beevers by Mr. Cole:) What is your opinion on Captain Hazelwood's failure to remain on the bridge through the transit through the narrows?

MR. MADSON: Your Honor, I'll object on the grounds of relevancy. The transit through the narrows had absolutely nothing to do with what occurred afterwards.

THE COURT: Objection overruled. Relevancy objection overruled.

Q What is your...
(0988)

A Okay. When -- once they undocked and left, left the dock to go out, at the point of -- between the dock and turning to enter the narrows is a fairly safe area. If Captain Hazelwood would have needed to go below for a minute at that time, that would be well within the normal operations of a vessel, because the pilot, after all, is conning. The pilot is -- knows the area very well.

The mate, I believe the chief mate, was up there when they undocked. So this would be -- but he should have been back on the bridge as they turned to enter the narrows. Should have

1 remained on the bridge through the narrows to
2 watch for any errors in pilot command. Any
3 errors in following the pilot's order by the
4 quartermaster. Any errors in the third mate in
5 handling the engine -- bridge control lever for
6 speed.

7 And should have been there in case of a -- any
8 emergency, any unforeseen emergency that came up.
9 So that -- because that arrow -- that area
10 through the narrows is very, very -- it's a close
11 quarters area. Very tight. And it's an area
12 that the master should be there in order to
13 respond immediately to a problem.

14 Q Did you ever leave the bridge while you were
15 travelling through the narrows?

16 A No.

17 (1080)

18 MR. MADSON: I'm going to objection, Your
19 Honor, on grounds of relevancy. What he did or did not
20 do was a personal preference is fully immaterial.

21 THE COURT: The answer came in before Mr.
22 Madson was able to make an objection. Do you wish to
23 be heard on the objection?

24 MR. COLE: Yes, Your Honor.

25 One of the elements that I have to prove, the

1 state has to prove in this case, is that Captain
2 Hazelwood acted -- was aware of and consciously
3 disregard a substantial and unjustifiable risk.

4 In addition to that, the risk must be of such
5 a nature that it would constitute a gross deviation
6 from the standard of care that another person would
7 exercise, a reasonable person would exercise, under
8 similar circumstances.

9 One of the ways of proving that is to show
10 what other people do in that particular situation. I
11 think that his personal choice of, given his experience
12 in the trade, is exactly on form.

13 THE COURT: Objection overruled. Mr. Madson?

14 MR. MADSON: Your Honor, I think, what this is
15 going to do is open the door for how many people to
16 come in here and disagree or agree and maybe we can
17 take a majority vote. But that's my position. I think
18 it's irrelevant.

19 THE COURT: The objection was overruled, Mr.
20 Madson.

21 Q (Captain Beevers by Mr. Cole:) What was your
22 standard procedure going through the narrows as
23 master?

24 (1130)

25 A Okay. We would always have, you know, your

1 complement up there would be a watch officer and
2 a helmsman. The pilot would be on the bridge
3 with the con. I would be on the bridge to
4 observe and to be ready to take care of any
5 problems that comes up.

6 One of the big problems is the fact that, with
7 more and more foreign ships and less American
8 ships in the trade, the pilots are all use to
9 giving commands. To foreign ships it's starboard
10 10 degrees rudder. Where American ships it's
11 left and right instead of port and starboard.

12 And even the good pilots make errors all the
13 time. And this is a simple little thing. You
14 would think the helmsman would understand, but
15 it's something that might cause a -- might cause
16 a delay in the helmsman response before it's
17 realized by the pilot or the helmsman what he
18 means.

19 So, that's just one little item that you catch
20 quite frequently.

21 The possibilities for an error in setting the
22 speed due to the fact that the vessel is required
23 to make six knots or less than six knots through,
24 is something that I feel, as master, that you
25 have to keep a close watch on.

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And the possibility of a steering failure. You have an escort tug that you may have to try to hook up immediately to help save the ship from possible grounding in that area. And that's -- these points and other similar things is why a master should be there at that time.

Q What was your experience when you were asked to pilot vessels in from Hinchinbrook using your federal pilotage...

A Okay.

Q ...endorsement with other captains through the narrows?

A Any ship that I was on, the captain stayed on the bridge going through the narrows.

Q Now, I'd like to focus on the period after the pilot, after the vessel left or exited the narrows to when the pilot got off. What information have you reviewed on that?

A Basically the same with for -- the statements of Captain Murphy. The statements of Mr. Cousins. The statements of the helmsman at the time. The deck log book. Bell book.

Q Did you take the statements of the -- did you review the statements of the lookout that evening?

1 A Yes. Whoever was on watch. Lookout AB. The
2 helmsman. Everyone concerned with the navigation
3 of the ship at that time.

4 (1280)

5 Q And did you review the Bell logger and course
6 recorder during that time?

7 A Yes.

8 Q Do you have any opinions as to what occurred
9 during that time?

10 A Well, it was a routine passage out at that
11 time. And this was up to Murphy got off the --
12 okay. It was a routine passage. Seemed to
13 follow the optimum track line. Everything went
14 normal.

15 And Captain -- the original statements
16 indicated that the captain did not return until
17 just before Captain Murphy got off. And there
18 was a problem, a problem with him coming up to
19 the bridge on time. There, again, this is --
20 there's nothing -- he has enough area there for
21 the master to leave the bridge if he needs to to
22 go below for something.

23 But there's certain times you should be on the
24 bridge. And when the pilot is leaving, is
25 certainly -- the master should be up there in

1 time to review where the vessel's at. The speed
2 the vessel's making. Get his eyes adjusted to
3 the night vision. Get all the information the
4 pilot has to leave him -- leave with him. And,
5 again, get an ice report or determine what he's
6 going to do from the time he relieves the state
7 pilot until he get to sea.

8 Q Now, I'd like to focus on the period of time
9 from when the pilot disembarked from the Exxon
10 Valdez that evening until Captain Hazelwood left
11 the bridge that evening.

12 A (Indiscernible - unclear.)

13 Q What information have you reviewed in that
14 regard?

15 A Okay. I've reviewed the deck log book. The
16 bell book. The course recorder. I've reviewed
17 Mr. Cousins's statements. I've reviewed the
18 statements Mr. Claar, Mr. Radtke, Maureen Jones,
19 and Mr. Kagan.

20 Q Before I ask you about your opinion, at that
21 point in a journey out of Prince William Sound,
22 what is the normal or routine practice, custom,
23 that is employed after the master is dropped off?

24 A The pilot?

25 Q The pilot.

1 A Normal routine, under a normal situation,
2 would be for the vessel to disembark the pilot.
3 Stow the pilot equipment away. Go ahead proceed
4 out the out-bound lanes.

5 Normally, at that time a vessel would start
6 increasing to sea speed. Have the look out come
7 up to the wing of the bridge.

8 Then the master, or whoever has the pilotage,
9 piloting the vessel out. Just report into, when
10 abeam of Rocky Point, that you report into the
11 VTC advising them of your speed and of your
12 estimated time of being abeam of Naked Island and
13 proceed out, uneventfully, out the traffic lanes.

14 (Pause.)

15 (1480)

16 Q And there's a pointer right here. Would you
17 use that pointer to show about in what area that
18 occurs, generally.

19 A Okay. Okay, here's the tract line down. At
20 this point, they're still under the con of the
21 state pilot. They come on down and somewhere
22 round in here, between, before you get down to
23 the lanes here, the state pilot will disembark.
24 And the master, whoever has pilotage, will take
25 the con of the vessel and proceed right on down

1 this lane and follow the traffic lanes right on
2 out and make a turn; go on out to Cape
3 Hinchinbrook.

4 Q In a normal or routine transit, what would be
5 the speed that you would use out bound?

6 A At this point in a normal transit I would
7 increase to sea speed, which most vessels is
8 close to 16 knots on most tankers. That seems to
9 be the overall average.

10 And at this point, you would normally put your
11 lookout on the wing of the bridge. You would
12 normally have your sailors, hopefully, they would
13 be finished securing everything. You would have
14 your last check to make sure the vessel was sea
15 worthy so that you were ready to proceed to sea.

16 Q In your evaluation or reading of the material
17 and testimony, was this a normal or routine
18 transit that you have employed these types of
19 procedures?

20 A No.

21 Q Why is that?

22 A Because of the report from the VTC in regards
23 to ice in the area of Columbia Bay between Point
24 Freemantle and Glacier Island.

25 (1562)

1 Q Did it make a difference that this was being
2 done at night?

3 A Yes.

4 Q Why is that?

5 A Well, naturally, in the day time you're going
6 to have better visibility and you'll be able to
7 see the ice better and be able to see your land
8 better.

9 At night you're apt to depend on being able to
10 see your navigation lights that's placed in
11 various areas around and use your radar for
12 actual land.

13 In the day time, you would have the option of
14 being able to use visual bearings off of
15 lighthouses or tangents off from islands. Things
16 of that sort.

17 (1600)

18 Q Have you seen the drawings that Mr. Cousins
19 made of what the ice looked like on that evening?

20 A Now, that I haven't seen. No. That's...

21 (Pause.)

22 Q Now, if Mr. Cousins indicated in his testimony
23 to the jury that this area surrounded by the
24 green line was the indication of the icing
25 conditions that he saw that evening on the radar

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that went from Point Freemantle all the way over to Bligh Reef,...

A Okay. Now, what is -- how did he -- this is a general area here that I -- but what is the...

Q He indicated that that was the gap between the leading edge of the ice and Bligh Reef. That line.

Would you consider that to be a fairly large amount of ice that would constitute a danger to the vessel of your ship?

A That would depend on the size of the ice and how thick. Depending on how large a piece, individual pieces, are. How many pieces are there. How far apart they are.

But, normally, if you're not sure, you would regard ice as a danger. If you couldn't determine it wasn't, to be on the safe side, you -- you always want to err on the side of safety when dealing with a problem such as this.

Q Well, what be, if a master were looking at that type of image through his radar, say six miles before it, what would be his options at that point?

A At that point, the, at six miles, you're back up in here someplace. At that point it's gonna

1 be pretty hard to tell how much ice is there.
2 Whether it's a few scattered pieces. Whether
3 it's large pieces, small pieces.

4 Q Why is it hard to tell from that distance?
5 (1700)

6 A Well, the -- with radar, you have a situation
7 of range resolution and bearing resolution, which
8 tends to make targets look bigger. The further
9 away they are from you, you bigger the target
10 will look in comparison to its actual size.

11 So, it would give you a false indication that
12 the ice is -- there's more ice or the ice is
13 bigger than it really is. There's more ice in
14 the area than it really is.

15 And one option he would have would be to
16 continue on down the lanes at maneuvering speed;
17 reduce his speed so that he's got time to look
18 the situation over. Determine at that time if
19 the ice is really thick enough to divert around.

20 Q You said get close enough to determine...

21 A I'm talking about...

22 Q ...what the ice really looks like. What do you
23 mean by that?

24 A Be within a couple of miles of the edge of the
25 ice.

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Q How would that help you?

A Well, at that point, as the targets get -- you could turn your radar down to a smaller scale. Instead of a 12 mile scale, say, you could be down on a 3 miles scale at this point. And that would give you a better picture. You're closer to the target so there's less distortion of the size due to resolution and range bearing.

And at that point you might find that the picture looks considerably different than it does from back here on a 6 mile scale or 12 mile scale, whatever -- whatever you happen to be on that far back.

Q When you were transitting out of Prince William Sound, did you ever encounter ice, for lack of a better word, images on your radar that looked like that from a far distance away?

A I've seen, yeah, I've seen ice all the way over. I've seen it over and disappearing on down into here.

But, also, what you find, and what I found, is on an incoming tide. It's not uncommon to have the ice up in here held in for some -- way. Ice down along Glacier Island. And ice on over from the separations on over and pushed up in here and

1 actually have the ice scattered enough that
2 there's -- that I have come down the out bound
3 lane with ice on both sides and have the lane
4 actually, basically, free.

5 (1841)

6 Q When you did that, at what speeds would you
7 travel?

8 A At that time, since you're near ice, I tried
9 to go 4 to 6 knots, depending on the amount of
10 ice. And this is so that, if you need to, you
11 have time to see the ice and maneuver to avoid
12 it.

13 Q Now, there has been testimony that this tanker
14 maneuvers better at higher speeds.

15 A No. You lose your -- you have a faster
16 turning. If you put the vessel hard over, it'll,
17 at full speed, you'll have a quicker response in
18 turning. It's still at, I believe this vessel,
19 it's nearly six-tenths of a mile before you turn
20 to a 90 degree angle away from your course. So -
21 - but the thing, you don't have the time.

22 When you are maneuvering at slower speeds, you
23 have the time to observe an object. When you
24 start making your course change, even though the
25 vessel maneuvrs [sic] slower, what you do to speed

1 that up then, since you're at 4 knots and on dead
2 slow ahead or stopped to be at 4 knots, you can
3 kick your engine to half ahead and that will turn
4 you at a much faster rate than going...

5 Q How do you use your rudder in that situation?

6 A Maneuvering that slow, any time you use your
7 rudder, it's got to be a hard right or hard left
8 to start a turn and then ease off and check it
9 when you want to start back up.

10 Q When you attempt to make a maneuver and give
11 it a boost, as you say, put it to half ahead,
12 when do you do that in the part of your turn?

13 A As you're starting your turn, you'd put your
14 rudder, if you wanted to turn to the right, say -
15 start --, you would put your rudder hard right,
16 kick it half ahead for a few seconds and stop it
17 and you'd see the vessel swing.

18 And then it's a matter of checking it up.
19 And, if you have to use more engine to assist in
20 checking it, that's fine. Normally, I found that
21 I didn't have to use the engine on checking it,
22 because you have -- you -- you're -- have lot of
23 sea room and it doesn't matter if you check it up
24 immediately on a exact course at that time. It's
25 a matter of getting it, the swing, stopped and

1 getting it headed on out outbound the lane.

2 Q Who would you use as watch in those
3 situations?

4 A Okay. On the -- in the -- if it's a day time
5 passage, I'd just get myself, the watch mate and
6 the helmsman.

7 At night I'd have the lookout, weather
8 permitting, lookout on the bow. And, if we were
9 maneuvering through ice, if there's enough ice to
10 maneuver through, I would send the chief mate up
11 to the bow with a radio.

12 Q Why would you do that? Why do you want these
13 two people up at the bow?

14 A The lookout's required by law. And the
15 lookout is fine for normal sightings; lights,
16 fishing vessels, ice in the distance is fine.

17 But, when you're in this maneuver, you're
18 perhaps going to be close to what the smaller ice
19 pieces, bergy bits or growlers. And I want a man
20 with the most experience I can get to be up there
21 to advise me of anything that I, you know, he's
22 after all going to be 800 foot closer, so 700-800
23 foot closer, to the ice than I am. And the chief
24 mate would be the logical man to send up there
25 due to his experience.

1 Q Would you tell the jury how does the ship
2 avoid the ice using this type of maneuvering?

3 A Okay. Using this helps you avoid the ice.
4 There is, first off, of course, you're looking
5 for the larger pieces of ice and staying away
6 from 'em.

7 The, what they call brash ice, is the small
8 pieces and small ice. That's of no consequence.

9 Such things as, what's called a growler, which
10 would be a chunk of ice three, four, five footer
11 crossed, that is floating. If -- these would be
12 a problem if you hit at full sea speed. There's
13 no doubt about it.

14 But at slow speeds, you, what you do is, you
15 maneuver away from 'em. They -- and remember the
16 bow of a vessel, of a tanker, is a round object.
17 And it's similar to this say. And it pushes the
18 water aside.

19 Q As it goes through it?

20 A As it -- as it goes forward. Instead of
21 cutting through the water, where the water's
22 trying to run down the side from the bow, it just
23 literally is like a bulldozer. In fact it just
24 pushes it out to the side and the water goes out.

25 And this will -- would automatically carry

1 your ice toward the out -- outside of your bow
2 wave. And between maneuvering away from the ice
3 and this pushing it away, I've never had any
4 problem with avoiding ice.

5 Now, the -- that's another way...

6 Q Well, let me just ask you that. Is there
7 other ways to go around the ice?

8 A Yes. Another thing is to do -- come down and
9 head over this way, as a lot of ships do. But
10 the problem with that is that you're reduce...

11 Q Before you go into the problems, what is the
12 other way?

13 A Okay. You come down. Keep it on maneuvering
14 speed. I would, at that point. Keep it on
15 maneuvering speed. Come -- change course to
16 steer down to the south bound lane.

17 Now, when you go out of this lane, you have to
18 call the VTS system, the VTC. You tell them what
19 you're doing. You're diverting out of the lanes
20 due to ice. Then you'd make your diversion.

21 If you go far enough to go out of the traffic
22 lanes, you, again, are required to call and tell
23 'em that you're leaving the lanes. All right?

24 And then you'd come on down around the --
25 around the ice.

1 Now, this is extending out reasonably close to
2 Busby Island. Reasonably very close to Bligh
3 Reef. And to use this method of just skirting
4 the ice, going around the ice, you have to keep
5 one thing in mind. You have to remember to have
6 enough sea room.

7 (2148)

8 Q Why is that important?

9 A So you don't run aground. That's if you -- if
10 you are going to avoid ice by going around the
11 ice, you still have -- you have to look out for
12 the other dangers involved in that.

13 Q What are the advantages of going around the
14 ice?

15 A Well, the advantages there is that you do --
16 don't have the maneuvering to do. You can
17 operate your ship at a faster speed, so you save
18 time. You get on around the ice on out the --
19 and on your journey sooner.

20 Q And what are the disadvantages?

21 A The disadvantage of that is running aground.

22 Q What are the advantages of maneuvering through
23 the ice, as you explained earlier?

24 A You have deep water here. You have more, more
25 room. And you can -- you're ship's in a safer

1 position.

2 Q What are the disadvantages?

3 A The disadvantage is that it takes more time.
4 You're going at a slower speed. You're
5 maneuvering around the ice. You may have to stop
6 your vessel and -- or stop the engine and go even
7 slower than the 4 knots at times to do something.

8 So it takes more time. It's more intense. As
9 you're doing this, it's a constant checking and
10 maneuvering.

11 And it's -- the disadvantage also is it uses
12 more people. You've got your chief mate out
13 there after -- after his working cargo and stuff
14 all day. And it's harder on the personnel.

15 Q Captain,...

16 A Thank you. How did you know I was getting
17 thirsty?

18 (2249)

19 Q Who makes the decision on which option to do
20 in that case?

21 A The master.

22 Now, there's one other scenario that could
23 happen, and does occasionally, is that you make
24 your change over here and then discover that
25 you're too close to Busby Island or the ice is

1 close to Busby Island or the ice goes all the way
2 across. At that point then you have to start
3 maneuvering your way back across through the ice.

4 Q And have you done that before?

5 A I don't recall ever getting out of the lanes
6 and having to maneuver back. I recall coming
7 over to the south bound lane and having to
8 maneuver back.

9 Any time I -- I don't recall actually ever
10 leaving the lanes. If I have left the lanes,
11 it's because it's been open and I could go all
12 the way out.

13 Q As a captain of a tanker faced with situations
14 such as this, do you take special precautions to
15 assure the safety of your vessel?

16 (2318)

17 A Yes. Well, yeah. Your special precautions in
18 this case is the reduction of speed. The extra
19 lookout. Instructions to the lookout to -- what
20 to look for and how to report it so that there's
21 no confusion or no overlooking anything. The use
22 of your special attention and use of your radar.
23 Especially putting -- using the three centimeter
24 radar on a short range so that you have as clear
25 a picture as possible with what you're

1 maneuvering with.

2 Q Now, based on the review of the information
3 that you cited earlier, do you have an opinion
4 about the actions taken by Captain Hazelwood from
5 the time the pilot got off the Exxon Valdez that
6 evening at about 11:24 until Captain Hazelwood
7 left the bridge that evening at about 11:53?

8 A Yes.

9 Q Would you tell the jury what those opinions
10 are?

11 MR. MADSON: Same objection as noted earlier,
12 Your Honor.

13 THE COURT: Relevance?

14 MR. MADSON: Yes. And 403, also, might add.

15 THE COURT: Overruled.

16 A (Captain Beevers by Mr. Cole:) Yeah. As they
17 -- as they dropped the pilot off...

18 Q Here. Maybe I can use the other one. You can
19 use the two of them.

20 A Oh. Okay. Okay.

21 (2400)

22 As they dropped the pilot off -- I guess I
23 will need my glasses -- back in here someplace,
24 the vessel called Vessel Traffic Control and
25 advised them at that time that they dropped the

1 pilot off and immediately was asked for an ice
2 report after passing through. And at that point
3 the vessel stated that they were -- that it was
4 altering course to avoid the ice.

5 So already back at this point, the decision
6 was made. Let me get on this one. Back at this
7 point the decision was made to divert around the
8 ice. And I don't feel that at that point that
9 they really had a clear picture of what they had
10 in the lane.

11 Now, the ice report that was issued four hours
12 earlier by the out bound vessel said scattered
13 small pieces of ice. It didn't say a solid
14 field. It didn't say large bergy bit, icebergs,
15 anything. It said scattered small pieces of ice.

16 So they probably should have came -- I feel
17 that they certainly should have, due to the lapse
18 in time, 4 hours later, and the fact it's an
19 incoming tide, they should have came a little
20 closer and took a better look.

21 Q Well, what...

22 A Instead they went around, cross, took a fix
23 here. You can see 39 here. They took a fix as
24 they crossed the separation zone. Which is fine.
25 That's what they should do. Is change course to

1 200. It's coming on down and then he changes
2 course somewhere down here to 180.

3 And at this time they're on maneuvering speed
4 despite, I believe, they mentioned increasing to
5 sea speed but they never did. They remained on
6 maneuvering speed.

7 At the sepa -- at this point right here, the
8 vessel was obligated to call Vessel Traffic
9 Center and advise them that they were leaving the
10 traffic lanes.

11 Q What speed was the vessel travelling shortly,
12 let's say 11:35, after the pilot had been dropped
13 off?

14 A By 11:35 it should have been back up ten and a
15 half knots, maybe eleven. It depends on the
16 turns. Of course, any time you make a turn, you
17 slow the speed down. But I would say they were
18 probably between ten and eleven knots at that
19 time.

20 Q Now, what about the placement of the vessel on
21 automatic pilot after coming to a heading of 180
22 degrees?

23 A Okay. They came around to 180 and put the
24 ship on auto-pilot. And they're in an area here
25 that should really be kept on hand steering.

1 Q Why is that?

2 A Well, you're close to -- you're on a 180
3 course, which as you can -- is putting you down
4 behind Bligh Reef. You've got Busby Island ahead
5 that you're going to pass approximately one mile
6 off. You've got ice out here in front of you,
7 that you've either got to maneuver through or go
8 around, depending on the circumstances if you get
9 closer.

10 At that point, if you put the engine on sea
11 speed at that time and start -- if you put the
12 thing in auto-pilot, you then have to tell
13 someone to change to hand to hand steering in
14 order to make a course change. Whereas, if you
15 are already on hand steering, you've got the
16 instant response of the helmsman.

17 Q Do you have an opinion as to whether or not
18 Captain Hazelwood exercised good judgment in
19 placing that vessel in auto-pilot there?

20 (2629)

21 MR. MADSON: Same objection, Your Honor.

22 THE COURT: Relevance?

23 MR. MADSON: And 403. His opinion as to what
24 someone else should do or not do when there's no legal
25 requirement that he has to do one or the other. It's

1 totally irrelevant.

2 THE COURT: Objection overruled.

3 Move the microphone up a little farther, would
4 you please, Mr. Beevers?

5 A Oh, sure.

6 THE COURT: It's being blocked by your arm.

7 Q (Captain Beevers by Mr. Cole:) Do you have an
8 opinion on whether or not Captain Hazelwood
9 exercised good or bad judgment when he placed the
10 Exxon Valdez on auto-pilot on that course
11 heading?

12 A That is, in my opinion, bad judgment.

13 Q Why?

14 A Just for those -- that reason that you don't
15 have a man -- your helmsman is no longer
16 steering. You've got him standing there and
17 there's a possibility of a delay in changing back
18 to hand steering. Delay in a response if you
19 need a course change.

20 Q What about, do you have an opinion as to
21 leaving the lookout or placing the lookout on the
22 bridge wing?

23 A With ice ahead, I would think that's a bad
24 decision also.

25 Now, there was no indication of high winds or

1 bad weather. Normally, the reason you move the
2 lookout from the bow up to the bridge wing coming
3 out of Prince William Sound is because of high
4 winds and choppy seas. Something that might be
5 of a danger to having a lookout up forward.

6 This evening there were, I think, force two
7 winds, something. Very light winds. And winds,
8 a breeze, of that nature is not going to cause
9 high enough seas to have spray coming over the
10 deck or seas or anything. There's no weather
11 reason to do that.

12 And the reasons to leave him up there is
13 because of the close proximity to Bligh Reef buoy
14 Busby Island and the ice.

15 Traditionally, a lookout is to be placed as
16 low as possible and as far forward to, you know,
17 that he can safely be placed there. That's,
18 traditionally, the best place for a look out.

19 Q Can you give the jury an idea of where this
20 vessel was at approximately 11:52? Just
21 approximately.

22 (2792)

23 A Okay. At 2352 they should have been somewhere
24 right in here. Just slightly north of Busby
25 Island and approximately a little over a mile off

1 of Busby Island at that point.

2 Q Do you have an opinion as to whether or not
3 engaging the load program up at this point at
4 11:52 was evidence of good or bad judgment by
5 Captain Hazelwood on March 23rd?

6 A That, again, is bad judgment because you're
7 increasing the vessel's speed going into these
8 dangers ahead of you. You're reducing the time
9 that you have to make a maneuver. You're
10 reducing the options of making a maneuver
11 eventually.

12 Q Would you give the jury an idea of at 10
13 knots, let's say, how fast, how much, how long
14 does it take for a vessel to go one mile?

15 (2834)

16 A Okay. At -- if you're going 10 knots, that'd
17 be six minutes.

18 Q And how far would the vessel travel in one
19 minute?

20 A Just under two-tenths of a mile. I'd have to
21 get my calculator out here. But right at two-
22 tenths of a mile.

23 Q How far ahead of you, from where you are when
24 you're on the bridge, is the actual bow of the
25 vessel?

1 A Well, on the Exxon Valdez it was somewhere in
2 the neighborhood of 800 foot, I imagine; 700, 800
3 foot. I never actually measured it.

4 Q And, as a master of a ship, would you
5 anticipate taking into consideration the rate
6 that the vessel is travelling per minute, the
7 amount of time and how far up ahead of you the
8 vessel was when you actually took fixes?

9 A Oh, yes. You have to consider that.
10 Especially, that's not so important out in open
11 waters. But in close quarters situations, that
12 very important.

13 Q Captain Beevers, can you tell us, when you're
14 in a situation like this, like what's confronting
15 Captain Hazelwood in this case, do you have an
16 opinion as to what type of fixes should be made
17 during this time?

18 A Well, you certainly should make -- have the
19 watch officer take a frequent -- taking and
20 plotting frequent fixes to determine that your
21 vessel is truly doing what you wanting it to do
22 in maneuvering.

23 And by frequent, that, I would say, ten
24 minutes apart. It doesn't have to be exactly
25 that. But that's frequent to me.

1 Twenty minutes is not frequent in that
2 situation.

3 Q How important is it in a situation like this
4 to have qualified personnel up on the bridge with
5 you?

6 A Well, there, again, it's very important
7 because you want your helmsman to be a good
8 helmsman. You want your watch mate to be
9 competent, capable and efficient. And you want a
10 lookout that conscientious, that's going to
11 report everything as soon as possible that they
12 see.

13 Q Do you have an opinion on whether or not
14 Captain Hazelwood should have left the bridge at
15 11:53 on March 23rd, 1989?

16 A He shouldn't have left the bridge. No.

17 Q Why is that?

18 (3026)

19 MR. MADSON: Let me, for the record, make the
20 same objection, Your Honor. It's a little late, I
21 realize, but I'm anticipating the Court, same ruling.
22 So, just for the record, I want to object.

23 THE COURT: You did wait too long, but I would
24 have ruled the same way.

25 A Yes. He was -- had his ship heading into a

1 dangerous situation. A situation that needed
2 someone with experience to maneuver it. A
3 situation that was beyond what you would expect
4 any relatively inexperienced third mate to be
5 able to do on his own.

6 Q Let's start with that. Why do you consider
7 Mr. Cousins a relatively inexperienced third
8 mate?

9 A Well, he only, I believe, he only had like 13
10 months sea time, something like that, on his
11 license. Very little sea time.

12 And during that time, most of it was spend on
13 the west coast tanker trade, on which there's
14 very little actually ship handling and
15 maneuvering done by a watch officer in any --
16 there is no close quarters that they should be
17 maneuvering in.

18 So, it'd be highly unlikely that he would be
19 experienced at doing anything other than making a
20 small course change out in the open waters at
21 sea. But with an occasional maneuvering
22 situation in open sea, he shouldn't be, certainly
23 should be expected, after 13 months, to be
24 proficient in handling a tanker of that size in
25 restricted waters.

1 (3124)

2 Q Do you have an opinion on Mr. Kagan being at
3 the helm?

4 A Yes, I do. If this man -- this man apparently
5 had problems steering vessels before. Apparently
6 had problems following simple orders. And I
7 think the proper thing to do in that case, is
8 when he come up on watch, send him out on lookout
9 and have the other AB take the first wheel watch.

10 After the first wheel watch, if they'd 've
11 made it around the reef, they'd a been down here
12 in open water. Would have been much more prudent
13 to put someone that you had confidence in on the
14 wheel than to put a man that knew had had
15 problems steering.

16 Q Do you have an opinion on the type of
17 instructions as to whether or not Captain
18 Hazelwood exercised good or bad judgment
19 concerning the instructions that he left Mr.
20 Cousins with that evening before going below?

21 A Well, I consider it bad judgment because he
22 shouldn't have left. That's the -- he didn't --
23 the instructions he give him -- normally, when
24 you leave a watch mate on a bridge in a situation
25 like that, you have a track line laid out with

1 specific points to make your course changes.
2 Specific courses to steer. Specific instructions
3 as to when to call the master if you need the
4 master. And on like that.

5 But in this particular case, it was kind of a
6 vague it was come right at Busby Island and go to
7 this point and do this. But they couldn't lay a
8 definite -- prepare a track line out because they
9 had ice up ahead that they weren't sure of how
10 they were going to get through or around.

11 Q Would that require, under the hypothetical, if
12 you were to leave, of going to the chart and
13 actually drawing, physically drawing,...

14 A Oh, yeah, yeah. You draw your track line out
15 on a chart so that there's no misunderstanding as
16 to what you want. When you want it done. And
17 what actions the third mate should take.

18 Q Do you consider just pointing at a radar and
19 giving the order when you get abeam of Busby
20 Island come right and join up with the Vessel
21 Traffic System an adequate instruction?

22 A Not in this circumstance, no.

23 Q What about Captain Hazelwood's questioning of
24 Mr. Cousins to determine whether or not he was
25 comfortable?

1 (3330)

2 A Okay. When I read that, I noticed that he
3 asked Mr. Cousins twice, are you comfortable with
4 these instructions? Are you -- this indicates to
5 me that, either Captain Hazelwood wasn't
6 comfortable with leaving Cousins there by himself
7 or conversely, if he felt that Cousins wasn't
8 capable of doing it, he shouldn't have left.

9 There was, either way you look at it, there
10 was a little hesitancy there and that he should
11 not have, as long as there is any doubt, you
12 shouldn't leave the bridge.

13 Q Do you have an opinion on whether or not
14 Captain Hazelwood exercised good or bad judgment
15 for leaving the bridge for the length of time
16 that he did?

17 MR. MADSON: Same objection, Your Honor.

18 THE COURT: Overruled. And that objection is
19 relevancy and 403, as I understand it.

20 MR. MADSON: Correct.

21 THE COURT: Overruled.

22 (3384)

23 A Yeah. In my opinion, it was bad judgment to
24 leave the bridge period. In that particular
25 location at that time. Whether for one minute or

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for twenty minutes, it was bad judgment.

Q Now, have you reviewed information concerning what occurred from the time Captain Hazelwood left the bridge until the time of the grounding?

A Yes. I have.

Q What information have you reviewed on that?

A Okay. I read Kagan's statements. I read Cousins's statement. I reviewed the course recorder, bell logger and...

Q Have you reached any opinions on Captain Hazelwood's good or bad judgment in not coming back to the bridge during that time?

A Well, the -- seems to me he left the bridge just before they were abeam of Busby Island, apparently with verbal instructions for Cousins to make a course change at Busby Island.

And when Cousins actually called him, it was several minutes after the expected course change and Cousins said -- at that point said I'm coming -- I've put 10 degrees right rudder on her. I'm coming right or making the turn. Made some indication that the turn was being made.

I would think that Captain Hazelwood would have realized that it's too late at this point. That he's a way late on his turn and been back up

1 on the bridge almost immediately.

2 Q What information that was passed to Captain
3 Hazelwood at that time would indicate that there
4 might be some problems up ahead?

5 A Okay. The fact that his phone call, how did
6 he put that, that he'd put 10 degrees, let it on,
7 and the vessel seemed to be not responding. I've
8 forgotten the exact phone convers -- the
9 statement on exactly what they said. But there
10 was a question on the turn wasn't being made.

11 Q What about the information that they might
12 still be encountering, coming encounter, with the
13 ice?

14 A Okay. That was in the phone, too, at that
15 time.

16 He said we may get into the edge of the ice,
17 which indicates to me that they would probably
18 have to start maneuvering in ice, because getting
19 into the edge of the ice doesn't mean to me that
20 you're going around the edge of the ice. That
21 means you're getting into the ice.

22 Q And do you have an opinion on what Captain
23 Hazelwood should have done at that point?

24 A He should have immediately returned to the
25 bridge.

1 Q Now, have you looked at the course recorder
2 that was taken off the Exxon Valdez that evening?

3 A Yes, I have.

4 Q And have you reviewed it to determine whether
5 or not any turns were made, when a ship course
6 heading was made, on the Exxon Valdez during the
7 time period around mid-night?

8 A Yes.

9 Q Okay. Now, I'd like you to take a pointer and
10 point to the time when the vessel steadied up on
11 a course of 180.

12 A Okay. Right here is where they made their
13 course. Here's where they steadied up. And from
14 here on they're on 180. This little bib here is
15 bringing -- is stopping the turn in -- maybe over
16 turning it. At this point they're on 180.

17 (3642)

18 Q And would that be at about 11:50 that evening?

19 A Looks like around 11:50, roughly, when they're
20 squared away on it.

21 Q Have you looked at course recorders in the
22 past?

23 A Yes.

24 Q Based on your experience, when did the Exxon
25 Valdez begin to make a heading change away from

1 180 degrees on the night of March 23rd-March
2 24th, 1989?

3 A Right up here at this point.

4 Q What time approximately would that be?

5 A Okay. That's -- I determined that at two
6 minutes after, which is, you know, kind a hard,
7 as small as this is. But I -- I'm interpolating
8 between these. I figure two minutes after they
9 started making a course change.

10 Q How long would it take for a vessel of this
11 type to change heading after a rudder command of
12 say 10 degrees right rudder was given and
13 executed?

14 A You should, within 20 seconds, if you're
15 really watching close, you should see a change in
16 your heading. You probably see your rate of turn
17 indicator show a rate of turn before your gyro
18 actually did. And within 30 seconds you should
19 definitely see it moving. Within a minute you
20 should have approximately 10 degrees heading
21 change.

22 Q Would this course heading change if you
23 reflected it on the course recorder?

24 A Yes, it would.

25 Q And let me ask you another question. Assuming

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that someone gave an order of 10 degrees right rudder, but the execution of it only resulted in a rudder angle of 6 to 7 degrees. How long would you expect it before the vessel changed headings?

A You would -- probably just a few seconds more than the 20, so probably 30 seconds you would start moving. And within a minute you would see a few degrees change. I haven't figured out that. But within a minute there should be a heading change that's noticeable.

Q And would you expect that type of order and execution to be registered on the course recorder?

A Yes.

Q Captain Beevers, did you see any indication on the course recorder that this vessel began to turn prior to 12:02?

A No.

Q If a person gave a rudder order of 10 degrees right rudder and this was executed at about 11:57, when would you expect the course recorder to have reflect this change?

A Between 11:57 and 11:58.

Q Did you see any indication of that in this case?

1 (3889)

2 A No.

3 Q If a person gave a rudder order of 10 degrees
4 an only a 6 degree rudder order were executed at
5 11:57, would you expect the course recorder to
6 reflect this change in heading?

7 A Yes. In approximately -- just a slightly bit
8 longer; a few seconds longer. Maybe a full
9 minute for it to show at that point. But, yes,
10 it would show it within a minute.

11 Q Can you explain why this vessel would not, did
12 not, turn until 12:02?

13 A There's four possibilities that I can account
14 for, I think.

15 Number one, is the vessel was left on auto
16 pilot. And when the helm was order 10 degrees
17 right, there was no response because it was on
18 auto-pilot. That would be one reason.

19 The second reason is that no rudder command
20 was given.

21 Q Until when?

22 A Until shortly before this 12:02.

23 The third reason, would be that a rudder
24 command was given, but the helmsman didn't
25 respond to it until... (indiscernible - mike

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interference)... this point.

And the fourth reason, would be any combination of the other three.

Q How would Captain Hazelwood's presence on the bridge that evening from 11:52 to 12:02 have assured that this vessel would have turned?

(4030)

MR. MADSON: I would object, Your Honor. There's no way this witness can speculate as to what another person would or could have done at a different time.

THE COURT: Rephrase your question, Mr. Cole. The part about assured makes it difficult.

Q (Captain Beevers by Mr. Cole:) How would Captain Hazelwood's presence have changed this? Could have changed it?

MR. MADSON: Is it would or could now?

MR. COLE: Could have.

MR. MADSON: I'd still object. It still calls for speculation.

THE COURT: Objection overruled. He can give his opinion.

A Well, Captain Hazelwood is an experienced master that has had several years experience maneuvering vessels and would have been more

1 likely to realize that the response wasn't
2 occurring when it should have.

3 In other words, if he'd 'ave ordered 10
4 degrees right rudder, within 30 seconds to a
5 minute he would have been more likely to realize
6 that the vessel wasn't responding than Mr.
7 Cousins, who's got very limited experience.

8 Also, Captain Hazelwood would have probably
9 set his priorities differently if he'd a been
10 there. He would have been more interested in the
11 heading change of the vessel than all of the
12 other running around that was being done by Mr.
13 Cousins trying to get his fix. Get his fix
14 plotted. Talk to the lookout. And all of this.

15 So it's a matter of, with experience, you
16 learn where to set your priorities. And, when
17 you're starting to make a course change in a
18 tight situation, the course change is what you're
19 main priority should be.

20 Q In reviewing the evidence that was presented
21 in this case, there are some names on the course
22 recorder there. The area of transitting the
23 narrows. Is that in your opinion the particular
24 point where the vessel, the Exxon Valdez, was
25 transitting the narrows that evening?

1 A Yes.

2 Q And where it says pilot away. Is that
3 approximately in the time when the pilot was away
4 that evening?

5 A Yes. According to the bell book, I believe,
6 it was 2324, which would be right in this area.

7 Q And, in your opinion, the change course
8 headings, is that, to 200, is that where those
9 occurred in this case?

10 A Yes.

11 Q And the one that's labelled change course on
12 180. Is that where that occurred?

13 A Yes.

14 Q And the one that indicates the grounding, is
15 that approximately where that occurred?

16 A Yes. That's -- that would somewhere up in
17 this area right here.

18 (Tape: C-3645)

19 (0000)

20 Q Now, have you also reviewed the bell logger in
21 this matter?

22 A Yes, I have.

23 Q And in reviewing it, did you determine whether
24 or not the engine was shut off somewhere around
25 12:20, 12:18, that morning?

1 A Was...

2 Q Yes. That morning.

3 A Yeah, that morning. Yes. It seemed to me
4 12:20.. I'd have to go back and look at my --
5 look at the bell logger to determine. But it
6 seems that time is -- it's in that area.

7 Q In looking at the bell logger, does that
8 refresh your recollection?

9 A According to this, the command to stop was
10 given at 19 minutes and 49 seconds past the hour.
11 And at the...

12 Q Of mid-night?

13 A Yes. And it actually stopped at 20.

14 Q Now, the decision to restart the engine. What
15 time was that according to the bell logger?

16 (0050)

17 A According to the bell logger, the order was
18 given at 35 minutes and 57 seconds past mid-
19 night. And it responded 36:12.

20 Q And does the label on the course recorder
21 adequately reflect that restarting of the engine?

22 A Yes. That's in this area right up in here.

23 Q And what time was the vessel stopped that
24 morning?

25 A Okay. It was again stopped. The order was

1 given to stop at 1:40 and 53 seconds. It
2 actually stopped 1:41 and 3 seconds.

3 Q And does that label on the course recorder
4 accurately reflect that point?

5 A Yeah. That would be -- that would be right up
6 in here.

7 Q Now, the bell logger, in reviewing your
8 information that was provided in this case, about
9 what time was the pilot away?

10 A The pilot was away at 23:24. It was logged
11 23:24.

12 Q And you see the label that's on there. Is
13 that approximately in that area?

14 A Yes.

15 Q And the load program up signature, when did
16 that occur?

17 A 23:52. Does that sound right? I think so.

18 Q Is there a 23:52 time period on the bell
19 logger?

20 A It would be on full ahead. But there's --
21 what would indicate that the programs is coming
22 up, it says full ahead here. Full ahead. And
23 what would indicate it's coming up is the change
24 in RPM's.

25 There's no print out for a load program up.

1 It would just be the fact that the -- it takes 40
2 minutes, approximately 40 minutes, to come up
3 from maneuvering up to full ahead. And this
4 would be an indication that it's enroute to that.

5 Q Is the fact, did the action to load program up
6 occur sometime between mid-night and when the
7 pilot was away?

8 A The -- it had to, yes. Because here you're at
9 51, shortly after they put it on full ahead.
10 Then 55 is considered full ahead maneuvering.
11 That's what the vessel should come to.

12 The 56 indicates that -- they're never -- they
13 don't have to be exactly on. That would indicate
14 that they're either on full ahead or he's already
15 put the program on, the load program up, at this
16 point.

17 However, this one you could tell definitely
18 that it's increasing. It's 56; could still just
19 be full ahead maneuvering. It doesn't
20 necessarily mean it was loaded up before that.

21 But 61 would indicate that the vessel's
22 increasing speed, definitely.

23 Q And in your opinion, did the vessel ground
24 somewhere between 9:05 and 18 minutes after mid-
25 night that morning?

1 A Yeah. I think I had figured out and had -- my
2 estimate was :07 I believe for the grounding.
3 But there's been other people with other
4 information. It's been changed on that. But
5 that was my first -- first time I worked it out.

6 Q And did the vessel stop? The engine? The
7 engine, was it stopped at 12:20 in the morning?

8 A Yes. Yes.

9 Q And it was restarted again at 12:36?

10 A Yes, it was.

11 Q And it was stopped at 1:51?

12 A 1:41, yes.

13 Q 1:41.

14 (0213)

15 Now, I would like to go to the events that
16 occurred after the Exxon Valdez grounded. What
17 evidence have you reviewed during the period from
18 the time after the vessel grounded until
19 approximately 2:00 o'clock in the morning?

20 A Okay. I've read everyone's statement that was
21 involved in that on board. Mr. Kunkel. Mr.
22 Cousins. The AB's on watch. The statement from
23 the AB's off watch that -- what they had -- the
24 engineers. All the crew.

25 I read through the log book. Read all the

1 material that the NTSB hearing had. All the
2 material for the grand jury. All the material
3 that -- all the statements gotten from the Coast
4 Guard investigator, from the state trooper and
5 FBI.

6 Q Have you ever been aground?

7 A Not as a master. As a chief mate. I was on a
8 ship that ran aground.

9 Q Would you tell the jury about that?

10 A Okay. Well, this was another tanker. It was
11 down in Lake Maracaibo, Venezuela. Out bound.
12 Fully loaded. Coming out of marked channel. And
13 unfortunately, the buoys were out of place in one
14 section and the master turned the vessel around
15 and ran into the side of the channel, which is...

16 Q When you say the buoys were out of place,
17 would you explain to the jury what that means?

18 A Well, on a marked channel, you have buoys on
19 each side of the channel coming out so that you
20 keep between the buoys. For some reason, either
21 misplaced or someone dragged the buoy over
22 inadvertently or something. One buoy was out of
23 place. And in keeping between the buoys, the
24 master ran the ship into the mud.

25 Q What happened when that happened?

1 A Okay. He was -- I was chief mate. I was out
2 making sure the vessel was secured; getting ready
3 to go to sea. And the master stopped the vessel.
4 Called me. Told me that we were aground. Quick
5 take a look around.

6 It was obvious that we weren't losing any
7 oil. We weren't leaking any oil that we could
8 tell right away.

9 The first thing I did after that was take
10 soundings around the vessel.

11 Q Why did you do that?

12 A So that you know what your situation is.
13 Where you're grounded at. How much water you
14 have. If you're not, where you're not grounded.
15 How far into the mud or into the -- that you are,
16 how far into the ground you are.

17 Q Why is that important?

18 A Well, that's where you're -- eventually you're
19 gonna want to try to do something. This is just
20 information to advise you what you need to do and
21 what action to take.

22 That's one of the most important things with a
23 grounding, is to get soundings of the depth of
24 the water around the ship to determine how badly
25 you're grounded and what the situation is.

1 Q How do you take soundings?

2 A They have a hand lead line on the ship. It's
3 merely a large piece of lead about this long and
4 so big around. Heavy with a marked hand line on
5 it.

6 And what you normally do is drop that down.
7 If you're interested in the type of bottom you
8 have, you put tallow in -- the little lead has an
9 indentation. You put tallow in there which will
10 pick up sand or anything.

11 If you drop this lead down and it's all mud,
12 the thing will come up muddy. You can tell you
13 have a mud bottom.

14 If you're on rock or in sand, you'll drop the
15 lead down. It'll come up clean, unless you have
16 this tallow, which will -- some of the bottom
17 will adhere to it. You'll see sand. You'll see
18 gravel, what have you.

19 And that determines what you, you know, that's
20 another aid in determining what action you want
21 to take.

22 Q How did you end up getting that vessel off?

23 A Okay. We, after checking the tanks and after
24 all this in determining what we had, where we
25 were grounded, the captain sent me down to

1 determine what would happen if we transferred
2 cargo.

3 (0377)

4 Well, first, he tried to back off. It didn't
5 work. So then we decided, after we knew we were
6 safe. So then we transferred cargo; from cargo
7 to aft in order to tip the ship up and lighten it
8 up. We tried to back again. Didn't work.

9 So then we got a tug boat to come out. And
10 the tug boat pulled the ship from side to side to
11 get it to rock so that we could -- and then we
12 pulled astern. Pulled the -- backed astern with
13 him pulling on us and we backed off.

14 Q How long did that whole process take?

15 A Probably from the time we grounded until we
16 got off, 12 hours maybe.

17 Q Have you ever grounded on any other vessel?

18 A Yeah. I was, again, chief mate on a ship
19 coming out of the Sabine River in the Gulf of
20 Mexico.

21 And, again, this is all mud. And at that
22 point we were out of the river and into the gulf,
23 which is quite shallow. And due to the vessel
24 speeding up and having too much speed on it, a
25 vessel going through the water fast will squat.

1 Will come down in the water slightly.

2 And we were in such shallow water that the
3 vessel squatted and ran into the mud, due to the
4 extra draft of being pulled down, which stopped
5 the ship and it slithered along a while.

6 When they stopped the engine, it actually
7 broke itself loose from the bottom at that point
8 and then we proceeded on dead slow ahead or slow
9 ahead. Whatever the master decided. And got on
10 out of the shallow water into deeper water before
11 we resumed our speed.

12 And at that -- that vessel there was -- there
13 again we checked. Well, we were already loose by
14 the time we stopped to check everything. But
15 there was no damage.

16 MR. COLE: Would you like to take a break,
17 Your Honor?

18 THE COURT: That would be a good time to do
19 one.

20 This is your last break, ladies and gentlemen.
21 Remember my former instructions not to discuss the
22 matter or form or express any opinions.

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

25 (Off record - 11:58 a.m.)

1 (0464)

2 (On record - 12:20 p.m.)

3 (Jury present.)

4 Q (Captain Beevers by Mr. Cole:) Captain
5 Beevers, before we go on to that part, the next
6 part of your examination.

7 (0493)

8 Did you enter into a contract with the state
9 of Alaska in this matter for you to provide
10 services in this case?

11 A Yes, I did.

12 Q Would you tell the jury how you were to be
13 paid for your services?

14 A I was to be paid for services performed with
15 U.S. dollars. I don't quite understand what you
16 mean.

17 MR. MADSON: Cash or check.

18 Q Well, what is the agreement as to being paid?

19 A Okay. The original agreement was to -- for a
20 contract up to a sum of \$20,000.

21 And during the time of working here, we
22 exceeded that and at present the limit is -- they
23 put a addition onto that to \$30,000, which we're
24 working within that level now.

25 Q And what have your services included as far as

1 trips up to Alaska?

2 A Originally, we came up to go out to the ship,
3 look around, just check things over, make sure --
4 my purpose of being there was to advise the
5 district attorneys office and troopers on what
6 documents they might need. What -- where they
7 would be located, probably. Where we could find
8 this. What information was needed.

9 And then after -- after we had made our trips
10 out and got that, I spent time in the office
11 going over all of this. Explaining that to the
12 district attorneys office.

13 Kind of interpreting what maritime language
14 meant and the legal language and kind of
15 assisting in what -- what they were actually
16 meaning. Also, all the statements. What they
17 were talking about when they used nautical terms.
18 What they should have been doing. How the
19 routine works on a ship. Things of that nature.

20 (0573)

21 Q Were you asked to come up and assist in the
22 presentation of this case to the grand jury?

23 A Yes. I came up and I went through the same
24 thing explaining every thing to the grand jury.
25 Presenting them with what facts we had gathered

1 at that time. And what I knew of the ship in the
2 case and how we determined, say, where the ship
3 ended up aground. How we determined where they
4 started the -- usual evidence that you would
5 present.

6 I helped work on all of that.

7 Q Were you required to come up when the Exxon
8 Valdez was visited in Naked Island?

9 A Yes. Just before they sailed. I, again, came
10 back up and went out. And, again, we went over
11 the ship. And, at that time, checked the
12 steering and gear and several other things; look
13 for things.

14 Altogether, I think I've made either five or
15 six trips up here and spent, in totals days, I
16 don't know just how much time, but considerable
17 time.

18 Q Did you come up prior to the trial beginning
19 in this matter?

20 A Yes. I've been up here -- I was up here,
21 seemed to me ten days. But I may be wrong.
22 Nine, ten days before the trial started. And
23 then I came back and I've been up here now, I
24 think, another ten days. Something like that.

25 Q Can you give the jury an estimate of how much

1 money your services are going to be? How much
2 it's going to cost for your services in total?

3 (0630)

4 A Well, assuming we're going to be finished now,
5 it'd be in the neighborhood of between 30,000 and
6 35,000. Somewhere in there. At the rate it
7 stands now.

8 Q Now, in this case did you review the
9 statements of individuals after the grounding of
10 the Exxon Valdez?

11 A Yes.

12 Q What information did you review from the
13 period from 12:00 o'clock, to say, 2:00 o'clock
14 in the morning on the 24th?

15 A From 12:00 until 2:00? I reviewed all the --
16 Mr. Kunkel's statement. Mr. Cousins's statement.
17 I reviewed the unlicensed personnel's statements.
18 The engineers' statements. Everyone concerned
19 with the vessel.

20 I reviewed the statements of the people at the
21 Vessel Traffic Center. I reviewed the statements
22 of crew, Vessel Traffic Center.

23 The statements, all the statements, there
24 again, collected by the FBI from these people.
25 All the statements collected by the Coast Guard

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investigator and the troopers.

Q Now, when we left off, we had talked briefly about becoming grounded on two occasions.

Is there a difference between coming grounded on mud and being grounded, say, in Prince William Sound?

A Well, yes. In mud you're less likely to do any structural damage to the vessel. Less likely to -- it's more less in the Mississippi River and the Mississippi Delta, gulf ports.

It's almost a common occurrence to run a ship aground in the mud and then float it off one or the other. Be pulled off or, in fact, power -- in the Mississippi River, it's nothing uncommon just to power your way on through. And even out in the gulf, the same as we did on the second occasion I referred to.

And normally there's no damage done to the vessel. It's just soft mud. It absorbs the shock of the vessel hitting.

And unlike in Prince William Sound where you normally have -- more apt to have a rocky bottom, something that will damage the vessel.

Q If a vessel is grounded in Prince William Sound, what are the obligations and

1 responsibilities of a master?

2 A Well, still it continues his obligation is the
3 safety of the crew. And, as far as he can at
4 that time, the safety of the vessel.

5 Q What type of action can he take to insure, to
6 attempt to insure, that?

7 A Well, in this situation, it'd be a case of
8 notifying the crew. Immediately get them aware
9 of the situation; aware that they're in an
10 extreme emergency.

11 He could prepare his life saving and fire
12 fighting equipment as soon as possible.

13 They could check the -- one thing that's very
14 important to do is to make sure that all the crew
15 is notified. It's not merely enough to send
16 someone to call them. It's not enough if you
17 sounded the general alarm, for example.

18 You would want to make a muster of your crew
19 to see if they were all awake. Instruct them in
20 what you wanted, which would include such things
21 as being prepared with your survival suit. No
22 smoking, please. No use of electrical
23 appliances.

24 One, most of 'em would be aware of the dangers
25 with oil around and fumes and all. But repeat it

1 again, for the ones that may not be experienced
2 that this is a dangerous situation. Here's what
3 I expect you to do. What I want you to do.

4 And then you would have 'em informed
5 immediately. You would have them available to
6 use in doing these other things, such as
7 preparing your life boats. Preparing your fire
8 fighting equipment.

9 Q Why is it important to have them congregate in
10 an area, for instance?

11 (0816)

12 A Well, in case you need to abandon ship. This
13 would reduce the time spent rounding the crew up.
14 And in case you needed 'em to do any work or
15 anything to help alleviate the problem. They're
16 there where you can get 'em immediately to go to
17 work.

18 If you leave 'em scattered throughout the
19 ship, then if you need power hoses strung up,
20 you've got to send someone to get the people to
21 do that. If you need someone to turn a valve or
22 open a void space up to inspect for damage, you,
23 instead of having to look for your crew, you have
24 'em available to do this work.

25 Q Now, you indicated that it's necessary to have

1 fire fighting equipment. Said it's obvious. But
2 why is that?

3 A Well, any time you're dealing with petroleum,
4 dealing with fumes from petroleum products, you
5 have the potential for a fire or explosion or
6 both. And you want to be prepared. If you do
7 have a fire, you want to be prepared to fight the
8 fire and try to stop it as soon as possible.

9 Usually, on a major ship, if it's not put out
10 very early, it's beyond the scope of what the
11 crew can handle.

12 Q How important is it that you get that fire
13 fighting equipment out immediately?

14 A It's critical. As soon as possible.

15 MR. COLE: Judge, can we approach the bench
16 for just a minute?

17 THE COURT: Yes.

18 (0888)

19 (Whispered bench conference as follows:)

20 MR. COLE: Judge, I know that maybe they
21 aren't (indiscernible - whispering). I just ask for a
22 little courtesy that -- that...

23 THE COURT: Mr. Chalos, would you come up
24 please.

25 MR. MADSON: Your Honor, on the subject under

1 cross examination,

2 THE COURT: Your speaking way to loud, Mr.
3 Madson. Please. This is a side bench conference.

4 (Indiscernible - whispering.)

5 THE COURT: Mr. Chalos, Mr. Cole is
6 complaining about the noise that's going and
7 (indiscernible - whispering). I've noticed it all
8 morning. I've told you both about it several times.
9 Now, there is a cannon of professional conduct that is
10 you cannot engage in conduct that indicates a
11 believability of a witness or (indiscernible -
12 whispering) for a witness or claiming that you don't
13 believe a witness by your conduct. You're going to
14 have to stop that. I know you don't mean to do it, but
15 you're going to have to stop it.

16 You're both engaged in constant communications
17 and it's very it's very loud. I don't know what do to
18 except to separate you, if I have to and I don't want
19 to do that.

20 MR. CHALOS: Your Honor, yesterday, during
21 cross examination, Mr. Cole (indiscernible -
22 whispering).

23 THE COURT: I know that. I saw that, too.
24 It's something you're unable to control apparently.
25 (indiscernible - whispering).

1 All of you will have to stop.

2 MR. COLE: (Indiscernible - whispering).

3 THE COURT: (Indiscernible - whispering) I
4 have not said anything in front of the jury now. I
5 don't want to bring it to their attention. If it gets
6 so egregious that I have to, I will, but I would bring
7 you up here first.

8 (0966)

9 Q (Captain Beevers by Mr. Cole:) What other
10 things do you need to establish after a grounding
11 as a master?

12 A Okay. You need to determine how you're
13 aground, so you would go back to the soundings.
14 You'd take soundings around the vessel.

15 Do you -- need to determine the damage, if
16 any, that's been done to the vessel. And how you
17 would do this would be, in Exxon Valdez case,
18 with the print out from your control room on your
19 cargo tank. You would also have to go out and
20 visually and check the pump room, check any void
21 spaces, any empty tanks and what that you have.

22 And from that you can determine bottom damage,
23 loss of cargo, loss of -- taking on water or
24 something, to get a good idea of what.

25 You need to determine where you're grounded at

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as far as on the chart.

You need to notify, in this case, you need to notify the VT -- the ATC and they will go ahead or they have a response program where they will notify all the appropriate people for you.

And you need to -- need to pretty quickly determine the stability of your vessel. So you would have the chief mate doing this.

And, let's see, the list, you know, it -- that's pretty much the immediate thing. Once you get the fire fighting, life saving, you've got the soundings, you need to determine -- if your double bottomed, your engine room, any void spaces, you need to -- need to then determine what your best action is on the vessel to reduce the damage that's already been done and to avoid any further damage.

(1089)

Q Now, after reviewing the evidence that you've mentioned, do you have an opinion on what Captain Hazelwood was attempting to do between 12:38 a.m. and 1:41 a.m. on March 24th, 1989?

A Yes. I do have an opinion.

Q What is that opinion?

A Based on his phone conversations and based on

1 the use of the engine and the rudder, I believe
2 he was trying to remove the vessel from the reef.

3 Q What risk was there from attempting to remove
4 this vessel from the reef?

5 A Okay. You run the risk of further damage to
6 the vessel, such as puncturing, as you're going
7 ahead, puncturing the void spaces in the pump
8 room area. Puncturing into the engine room.
9 Possibly holing your other tanks that haven't
10 been holed yet.

11 And, if, in fact, you do move it off, are able
12 to move it off the reef, it's a possibility of
13 sinking or capsizing.

14 Also, while moving it off the reef, and with
15 this much oil being spilled in the water, you run
16 the further risk or you increase the risk of fire
17 or explosion.

18 Q Do you have any opinion on whether or not
19 Captain Hazelwood used poor judgment in
20 attempting in his actions taken after the Exxon
21 Valdez grounded that morning?

22 A Yes.

23 Q Would you tell us what that opinion is?

24 A I feel that he used very poor judgment in his
25 actions of, from the, basically, from the time

1 they grounded until well after the engines had
2 shut off at 1:41.

3 Q Would you tell the jury why you feel that way?
4 (1185)

5 A Well, there are several things.

6 First, the time it took to shut the engines
7 down originally was excessive there. The minute
8 you ground and once you get your ship steadied
9 up, realize your aground, stop the ship
10 immediately. You know, as soon as possible.

11 Q Why is that?

12 A To alleviate further damage. There's always
13 the possibility of damaging the rudder,
14 propeller. Puncturing more holes in the tank.

15 You know, the other possibilities are all
16 there.

17 I feel that his action in not notifying the
18 crew sooner. Making sure all the crew was
19 notified. From the reports I read and things,
20 there were two crew members who stated they
21 didn't get notified.

22 Instead of leaving the crew in their rooms
23 scattered through the ship, he should have had
24 them gathered up in one spot with their survival
25 suits, life jackets, ready to do something if

1 they had to.

2 And, also, if he'd a used his entire crew to
3 get his life boats and fire fighting equipment in
4 order, he would have had that done much quicker.
5 And, in a situation like this, that time is
6 important.

7 And then when he, after stopping the engine,
8 and not really finding out just how he was
9 grounded, where he didn't take soundings, as I
10 mentioned before. He didn't really have a good
11 idea of what the situation was, he went ahead and
12 resumed the engines. And that was a very poor
13 judgment, in my opinion.

14 Q What about, if you were the captain of the
15 Exxon Valdez and your third mate, after the
16 grounding, called you up and told you, captain,
17 we've got movement in all the center tanks and
18 all the starboard tanks. So we're definitely
19 holed.

20 A The chief mate's...

21 Q What would -- the chief mate -- what would
22 that tell you about the extent of the damage that
23 your vessel had suffered?

24 A Well, you're just suffered very, very, very
25 major damage. That this is a major marine

1 casualty. Your -- with that many tanks holed,
2 you're probably are in -- are losing your ability
3 to stay afloat with that many tanks down.

4 (1300)

5 It would be a matter of taking considerable
6 time to determine if, in fact, the vessel was
7 capable of being refloated without salvage help.

8 I certainly would -- I wouldn't want to just
9 look at that and decide to go to sea.

10 Q What if, after he told you that, he then came
11 to the bridge and told you that he had run the
12 Ocean Motions program, the cargo control program,
13 and that what that told you was that it was
14 stable to go, the stability of the vessel, was
15 acceptable, but the bending and stress moments
16 had been exceed and that you could not account
17 for between 100,000 and 115,000 barrels of oil at
18 that time. What would that tell?

19 A Again, tell you you're in serious trouble.
20 That this is a major damage to the structure of
21 the vessel. And the vessel, almost at a glance,
22 with ten holed tanks, you can say this vessel's
23 unseaworthy and not something that you would want
24 to try to go to sea with or try to do anything
25 with. And as far as...

1 Q When you say go to sea, what do you mean?

2 A The way we're going to get off the reef. I'd
3 want to do as little to move that vessel as
4 possible at that time. And I'd want to get help
5 there to determine just what we could do as quick
6 as possible.

7 Q And, if at some point later after that, at say
8 1:00 o'clock, around the 1:00 o'clock area, the
9 chief mate came to the bridge and told you, and
10 you had gone ahead and started to turn and you
11 put the vessel on full maneuvering speed and were
12 negotiating rudder orders, if he came to the
13 bridge and told you the new print outs indicated
14 that your stability was not okay and that your
15 banded stress moments were okay, what would that
16 tell you at that time?

17 A Still that, at this point, you still know
18 you've got ten holed tanks and I wouldn't be
19 trying to get off the reef.

20 Q If you were going ahead at that time, what
21 would you do?

22 A I'd stop the ship immediately.

23 Q Why is it, Captain Beevers, that you believe
24 that the actions of the captain that evening were
25 consistent with taking it off the reef and not

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trying to put it on the reef?

A Well, if, in order to put the vessel on the reef to stay on the reef, he would have to know which direction the main part of the reef was.

Now, with this vessel like it was and without soundings, without that, he had no idea if going ahead would put him on the reef or off the reef, actually.

But by looking at the chart, you'll notice that the vessel is more toward the open water on the Prince William side. And, if he was going to stay on the reef, he would not go full ahead to try to get out that way.

If you're going to stay on the reef, you would have to know which direction your ship should be headed and what to do and you would probably do it in a dead slow or slow ahead manner. Slow as you could run the engines.

Q And how would you turn the rudder?

A I wouldn't. Unless you need it. That again, that depends on, if you're laying at an angle to a reef that you want to turn around to head into, you might use the rudder one time to spin the ship one way or the other. But you would not have a series of rudder maneuvers in order to

1 stay grounded on a reef. You would -- that's
2 inconsistent.

3 (1535)

4 If you -- the rudder movements is an
5 indication he's trying to get the ship moving in
6 order to get it to move ahead. And to move ahead
7 in this case is toward open water.

8 (1545)

9 Q What about the tides and the incoming tide?
10 How does that affect your decision making?

11 A Well, it's something you'd have to consider.
12 He was grounded not quite two hours before high
13 tide. So, he had two hours more of water coming
14 in.

15 And that's something to consider, but it's
16 very doubtful that a ship grounded that hard with
17 that much damage is going to refloat anyway.

18 But he could be using, if it was felt that it
19 might refloat, he may be better off using his
20 time determining if he needed to ballast it, in
21 fact, and how to ballast it. If he could figure
22 that out in that time. If not, that's a hard
23 problem to figure right there because of the
24 extent of damage.

25 But I wouldn't, even with the tide coming in,

1 I wouldn't expect the tide to raise this vessel
2 that was that damaged up off the reef.

3 Q If you were attempting to keep yourself on the
4 reef and you had a high tide at 2:00 o'clock, how
5 long would you run the engines?

6 A Well, if you, in fact, are attempting to keep
7 a vessel on a reef, and if that's what he was
8 doing, he needed to do that right on through the
9 high tide and for at least the same period after
10 the tide as to when he grounded.

11 Because, you know, as the water comes, if it
12 provides any buoyancy at all, it will provide
13 buoyancy from the time he grounded through the
14 next minute, right on through the highest tide.
15 And it would continue to be more buoyant all the
16 way 'til the tide got lower than it was when he
17 grounded.

18 Q Did the fact that Captain Hazelwood did not
19 run the vessel after high tide support your
20 conclusion that he was trying to get off the
21 reef?

22 A Yeah. Yes. He didn't. In fact, he shut down
23 just before high tide because it would be -- was
24 -- but, yeah. If he was trying to get off, he
25 wouldn't worry about it after the high tide came

1 and went.

2 Q Captain Beevers, I'd like to read you the
3 definition of reckless.

4 "In the state of Alaska, a person acts
5 recklessly with respect to a result or to a
6 circumstance described by a provision of law
7 defining an offense, when the person is aware of
8 and consciously disregards a substantial and
9 unjustifiable risk that the result will occur or
10 that the circumstance exists. The risk must be
11 of such a nature in degree that disregard of it
12 constitutes a gross deviation from the standard
13 of conduct that a reasonable person would
14 exercise in the situation."

15 Do you have an opinion as to whether or not
16 Captain Hazelwood acted recklessly in his actions
17 prior to the ship being grounded?

18 A Yes, I do.

19 (1688)

20 MR. MADSON: Your Honor, I'll object to the
21 opinion. It's (indiscernible - unclear) province of
22 the jury and that's their decision to make, not from a
23 number of people who are coming here and give opinions.

24 THE COURT: Objection overruled. Under
25 Evidence Rule 704, it could come in.

1 Q (Captain Beevers by Mr. Cole:) What is your
2 opinion?

3 A I feel that he was reckless in his actions.

4 Q Why do you believe this concerning the actions
5 taken prior to the grounding of the Exxon Valdez?

6 A Prior to the grounding? His leaving the
7 bridge in pilotage waters and in an area that it
8 was such close quarters to navigate the vessel
9 with ice in the area.

10 This is -- and, you know, all the proceedings
11 things. The vessel's going to fast. They're too
12 close to shoal water. They're too close to land.
13 They're too close ice.

14 And in a situation where you needed all the
15 experience he could muster on the bridge, he left
16 and left an inexperienced man.

17 Q What was the risk that he created by leaving
18 the bridge?

19 A He created the risk of grounding the vessel.
20 He created the risk of completely losing the
21 vessel. He created the risk of fire and
22 explosion and possible death to his crew.

23 He created the risk of pollution, which was --
24 occurred.

25 Q Now, based on the definition that I just read

1 to you, do you have an opinion as to whether
2 Captain Hazelwood acted recklessly in his action
3 after the Exxon Valdez was grounded?

4 (1769)

5 A Yes, I do.

6 MR. MADSON: Same objection.

7 THE COURT: Same ruling.

8 Q What is that opinion?

9 A My opinion is that his lack of response to the
10 grounding. Originally, his slowness in getting
11 things going.

12 And then his attempting to remove the vessel
13 from the reef without knowing the results was a
14 reckless act, that there, again, endangered the
15 vessel, the crew, and endangered the environment.

16 And the fact that he could have spilled
17 considered more oil, if in fact the vessel did --
18 sank or capsized.

19 And, again, this same danger of explosion
20 and/or fire was increased.

21 MR. COLE: I have nothing more.

22 CROSS EXAMINATION OF CAPTAIN BEEVERS

23 BY MR. MADSON:

24 (1821)

25 Q Captain Beevers, I'm not standing here in the

1 sight of God, am I?
2 MR. COLE: Objection. Argumentative.
3 THE COURT: Mr. Madson, that's improper.
4 Q Well, you aren't perfect, Mr. Beevers, are
5 you?
6 A Oh, no. No.
7 Q Have you ever made mistakes?
8 A I've made a lot of them.
9 Q Ever use bad judgment?
10 A I've used bad judgment, yes.
11 Q Ever had somebody be paid to evaluate your
12 judgment and decided whether or not it was good
13 or bad?
14 A No, I haven't.
15 Q Is it fair to say, but for chance, grace of
16 God or something, you might be sitting in Captain
17 Hazelwood's place?
18 MR. COLE: Objection. Argumentative.
19 THE COURT: Sustained.
20 Q Is there a possibility or a chance that in
21 your career, in the mistakes you've made and the
22 judgment you've exercised, you could have, but
23 for, again, chance, been the situation where you
24 could be on trial?
25 A I don't like the word for, except for chance,

1 in there. There is a, you know, any time you go
2 to sea and any time you're a master on a vessel
3 and have that responsibility and that big of a
4 item under your control, there's things that you
5 can do that, where you have made a mistake and do
6 something wrong, that you can definitely be
7 serious trouble and you can ground your vessel.

8 But the whole idea is that you do all you can
9 to avoid this.

10 Q Sure. Otherwise, there wouldn't be accidents,
11 would there, if people were perfect. Right?

12 A That's right. Yeah.

13 Q And there are accidents.

14 A There are accidents.

15 Q And there are sometimes maritime accidents.

16 A That's right.

17 Q Ships go aground. They do it every day.
18 Right?

19 A I don't know about every day, but they do it
20 frequently, yes.

21 Q Well, world wide.

22 A Sure. They do it frequently, yes.

23 Q They hit each other. Collisions are sea.

24 A Oh, yes.

25 Q They hit docks.

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A Yes.

Q Many, many things could happen. In other words, with accidents they could happen at sea just as they can on shore with motor vehicles, for instance?

A Yes. And there, again, my response is you have to do everything you can to avoid this. And when it happens, you have to do everything you can to get out of the situation with as little damage as you can.

Q That's just common sense, isn't it? You try to avoid accidents, if you can. And if you are in one, you try to minimize the damage afterwards or do the best you can after the event has occurred.

A That's right. Yes.

(1945)

Q Now, getting to your history. You said you did not receive any formal schooling or training, correct? That is in an academy, marine academy.

A Right. Yes. That's right, yeah.

Q Did you go to sea as an AB, first then?

A Went as an ordinary seaman.

Q Were you a union member?

A Yes, I was.

1 Q Union member all the way til you became an
2 officer?

3 A I was a union member from my first job right
4 on through until I retired. Various of the --
5 first the Seafarers International Union as
6 unlicensed. Then I joined the Masters, Mates and
7 Pilots. And was always in a union right on until
8 I retired.

9 Q Well, what union were you in at the time you
10 retired? What was...

11 A Master, Mates and Pilots.

12 THE COURT: Could you move that microphone up
13 a little bit. You have a soft voice.

14 A Up a little bit?

15 THE COURT: Up, yes. Up a few inches.

16 Q (Captain Beevers by Mr. Madson:) So you came
17 up, I wouldn't say the hard way, but the informal
18 way as opposed to the usual or formal way of
19 going to school and coming out with a degree?

20 A Well, at the time I did it it was probably
21 fifty-fifty whether which one was the usual.
22 There was two ways. Now, it's more through the
23 maritime academies, yes.

24 Q In any event, you got a third mate's license
25 in 1963, right?

1 A My third mate's license in '67.
2 Q Sixty-seven?
3 A Uh-huh (affirmative).
4 Q And a master's in '73?
5 A Yes.
6 (2000)
7 Q Well, going back to that third mate license.
8 You have to take a test for that, right?
9 A Oh, yes.
10 Q Seamanship. Navigation. All the things that
11 are necessary to become a deck officer?
12 A Yes.
13 Q Coast Guard gives that, right?
14 A Yes, that's correct.
15 Q That allows you to be a watch officer on a
16 vessel of any size, correct?
17 A Yes.
18 Q And by watch officer, that means you can stand
19 a watch. Give commands to a helmsman. Navigate
20 the vessel. Right?
21 A Yes, that's correct.
22 Q There wasn't any restriction on that third
23 mate's license that said you could only make
24 small course changes at sea was there?
25 A There's no restriction on the license by the

1 Coast Guard for that, no.

2 Q In other words, a third mate doesn't have
3 restrictions about when he can make course
4 changes on his license, right?

5 A There's no restriction on the license. The
6 restriction is...

7 Q My question is on the license.

8 A Okay. There's none on the license.

9 Q There isn't any. The Coast Guard doesn't say
10 you've got a third mate's license and for the
11 next year or three years you can only make 10
12 degree right rudder changes?

13 A No.

14 Q You're presumed at that point to be qualified
15 and competent to navigate and, basically, take a
16 vessel under your command.

17 A When you're...

18 Q If I would say command, under the command of
19 the command, but still stand the watch.

20 A You're -- you're deemed by the Coast Guard to
21 be capable of taking over a watch, normal watch
22 on a ship, and standing watch, yes.

23 Q And that could include times when the captain
24 is not on the bridge and you're there alone.

25 A Oh, yes.

1 Q No restrictions on that, as far as the Coast
2 Guard is concerned?
3 A No.
4 Q And a second mate's license is one that is one
5 more up the ladder, is it not?
6 A That's correct.
7 Q More experience on vessels is required?
8 A You have to have a minimum of 12 months as
9 third mate. Twelve months on a vessel in order
10 to sit for a second mate's license, yes.
11 Q And the test is, presumably, more difficult
12 than that of a third mate?
13 A Slightly more difficult, yes. They
14 succeedingly get a few more. It's basically the
15 same thing, but just a little harder each time.
16 (2122)
17 Q Oh, by the way. On your license, you got a
18 radar observer...
19 A Yes.
20 Q What does that entail?
21 A That's, again, you have to pass a radar
22 observer's -- back years ago, you had to pass a
23 test in the Coast Guard. Now, they've, I
24 believe, what they do is they have various
25 approved schools that you take a small course,

1 three day course, one day course, or a week,
2 whatever you want.

3 And then you show that instructor that your
4 competent. And he sends this over to the Coast
5 Guard. I don't think the Coast Guard gives that
6 test any more. But they still approve the
7 schools that give the test.

8 Q By the way, you don't hold an active license
9 at this time?

10 A I didn't renew my license when I retired, no.

11 Q You mentioned, going back to this other point,
12 you mentioned that you were basically retired.
13 You do a small consulting, amount of consulting.
14 And you have another business.

15 What's that other business?

16 A Construction business.

17 Q Is what?

18 A Construction.

19 Q What kind of construction?

20 A I do everything thing from building buildings
21 to cement work. Do foundations. Commercial
22 floors. Sidewalks around schools.

23 To name a few of the things I've done. Built
24 a horse arena. Built garages. Built commercial,
25 fishermen's commercial repair and storage area.

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Things of that sort.

Q So it's fair to say, you're, basically, you're a building contractor.

A It takes about half of my time, yes.

Q Okay. One half of your time. You're consulting the other half?

A The other half is spent with whatever I want to do.

Q Well, if we look at that half. The half where you're not out there building sidewalks and such.

A Right. Yeah. Sure.

Q How much of that is spent consulting in maritime cases?

A Until this case, very little.

Q Well, speaking of this case. You got it because of Captain Greiner, did you not?

A I got it because Mr. Linton from the DA's office called me and said that Kurt Greiner had give him my name as a -- knowing that I was a former tanker captain that had run in and out of Puget or Prince William Sound.

Q And you have a contract with the state that's going to pay, perhaps, \$35,000 before we're done here?

A Possibly.

1 Q And you have to kick back or give back Mr.
2 Greiner 10 percent of that, right?

3 A I -- I wouldn't call it a kick back. I pay a
4 fee to him for the...

5 Q Like a finder's fee, he gets?

6 A It's a fee. I don't know whatever you want to
7 call it. It's a fee.

8 Q The more you charge, the more he gets. Right?

9 A I guess. Indirectly, yes.

10 Q You said that you had done just a small amount
11 of maritime consulting until this case came
12 along. What do you mean by a small amount?

13 (2300)

14 A Well, a day here, a day there, a couple days.
15 Whatever.

16 I spent, well, I spent a few hours on the
17 phone to Central (indiscernible - unclear).
18 Spent a day doing some running around for stuff
19 for them one time. On a case that I -- on a ship
20 that I had been on that they needed to do some
21 work for getting their customs -- they'd lost a
22 customs entry paper. A minor thing. It was
23 nothing.

24 And I've spent time, like I say, I'm not a
25 professional consultant that makes my living

1 this.

2 Q Okay. That's what...

3 A I mean, is that what you wanted or...

4 Q ...I was getting at. You don't consider that to
5 be a major part of your income.

6 A No. I -- I don't expect to make a living off
7 of my coming up here on tankers that's run
8 aground. No. If that's what you're getting at.
9 I'll answer that right away.

10 Q Have to admit, would you agree that \$35,000 is
11 a fairly substantial fee?

12 A I put a lot of work in it. But, yes, it's a
13 substantial fee.

14 Q Well, you put in as much work as you want to,
15 basically, don't you? You're paid by the
16 contract limit, but as much as you want to do up
17 to that limit.

18 A No. It's as much as they require me to do. I
19 can't just say I'm going to work on this for the
20 next ten days and they -- it depends on what the
21 -- what the district attorneys office feel that
22 they need. What's required.

23 And, I suppose, if I wanted to, I could
24 probably pad that. I, you know, that's not the
25 way you do business.

1 But I have done what they've asked. I've done
2 it when they asked.

3 And if they've sent me stuff to read and send
4 them back -- I haven't sent them back anything --
5 but to discuss with them, I've done that.

6 And they've never said well, did you spend two
7 hours on that or two days on that. They just
8 assumed that I did it in the time that I...

9 Q Sure. Do you give them, basically, hourly, so
10 many hours per week billing?

11 A Whatever. What I bill them is days that I
12 actually put in or time I actually put in. And I
13 do that, usually, on a monthly basis.

14 Q And is that per hour?

15 A It depends. Up here it's -- it's based on a
16 per hour basis. Yes.

17 Q The state, obviously, has the power to more or
18 less tell you the scope of your duties. In other
19 words, they want you to look at certain things,
20 right?

21 A Oh, yes. That's -- that's what they -- they
22 hired me for a specific thing.

23 Q At the same time, if you feel something else
24 is important, you certainly have the right to go
25 to them and say, hey, I think we ought to do more

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in this area or come over here and look at this.

A That was part of my -- part of my original employment. Was to look at things and see what was necessary and what they needed, yes.

Q I think you said that one of the things you were hired to do was, basically, help them put their case together, I think you said. The grand jury and all that.

A I was here to tell them about the maritime field. I don't know that I said put it together. If I did, I don't mean to imply that I was running their case for 'em or something.

I assisted them and I pointed out things that might not be in the usual things that a attorney would run across on a ship.

Q Well, one of the things they must have told you early on is what they needed. In other words, what they expected you to assist them on, right?

A Yes.

Q Yeah. In other words, hey, we got to show this guy was reckless. Can you help us do that?

A No. Time after time, they told me be objective in your decisions. And Mr. Cole has asked me two or three times, now, do you feel

1 comfortable saying this? If you don't, don't go
2 any further with it.

3 And that's, at any time, that's just a matter
4 of saying I don't think that this is what I want
5 to say and that's it.

6 Q He asked you if you felt comfortable with that
7 situation?

8 A Certainly. Yeah.

9 Q Did he ask you that twice to be real sure?

10 A No.

11 Q Well,...

12 A Not the...

13 Q ...he felt -- if he had to ask you if you felt
14 comfortable, doesn't that imply there's some
15 doubts about whether you were comfortable or not?

16 A I see your point.

17 No. This merely, what this means, is that, if
18 I don't, you know, that they're not out to hang
19 the man. They're just trying to get an objective
20 view.

21 Q And, of course, that objective view is one for
22 which you are being paid?

23 A Yes.

24 Q Now, we talked early on about pilotage. You
25 said you had an endorsement for Prince William

1 Sound as a federally licensed pilot, right?

2 A Yes.

3 Q How do you get that? How did you get that?

4 A I think I...

5 Q Yeah, but let me, maybe, speed it up enough to

6 go on.

7 You had to ride on a ship through Prince

8 William Sound a number of times.

9 A Yes.

10 Q Any requirement you had to be on the bridge at

11 all -- the time?

12 A I was up there for every trip. Yes. You had

13 to -- there was a pilot on the bridge that would

14 sign your, when you made a trip in and out, he

15 would sign the ticket.

16 Now, I don't know that there, again, if

17 anybody was checking us to see if we were

18 standing on the bridge.

19 Q You didn't have to be on the bridge?

20 A You did if you wanted to learn your route,

21 yes.

22 Q What was the route? You're going through

23 Prince William Sound. Let's take a look at it.

24 A Well, it's -- it was determined that they

25 needed pilotage. So, that's what we did.

1 Q You go through Cape Hinchinbrook. And then
2 there's Naked Island. You got a light. There's
3 a buoy at Bligh Reef. There's navigation aid at
4 Busby Island. Things like this, right?

5 A Uh-huh (affirmative). Well, that's, you know,
6 this was...

7 Q That's what they're suppose to learn, right?

8 A This wasn't for me to decide that we needed
9 it. I just had to go comply with it and get the
10 pilotage.

11 Q Yeah, but, in other words, the requirement was
12 merely that you made so many transits. The
13 requirement was not that you had to navigate the
14 vessel, steer the vessel or anything else.

15 (2580)

16 A Not at that time. You were there as an
17 observer. And the way I interpreted the word
18 observer is that we had to be on the bridge
19 observing.

20 Q You spend any substantial time down below on
21 these trips? Not on the bridge?

22 A I went below during my observing trips.
23 There, again, out in the open waters. You stayed
24 -- you came up for the important points. You
25 stayed there most of the time.

1 And due to the fact there was 15 or 20 people
2 there, naturally, if you wanted to go to the
3 bathroom. There was no facilities to feed on the
4 bridge. So at lunch time you'd pick a spot and
5 you'd take a break and go eat.

6 So, in that respect, we weren't on the bridge
7 during the entire observer trip. But the
8 observer is not required on there. The trip is
9 required. And you...

10 Q Yeah. You could be asleep the whole time, for
11 that matter, right?

12 A I don't think I saw any body asleep all the
13 time, no.

14 Q I'm saying you could be, as far as just making
15 the trip.

16 A I doubt very much if the pilot would sign the
17 trips if that was the case. You know, there's a
18 certain amount of integrity in this industry.
19 And I don't imagine that they would...

20 A Unlike, perhaps, some other ones we won't
21 mention. But anyway.

22 Then, Captain Beevers, after you get the
23 required number of trips in, you have to take a
24 test. The Coast Guard gave you a test, right?

25 A Yes.

1 Q They don't take you out on a vessel and say
2 steer this thing from Cape Hinchinbrook into Port
3 Valdez, do they?
4 A No. It's a written test. And a matter of
5 drawing charts telling the courses and local
6 knowledge and -- the usual test they give, the
7 Coast Guard gives, for pilotage for that area.
8 Q In other words, you're expected to know the
9 area.
10 A Uh-huh (affirmative).
11 Q And navigational hazards. Right?
12 A Uh-huh (affirmative).
13 Q You would be expected to know, for instance,
14 where Bligh Reef was?
15 A Uh-huh (affirmative).
16 Q Busby Island?
17 A Yes.
18 Q What navigational aids that were to assist you
19 as a mariner in those areas?
20 A Yes.
21 Q Would you agree, sir, that a person on a
22 vessel acquire that knowledge and have just as
23 much knowledge as a person with a pilotage
24 endorsement even though he did not take the test?
25 A Yeah. He could have the knowledge, but he

1 wouldn't have the endorsement. He wouldn't have
2 the pilotage license.

3 Q Yeah. It's maybe like a, in other words, for
4 instance, you drive a car, right?

5 A Yes.

6 Q You feel you drive a car pretty well, you
7 know? You're a good driver.

8 A Well, I would say so. You know, I haven't had
9 any wrecks lately. So, I would assume a good
10 driver, yes.

11 Q Have you had wrecks in the past?

12 A I had one years back.

13 Q Good judgment or bad?

14 (2740)

15 MR. COLE: Objection. Relevancy.

16 MR. MADSON: I withdraw it.

17 A That's...

18 THE COURT: I think he is withdrawing. It's
19 withdrawn. Don't answer the question.

20 Q (Captain Beevers by Mr. Madson:) Anyway, you
21 could be a good driver without having a driver's
22 license. Isn't that fair to state?

23 A You can be a good driver without that, sure.
24 You run the risk of violating the law.

25 Q Having a license does not make you a good

1 driver or a bad driver, right?

2 A No.

3 Q It's simply a test of your ability to be a
4 good driver, correct?

5 A Uh-huh (affirmative). Yes.

6 Q And relating that then to the pilotage
7 endorsement, that is a test of one's knowledge of
8 the Prince William Sound area, for instance.

9 A Yes.

10 Q And you could have that knowledge and be just
11 as expert as having the pilotage endorsement, but
12 you just don't have that piece of paper, right?

13 A Yeah.

14 Q For instance, in your, by the way, every time
15 you mentioned what you looked at, as far as other
16 statements and other witnesses are concerned, to
17 form your opinion, you did not mention any trial
18 testimony. I think you said, one time you said,
19 Mr. Kunkel and Mr. Cousins' part of the
20 testimony.

21 A Yeah. I don't know if it was just once. But
22 those are the only two that I have read so far of
23 the -- I haven't read the other testimony of the
24 other people.

25 Q Why did you have just those two?

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(2830)

A Because they were more of what I was concerned with. What they had to say. I didn't -- what I'm here for is the navigating of the vessel and the grounding right there. Not other such things, other things that happened.

Q Well, there were other people on board. Could they not assist in determining whether or not Captain Hazelwood's actions were appropriate or not appropriate; that testified here today; in this case?

A That could be. I don't know.

Q For instance, the pilot, Mr. Murphy. Do you know him?

A Oh, yes.

Q You know he testified?

A Yeah. I haven't got -- I haven't received his testimony. I read Murphy's earlier statements; that is statements to the NTSB.

Q Do you feel, sir, that sometimes with a forum such as we have here, where there's not only just a statement given, but cross examination and the means and the method to probe into things and, perhaps, bring more facts and more data out, there could be additional -- of additional value

1 to you in forming an opinion?

2 A It could be, yes.

3 Q Now, you also talked a great deal about ice.
4 I think you spent a lot of time with Mr. Cole in
5 his questions and your responses about ice in
6 Prince William Sound.

7 Is it fair to say from your experience that,
8 the amount of ice coming from the Columbia
9 Glacier has increased in the later years when you
10 were sailing up there?

11 A Yes.

12 Q For whatever phenomena that causes that. It
13 was an increase.

14 A Yes.

15 Q The Coast Guard was aware of that.

16 A Yes.

17 Q All people, all masters of vessels going in
18 and out of Prince William Sound were aware of
19 that, right?

20 A Yes.

21 Q The port was never closed because of ice, was
22 it?

23 A Not that I know of, no.

24 (2970)

25 Q The Coast Guard had the authority to do that,

1 if they felt the situation was that dangerous,
2 did they not?
3 A Yes, they did.
4 Q And you said sometimes it was a problem and
5 sometimes it wasn't. Right?
6 A Yes.
7 Q And certainly the ability to determine whether
8 or not it was problem was dependent upon a number
9 of factors, right?
10 I mean, I don't want to mislead you. But for
11 instance, you had ice reports.
12 A Yes.
13 Q The ice report is only as good as the
14 observations that were made, right?
15 A That's correct.
16 Q Time, of course. If it was an older report or
17 a fresh one. Right?
18 A That's right.
19 Q And even then, you had to be pretty close to
20 it to actually be able to see it, even on radar
21 or visually.
22 A That sounds fair. Yes.
23 Q And at night it would be much more difficult
24 to see visually.
25 A That's right.

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Q In fact, let's assume, by the way, did you look at the weather for this particular night?

A There was -- yes. I checked the weather, yeah.

Q It was quite dark, was it not?

A It was dark. There had been some overcast earlier. But at apparently the time they were out in the Bligh Reef area, it was fairly good visibility because they spotted -- they were able to pick up the lights at a reasonable distance.

Q And the ice that you could see visually at night was -- depended upon how good the lookout's eyes are, for one thing, right?

A Uh-huh (affirmative).

Q The speed of the vessel.

A Uh-huh (affirmative).

Q The size of the ice.

A Uh-huh (affirmative).

Q The color of the ice. Does that change? Is it blue ice? White ice?

A Yes. Yes. That's -- like the -- some of the ice is flat and tabular in design or with a higher plane, maybe, that is white. Easy to pick up.

Some of the smaller growlers have been rolled

1 around enough that they've lost their whiteness.
2 And it's a little harder to detect those. But
3 are usually the smaller pieces.

4 The larger pieces are easier to see and easier
5 to pick up on radar.

6 Q Yeah. How about the amount of debre they may
7 have in the iceberg, in this chunk?

8 A Yeah. If you got lot of rock and debre from
9 them coming down on it, that would discolor the
10 whiteness, yes.

11 Q It discolors it. But I mean not this
12 distance.

13 A Oh, you mean for seeing it?

14 Q Yeah. For seeing it.

15 A Well, naturally, white is easier to see at
16 night than a dark object.

17 Q But would you say that radar would be, at
18 least, one more source of reference a master
19 would have in determining the amount of ice and
20 the type of ice he was going to encounter?

21 A Oh, yes. For your first initial view of the
22 ice at night, that would be your initial contact
23 with the ice, is through radar. You would pick
24 it up on radar before you would see it visually.

25 Q And, of course, that also depends on a number

1 of factors, does it not? The amount of ice. The
2 range you're looking at it. Things like that.

3 A Yeah. But you would expect to see it; see ice
4 on radar at a further distance than you would see
5 it visually.

6 Q And, of course, there's no way of going back
7 to the night of March 23rd...

8 A No.

9 Q ...and recreating what Captain Hazelwood or the
10 third mate saw looking in that radar. Right?

11 A Not that I'm know of, no.

12 Q It would be certainly helpful if we could do
13 that, but we can't. Right?

14 A That's right.

15 Q We have to use hindsight and decide, like you
16 have, as to whether or not he exercised good or
17 bad judgment, right?

18 A (No audible response.)

19 Q It reads a lot easier to do eleven months
20 later looking back at just papers and records as
21 opposed to actually being there?

22 A Yes, it certainly is easier later. But my
23 decision of Captain Hazelwood was not made on the
24 little individual things like that. It was made
25 on his behavior and leaving the vessel's --

1 leaving the bridge. Not on...

2 Q Well, on that point, sir,...

3 A ...not on what he saw.

4 Q ...you're not speaking for the national United
5 States maritime industry, are you? ...

6 A I'm...

7 Q ...your opinion?

8 A I'm speaking from what I know has been
9 traditionally a master's responsibility and
10 duties.

11 Q What I'm saying to you, sir, is you don't have
12 a survey conducted by every retired master, for
13 instance, as to whether or not they agree with
14 you or not?

15 A I never asked a single one if they agreed with
16 me or not, no.

17 Q Why not?

18 MR. COLE: Objection. Relevance and hearsay.

19 MR. MADSON: It goes to the basis of his
20 opinion, Your Honor. If you want to find out if
21 anybody else agreed with him or not.

22 MR. COLE: I don't know...

23 THE COURT: I'm going to overrule the
24 objection. He can answer the question.

25 Q (Captain Beevers by Mr. Madson:) And so you

1 never asked anybody...

2 (3249)

3 A I don't know that it's necessary that I have a
4 lot of people agree with me on my opinion.

5 Q Wouldn't it make you feel more confident in
6 your opinion if someone that you respected looked
7 at the same data and came to the same conclusion?

8 A It probably would. But that's up to them to
9 do that. I wasn't out canvassing the industry to
10 see what people thought, no.

11 Q You weren't asked to do that by the state,
12 right?

13 A No.

14 Q Now, you said you served on ships in the past,
15 including, I think, up to 136,000 ton?

16 A I believe that's the right figure. OMI
17 Columbia's the name of the ship.

18 Q I didn't get the name, but I got the number.
19 And there was one, I think you said, 121,000,
20 which was a diesel?

21 A That was the Overseas Boston. Yes.

22 Q You were the master of that ship?

23 A Yes.

24 Q When you say a diesel engine, did it have a
25 slow speed diesel?

1 A Yeah. The engine in the Boston was a slow
2 speed diesel, 8 cylinder. It was a Salzer design
3 built within Japan, I think. Under license from
4 Salzer.

5 Q Is that a similar type manufacturer of the
6 engine as the one in the Exxon Valdez? Salzer?

7 A I believe Salzer's in -- I don't know for sure
8 that they make the in the Exxon Valdez. But it
9 would be similar, because it's a slow speed
10 diesel. Yes.

11 Q Maybe you can explain the difference so
12 everybody understands. I mean, there's different
13 means of propulsion in a ship.

14 A Yeah.

15 Q There's a...

16 A Let's don't get...

17 Q ...steam turbine, right?

18 A Let's don't get too far into this because
19 engineering is not my, you know, I'm not a deck
20 officer. And I know a little about the engines,
21 but I'm not an engineer, so...

22 Q Well, so as a master then, you really don't
23 have that much responsibility over the engine and
24 how it's run and how the chief engineer runs the
25 show down there, is that...

1 A I think I stated that, the chief engineer runs
2 the engine room, but the problems in the engine
3 room is still under the master's authority as
4 master of the vessel. And, unfortunately, it's
5 under his responsibility.
6 You know, the master is responsible for
7 everything that goes on on a ship.
8 Q But, certainly, he would rely on the judgment
9 of a good chief engineer, would he not? One
10 who's competent?
11 (3410)
12 A Yes. Yes, you would have to, yes.
13 Q He's in an area like you just...
14 A Yeah.
15 Q ...said that you're a little unsure.
16 A Right.
17 Q You don't know.
18 A Uh-huh (affirmative).
19 Q Now, I don't want to ask you detailed
20 questions about this. Just the basic difference
21 maybe...
22 A Sure. Okay.
23 Q ...between the two.
24 A Okay. The difference between steam turbine...
25 Q Let's say steam turbine and a slow speed

1 diesel.

2 A Okay. The diesel, when you're maneuvering,
3 would respond quicker. If you wanted to put the
4 ship half ahead, say, it would come up to half a
5 head much quicker than a steam turbine will.

6 Q For instance, are you familiar with power
7 curves? Horse power RPM power curves on all
8 types of...

9 A I'm not familiar enough to get into that. I
10 do know what you're talking about. But, as far
11 as being to answer any -- being an expert in
12 that, no.

13 Q Okay. We might get a question or two later.
14 Right now you said that, as a master on the --
15 you worked for, I forget the name of it.
16 Maritime Overseas? Is that what it is?

17 A Yes. Yeah, Maritime Overseas was the first
18 group of ships, the overseas ships, that I was
19 on. And then I worked for OMI Corporation, I
20 worked for the OMI Columbia.

21 Q And that's a different company all together,
22 right?

23 A Yes.

24 Q You said that Maritime Overseas had a manual
25 with instructions for masters.

1 A They have instructions. I don't know if it
2 was in a manual form. Every company I've ever
3 worked for has had a notebook or a bound book or
4 a book with instructions of how they expect you
5 to operate the vessel. Most of them aren't as
6 extensive with direct duties as the Exxon manual
7 is.

8 Q When did you first see the Exxon manual?

9 A When this -- out on board the Exxon Valdez.

10 Q And what other companies have you worked for?

11 A I worked, originally on my license, I worked
12 for Victory Carriers. On the one freighter that
13 I was on.

14 I worked for United Maritime out of New York,
15 which is a tanker company that's no longer in
16 business.

17 I worked for Maritime Overseas.

18 I worked for Central Gulf on one trip.

19 I worked for the OMI Corporation for the last
20 couple of years or so on the Columbia.

21 Q And these manuals are guidelines, are they
22 not?

23 A Oh, yes. That's -- that...

24 Q Wouldn't you agree, sir, that it would be
25 extremely difficult for any company to lay down

1 hard and fast rules as to what a master should
2 and should not do?

3 A Yeah, they're merely guidelines. And, if you
4 want to do anything different than that, you
5 certainly have the authority, as master, to do
6 something different than that.

7 Q In other words, a master has a lot of
8 discretion in his judgment, does he not? What to
9 do. What not to do.

10 A He has -- the problem with this, he has the
11 authority to do that, yes. And he can do it at
12 any time.

13 The problem that he would have is with the
14 company saying, well, this is -- in other words,
15 he can do it legally. But the company then may
16 say you're not following our guidelines and go
17 from there as an employee company thing.

18 But, as far as legally, the master has the
19 authority to override the company guidelines and
20 do what he thinks is best for the vessel.

21 (3643)

22 Q So the observance or non-observance of a
23 company guideline or policy is certainly not a
24 crime?

25 A Not that I know of. No.

1 Q In fact, there's no requirement by the state
2 of Alaska, for instance, that companies have to
3 have rules and regulations on how to operate a
4 tanker vessel?

5 A I think for the Alaska trade they have got --
6 I don't know now. They're requiring certain
7 procedures and plans in certain incidents and for
8 emergencies and things now. But that's just come
9 up lately and I really not familiar with just
10 what they are requiring.

11 Q You didn't look at any of those and evaluate
12 any state laws or regulations and how they may or
13 may not relate to this case?

14 A Not the -- I'm not the attorney. My idea of
15 what I was brought here for was to explain what a
16 master should be doing on a vessel.

17 Q Okay. I didn't mean to mislead you.

18 A Yeah. I'm not quite...

19 Q That was my fault. You spoke about some, and
20 frankly, I didn't understand what your answer
21 was.

22 A Okay. They are making, and they may even be
23 in forced manuals with guidelines on what to do
24 in specific things in the Alaska trade. And,
25 just what it is, I don't know. So, maybe we

1 better just say I don't know on this.

2 Q Sounds fair.

3 A Okay.

4 Q You don't know.

5 A Yeah.

6 Q Normally, you're never given any of these
7 things then to look at and examine?

8 A No.

9 Q But you said you were given particular --
10 well, maybe you were one, particular laws or
11 statutes by the state to see how this case could
12 fit within a particular statute or didn't fit.
13 Were you given that assignment?

14 A I wasn't given an assignment to see it would
15 fit, no.

16 Q Were you given that...

17 A The only thing that I've ever got, and that
18 was in the form of my notes I got, was a note
19 explaining what reckless meant and what, you
20 know, a few other things meant. That's all.

21 Q Well, when did you first get that definition,
22 sir?

23 A That I don't remember. That would be...

24 Q Some time ago?

25 A That would be in the after part of the

1 investigation that I received that. In the
2 last -- in other words, it wasn't when I first
3 went on board the ship. It wasn't immediately.
4 It would be, I would say, in the last two times
5 I've been up here.

6 Q Oh, by the way, I am -- mentioned that. When
7 you travel back and forth from your home up here,
8 you're paid in addition to your \$30,000,
9 \$35,000...

10 A My expenses are paid, yes.

11 Q And so, you're out of pocket expenses are paid
12 by the state of Alaska, right?

13 A Yes.

14 Q Anyway, it's...

15 THE COURT: Will this be a good time for us to
16 recess?

17 MR. MADSON: Yeah. It wouldn't matter, Your
18 Honor. There's a long way to go yet.

19 THE COURT: I figured so.

20 Ladies and gentlemen, we will release you
21 until 8:15 a.m. tomorrow morning.

22 As I indicated to you earlier, there's
23 considerable media information being disseminated
24 through the television, newspaper, and radio concerning
25 this case. And I've admonished you on several

1 occasions to disregard any information concerning this
2 oil spill.

3 And that's a broader category than just this
4 case. That would refer to any information concerning
5 anybody who might have been involved, whether it be the
6 defendant in this case, the state of Alaska, Alyeska,
7 Exxon. Anything concerning the oil spill is off
8 limits.

9 And I advised you earlier that, as an
10 alternative, if that instruction is too onerous or it
11 cannot be followed, we always have the right of
12 sequestration. That's not necessary at this time
13 according to counsel. And so I won't impose that, so
14 long as I'm satisfied that you can follow that
15 instruction.

16 I know it's a difficult instruction because
17 you're going to have to have somebody screen the
18 newspapers. You're going to have to avoid certain
19 hours of television and, I imagine, almost every radio
20 station has their own news blurb every half hour. So,
21 I know it's difficult. But it's very important for you
22 not to be exposed to information in this case.

23 So this that final reminder, I'll let you go
24 until tomorrow.

25 Please don't discuss the case. Don't form or

1 express any opinions concerning this.

2 I need to talk to counsel, just briefly.

3 You may step down, if you like.

4 (July not present)

5 (3973)

6 THE COURT: Thank you.

7 How many more witnesses after this one?

8 MR. COLE: Four. Oh, five.

9 THE COURT: And do you expect to be completed,
10 say by Friday, now? Is that a realistic approach to...

11 THE COURT: Thursday.

12 THE COURT: Thursday. All right, then. Would
13 you be prepared to start with your first witness on
14 Friday, if we got finished on...

15 MR. MADSON: Your Honor, that's been one of
16 the difficulties we've been faced with here, is trying
17 to, you know, figure out when we are going to start.

18 For instance, we had an expert that could be
19 here Friday, but next week is going to be very bad for
20 him. So, we were hoping to use him and I'd hate to
21 have him come here on Thursday, if we don't know. I
22 guess we just got to play it by ear.

23 But, to answer your question, yes. We
24 certainly would anticipate to do that.

25 THE COURT: I was considering the possibility

1 of, if Mr. Cole finishes the state's case on Thursday,
2 leaving Friday open for administrative matters
3 concerning this case. There might be some motions.
4 Anything else that we might be able to do on Friday and
5 then let you start your case on Monday.

6 But, if you had a witness you needed to call
7 on Friday, we could do that.

8 MR. MADSON: Your Honor, could we just kind of
9 wait and see on that? If their case ends up maybe late
10 on Thursday, maybe that would be the best thing to do.

11 THE COURT: Okay. Would that be any problem
12 with the state to do something like that?

13 MR. COLE: (Indiscernible - away from mic)

14 THE COURT: Okay. Well, we'll just play it by
15 ear then.

16 Is there anything else we can do now before
17 recess today? I'm asking you twice.

18 MR. MADSON: I feel comfortable in saying no.

19 THE CLERK: This court stands in recess.

20 (4093)

21 (Off record - 1:31 p.m.)

22 ***CONTINUED***
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