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VOLUME 10
STATE OF ALASKA
IN THE SUPERIOR COURT AT ANCHORAGE

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: In the Matter of: :
: : :
6 STATE OF ALASKA : Case No. 3ANS89-7217
: : :
7 versus : Case No. 3ANS89-7218
: : :
8 JOSEPH J. HAZELWOOD : : :
: : :
9 -----x

Anchorage, Alaska
February 13, 1990

The above-entitled matter came on for trial by jury before the Honorable Karl S. Johnstone, commencing at 9:05 o'clock a.m., on February 13, 1990. This transcript was prepared from tapes recorded by the Court.

APPEARANCES:

On behalf of the State:

BRENT COLE, Assistant District Attorney
MARY ANN HENRY, Assistant District Attorney

On behalf of the Defendant:

RICHARD MADSON, Esq.
MICHAEL CHALOS, Esq.

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<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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STATE

Gregory Cousins (Resumed) 4

AFTERNOON SESSION (p. 89)

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E X H I B I T S

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P R O C E E D I N G S

1
2 (Start Tape C-3612)

3 THE COURT: Thank you, you may be seated.

4 We will resume the testimony of Mr. Cousins. You
5 are still under oath, sir.

6 Whereupon,

7 GREGORY COUSINS

8 called as a witness by counsel for the State of Alaska, and
9 having been previously duly sworn by the Clerk, was examined
10 and testified as follows:

11 DIRECT EXAMINATION (Resumed)

12 BY MR. COLE: (Resuming)

13 Q Mr. Cousins, we started with the Exhibits _____.

14 I am showing you what has been marked for
15 identification as Plaintiff's Exhibit Number 69. Do you
16 recognize that Exhibit?

17 A It looks like the Master's Office.

18 Q An accurate representation of that Master's Office
19 on the Exxon Valdez?

20 A Yes.

21 MR. COLE: I would move for the admission of what
22 has been previously identified as Plaintiff's Exhibit Number
23 69.

24 MR. MADSON: No objection.

25 THE COURT: Admitted.

1 (State's Exhibit Number 69
2 was admitted in evidence.)

3 BY MR. COLE: (Resuming)

4 Q I am showing you what has been marked for
5 identification as Plaintiff's Exhibit Number 71. Do you
6 recognize that?

7 A I believe that's the Captain's stateroom.

8 Q Okay.

9 A I haven't been in there that often, I wouldn't --

10 Q Okay, why don't we just go on.

11 I am showing you what has been marked for
12 identification as Plaintiff's Exhibit Number 53. Do you
13 recognize that?

14 A Yes.

15 Q What's that a picture of?

16 A The bridge.

17 Q Of the Exxon Valdez?

18 A Yeah, the navigation area.

19 Q A fair an accurate representation?

20 A Yes.

21 MR. COLE: I would move for the admission of
22 Plaintiff's Exhibit Number 53. I am not sure that it has been
23 admitted or not.

24 MR. MADSON: I think it already has been. That's
25 okay. No objection.

1 THE COURT: Admitted.

2 THE CLERK: It's already in.

3 THE COURT: It's already in.

4 BY MR. COLE: (Resuming)

5 A I show you what has been marked for identification
6 as Plaintiff's Exhibit Number 62. Do you recognize that
7 photograph?

8 A Yes.

9 Q What's that a photograph of?

10 A The chart table.

11 Q And is that a fair and accurate representation of
12 that?

13 A Yes, sir.

14 Q Can you show the jury by --

15 MR. COLE: I would move for the admission of of what
16 has previously been identified as Plaintiff's Exhibit Number
17 62.

18 MR. MADSON: No objection.

19 THE COURT: It's admitted.

20 (State's Exhibit Number 62
21 was admitted in evidence.)

22 BY MR. COLE: (Resuming)

23 Q Can you show the jury where this picture is, where
24 you are looking from that picture?

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

1 Q I am showing you what has been marked for
2 identification as Plaintiff's Exhibit Number 51. Do you
3 recognize that?

4 A Yes. That's the starboard bridge room.

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

7 A Yes.

8 Q And what is that a photograph of?

9 A A single sideband Weller-Fox. That's this equipment
10 right here.

11 Q A fair and accurate representation of those two
12 pictures?

13 A Yes.

14 MR. COLE: I would move for the admission of what
15 has been previously identified as Plaintiff's Exhibit Number
16 51 and 58.

17 MR. MADSON: No objection.

18 THE COURT: Both admitted.

19 (State's Exhibits Numbers
20 51 and 58 were admitted in
21 evidence.)

22 BY MR. COLE: (Resuming)

23 Q Now, in Plaintiff's Exhibit Number 51, this one
24 right here, is this where someone would stand if they were out
25 on the starboard wing on watch?

1 A Yes, sir.

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

3 A Well, anywhere on this bridge wing between here and
4 the end of the bridge wing.

5 Q What's that on the end there?

6 A This is the repeater. There is a Doppler log out
7 here and this is part of the radio antenna system here.

8 Q What's a repeater?

9 A A gyrorepeater. It mimics what the master gyro is
10 reading.

11 Q Is it a digital one?

12 A No.

13 Q Okay.

14 And from that can you get the heading --

15 A Yes.

16 Q -- of the vessel?

17 A Yes.

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

19 A It indicates speed.

20 Q And the Exhibit that was previously admitted, can
21 you tell the jury what radios are there. You may have to hold
22 it up as you are talking.

23 A I am trying to recall myself. I believe there are
24 just two single sideband units, one here, and this is one that
25 had been recently installed. This is the older unit. There

1 is a sextant case, a weather fax, and that's about it for
2 electronics.

3 Q What are all these?

4 A Flags.

5 Q Why do you use those? Why are those there?

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

7 Q Okay. Well, tell the jury what kind of purposes
8 those are for.

9 A Supposing we had a pilot on board. There is a
10 certain flag that we hoist to signify that we have a pilot on
11 board. If we're along side the dock, there's another flag we
12 use to indicate that we are loading hazardous cargo.

13 Q And what are these here in the corner right here?

14 A What are you referring to? These? They are hand
15 held radios.

16 Q And are those what the crew members carry throughout
17 the ship?

18 A Yes.

19 Q I am showing you what has been marked for
20 identification as Plaintiff's Exhibit Number 57. Do you
21 recognize that photograph?

22 A That again is the chart room.

23 Q A fair and accurate representation of the chart room
24 on the Exxon Valdez?

25 A Yes, sir.

1 MR. COLE: I would move for the admission of what
2 previously has been identified as Plaintiff's Exhibit Number
3 57.

4 MR. MADSON: No objection.

5 THE COURT: 57 is admitted.

6 (State's Exhibit Number 57
7 was admitted in evidence.)

8 BY MR. COLE: (Resuming)

9 Q Can you show the jury where that photograph was
10 taken from?

11 A You're looking into the chart room from over on the
12 starboard side from here.

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

15 A That's right here.

16 Q And where is the chronometer?

17 A The chronometer is right here.

18 Q Can you see it in that picture?

19 A Yeah -- well, the jury probably couldn't. It's
20 directly underneath the course recorder.

21 Q What is a chronometer?

22 A It's a timepiece.

23 Q Is it accurate?

24 A Very accurate timepiece.

25 Q I am showing you what has been marked for

1 identification as Plaintiff's Exhibit Number 61. Do you
2 recognize that?

3 A Yes.

4 Q What's that a photograph of?

5 A Our electronic navigation units, LORAN C and the
6 SATNAV on the bottom.

7 MR. COLE: I would move for the admission of what
8 has previously been identified as Plaintiff's Exhibit Number
9 61.

10 MR. MADSON: No objection.

11 THE COURT: It's admitted.

12 (State's Exhibit Number 61
13 was admitted in evidence.)

14 BY MR. COLE: (Resuming)

15 Q Now, do you use the LORAN in Prince William Sound?

16 A Not in the Sound.

17 Q Why not?

18 A Although it is accurate, it is really not accurate
19 enough for the type of navigation work that we are doing in
20 the Sound.

21 Q And how does the NAVSAT instrument work?

22 A It picks up a satellite, and then if the satellite
23 is in a proper aspect and we get a good signal from it, it
24 calculates our position.

25 Q I am showing you what has been marked for

1 identification as Plaintiff's Exhibit Number 60. Do you
2 recognize that photograph?

3 A Yes.

4 Q What's that a photograph of?

5 A That's the radio direction finder.

6 Q Okay.

7 And that was on the Exxon Valdez?

8 A That's correct.

9 MR. COLE: I would move for the admission of what
10 has previously been identified as Plaintiff's Exhibit Number
11 60.

12 MR. MADSON: No objection.

13 THE COURT: It is admitted.

14 (State's Exhibit Number 60
15 was admitted in evidence.)

16 BY MR. COLE: (Resuming)

17 Q How do you work the radio direction finder on the
18 Exxon Valdez?

19 A Well, it's energized from the bridge, but the radio
20 operator has to flip a switch down on his panel, but basically
21 what it does is picks up a transmitted signal on a certain
22 frequency, and it will show up as a lobe and you manually
23 shift this compass and you get a bearing off the transmitted
24 signal.

25 Q Okay.

1 Do you use things like radio stations? Can you use
2 a radio station for your --

3 A No, there are specific RDF transmitting stations.

4 Q Okay.

5 I am showing you what has been marked for
6 identification as Plaintiff's Exhibit Number 59. Do you
7 recognize that photograph?

8 A Yes.

9 Q And what's that a photograph of again?

10 A That's the starboard side of the bridge, inside,
11 with the single sidebands, the weather fax and --

12 MR. COLE: I would move for the admission of what
13 has previously been identified as Plaintiff's Exhibit Number
14 59.

15 MR. MADSON: No objection.

16 THE COURT: It's admitted.

17 (State's Exhibit Number 59
18 was admitted in evidence.)

19 BY MR. COLE: (Resuming)

20 Q I don't think that -- in the last time we talked
21 about this area, can you tell the jury what this phone is
22 right here?

23 A That's part of this system here, the single
24 sideband.

25 Q Okay.

1 A It's also part of the emergency calling that we
2 could use.

3 Q Would you explain that to the jury?

4 A That was -- what is it -- I forget the frequencies
5 now, I think it was 2182, that you could call out on that for
6 emergency distress.

7 Q I am showing you what has been marked for
8 identification as Plaintiff's Exhibit Number 55. Do you
9 recognize that photograph?

10 A Yes, sir.

11 Q What's that a photograph of?

12 A Same side of the bridge, just looking further aft.

13 Q A fair and accurate representation?

14 A Yes, sir.

15 MR. COLE: I would move for the admission of what
16 has previously been identified as Plaintiff's Exhibit Number
17 55.

18 MR. MADSON: No objection.

19 THE COURT: It is admitted.

20 (State's Exhibit Number 55
21 was admitted in evidence.)

22 (Pause.)

23 BY MR. COLE: (Resuming)

24 Q I am showing you a copy of what has previously been
25 admitted as Plaintiff's Exhibit Number 10. Do you recognize

1 that?

2 A Well, this is the night order book.

3 Q What's the night order book? Would you explain that
4 to the jury?

5 A Well, before the Captain retires for the evening and
6 leaves the bridge, he'll write instructions for the night
7 watches.

8 Q And is that done every night?

9 A Every night. With the exception of in-port cargo
10 handling.

11 Q I am showing you what has previously been admitted
12 as Plaintiff's Exhibit Number 6. Do you recognize that?

13 A Yes. That's our rough log.

14 Q Okay.

15 And rough long and deck log --

16 A Same; same.

17 Q -- are both the same thing. They are synonymous
18 terms?

19 A Yes.

20 Q Why -- what's the purpose of having the rough log?

21 A Everything that we do on watch is recorded on here
22 to keep an accurate account of what happened on each watch,
23 such things as fixes and courses steered and whatnot.

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

1 THE COURT: Yes, sir. Just be careful and keep it
2 attached.

3 THE WITNESS: I don't think it's going to reach.
4 (Pause.)

5 BY MR. COLE: (Resuming)

6 Q Now, I am showing you what has previously been
7 marked for identification as Plaintiff's Exhibit Number 80.
8 Do you recognize that?

9 A It appears to be a scale model of the bridge of the
10 Exxon Valdez.

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

13 A Just briefly.

14 Q The part that you saw, is it a fair and accurate
15 representation of the bridge of the Exxon Valdez?

16 A Yes.

17 Q And below. The decks below. Were you able to take
18 a look at the decks below and --

19 A yes.

20 Q -- the particular rooms that were identified?

21 A Yes.

22 Q And is that a fair and accurate representation of
23 the decks below the bridge on the Exxon Valdez?

24 A Yes; yes, sir.

25 MR. COLE: Judge, I would move for the admission of

1 what has previously been identified as Plaintiff's Exhibit
2 Number 80.

3 MR. MADSON: May I just examine it for a second,
4 your Honor?

5 THE COURT: Yes, sir.

6 (Pause.)

7 MR. MADSON: I have no objection, your Honor.

8 THE COURT: 80 is admitted.

9 MR. COLE: Do you want to look at the rest of it?

10 THE WITNESS: No.

11 THE COURT: 80 is admitted.

12 (State's Exhibit Number 80
13 was admitted in evidence.)

14 BY MR. COLE: (Resuming)

15 Q Mr. Cousins, can you -- we talked about a number of
16 things, but can you tell the jury -- identify the particular
17 areas on the upper deck of the Exxon Valdez, the bridge area,
18 so that the jury can understand that. Maybe if you begin on
19 this end.

20 A The repeater I was referring to is located right
21 here. That is where we take visual bearings from. Moving
22 inside, the lookout would typically be in this area somewhere.
23 If you notice from the photographs, there is a windbreak most
24 of the -- across most of the bridge wing.

25 Q And the windbreak would be?

1 A Oh, it's just a curved piece of metal, steel. It
2 runs nearly the length of the bridge wing.

3 Q Okay.

4 A To cut the wind.

5 Q Are there any instruments on the outsides of the
6 doors there?

7 A Yes. Just above the door there is a rudder angle
8 indicator, an RPM indicator, and I can't remember if there is
9 anything else. I believe that's all.

10 Q Okay.

11 And then moving into this area -- let me take that
12 off -- and maybe you could explain to the jury, there, what
13 the different rooms are that are up on the bridge.

14 A This is our console area. Ten centimeter radar on
15 this end of the console. There's another radar, it's a three
16 centimeter -- a three centimeter radar on the port side. This
17 is the steering station. The rest of this is engine control
18 panels.

19 Q Now, the chart room, would it normally have been
20 open up as this is?

21 A No, there would have been a blackout curtain drawn
22 here. There's another blackout curtain here and a blackout
23 curtain on the other side.

24 Q What's the purpose for that?

25 A To keep the -- any backscatter or light off from the

1 -- away around the chart table, from entering into the --

2 Q You need some lights when you are working with the
3 charts.

4 A Oh, yes.

5 Q And that is -- the curtains are to prevent that
6 light from getting out and hurting the eyes of the helmsman?

7 A Yes. Correct.

8 Q Can you tell the jury what is in the electrical
9 equipment room that is at the bottom there?

10 A Master gyros. We have two gyros sit just right
11 inside the door here. There are -- there's some equipment for
12 the radar, both radars. There's a single sideband unit sits
13 back in this corner. And there's various file cabinets and -
14 -

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

16 A Yes.

17 Q And that is where?

18 A That's right here.

19 Q And how do you get to that? Do you remember where
20 the door was?

21 A Yes, it's just inside the blackout curtains on the
22 port side.

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

25 A That's correct.

1 Q Now, to get down the steps, is there a way to go
2 down to the next level below the bridge?

3 A Yes, right -- right through here.

4 Q Through those steps?

5 A Yes.

6 Q Now on the next level, can you show the jury where a
7 person would come out if they walked down those steps?

8 A This is the ladder down to D-deck.

9 Q Okay. And would you identify the particular rooms
10 that were on D-deck?

11 A Okay.

12 Actually I believe that we used this as the pilot's
13 stateroom. This is -- they call it a file room. It had a
14 desk and a bunch of file cabinets in there. Typically locked.
15 Captain's stateroom, his office. Chief engineer's office.
16 Chief engineer's stateroom. I'm not sure what this is. It
17 might have been a cleaning gear locker or something. There is
18 another spare room and a radio room and the radio operator's
19 stateroom.

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

22 A Just exit this door, enter this door, and up the
23 ladder.

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

1 A Probably 10 seconds, 10 or 15 seconds. It's -- it's
2 not far.

3 Q Now, can you do downstairs then from there?

4 A Yes.

5 Q To the next level?

6 And that would be C-deck?

7 A Yes.

8 Q Now, would you give the jury an idea of what then is
9 located on C-deck?

10 A This is the ladder down from D-deck. Third mate's
11 room. Chief mate's office. There's a cleaning gear locker
12 and a _____. Chief mate's stateroom. The second
13 mate's stateroom. The second assistant's stateroom.

14 Q Assistant engineer; you didn't say that.

15 A Yeah, assistant -- and I believe this is the first
16 assistant's office, first assistants stateroom. The officer's
17 lounge. Laundry. Third assistant engineer's stateroom. We
18 call this the library. It is used by the engineers to keep a
19 lot of their manuals and whatnot.

20 Q Now, you would have been staying here?

21 A That's correct.

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

23 A Yes.

24 Q And Mr. McCain was the second mate?

25 A Right.

1 Q And the officer's lounges are separated from -- all
2 the officers stay on the deck below the captain and the chief
3 engineer?

4 A Yes.

5 Q Now, from that deck can you go further down?

6 A Yes.

7 Q To the next deck below?

8 A Yes.

9 Q And that is using the same ladder system?

10 A Yes, that would be right here.

11 Q And basically can you outline what is on that deck
12 there?

13 A All the AB's, the oilers, and generally the
14 unlicensed --

15 Q Do not get too much in front of the thing there.

16 A Yeah.

17 All of the unlicensed personnel are quartered with
18 the exception that the pumpmen are quartered on this deck.

19 Q And then the deck below that, would you tell the
20 jury what's in that deck? That deck?

21 A Cargo control room where we monitor all our cargo
22 operations. A fan room. It can't be entered from inside; it
23 is entered from outside. The crew's lounge.

24 Q You've got make sure you're not getting so people up
25 there in the corner can't see.

1 Go ahead.

2 A The pumpmen's stateroom. We had a dayroom here for
3 the chief mate during cargo operations, if he wanted to stay
4 there. That would be another officer. The cargo control
5 console. This is a locker. A laundry room. A locker. And
6 just spare quarters here.

7 Q Now, there's one more deck -- one or -- one more
8 deck below this?

9 A That's correct.

10 Q And what was contained in that?

11 A The mess halls.

12 MR. COLE: That's all we have. I am just going to
13 put this back.

14 (Pause.)

15 BY MR. COLE: (Resuming)

16 Q Now, when we left yesterday, we had talked briefly
17 about your background. Would you get -- tell the jury when
18 you got your third mate's license?

19 A It in February -- it was either February or March
20 of 1986.

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

23 A My first third mate assignment was in January of
24 1987.

25 Q And when did you get your second mate's license

1 again?

2 A February of 1989.

3 Q Did you ever sail as second mate after getting your
4 second mate's license.

5 A No.

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

8 A No, I didn't.

9 (State's Exhibit Number 81
10 was marked for identification.)

11 Q I am showing you what has been marked for
12 identification as Plaintiff's Exhibit Number 81. Do you
13 recognize that?

14 A Yes, that is a copy of my second mate's license.

15 MR. COLE: I would move for the admission of what
16 has previously been identified as Plaintiff's Exhibit Number
17 81.

18 MR. MADSON: No objection to that, your Honor.

19 THE COURT: Admitted.

20 (State's Exhibit Number 81
21 was admitted in evidence.)

22 BY MR. COLE: (Resuming)

23 Q This thing says, of any gross tons, second mate --

24 A Yes.

25 Q -- of ocean steamer or motor vessels of any gross

1 tons. Can you tell the jury what that means?

2 A Essentially it is an unlimited license that you are
3 certified to sail as an officer on any vessel.

4 Q Any vessel?

5 A Yes, sir.

6 Q And the gross tons refers to what? What are they
7 referring to?

8 A The size of the ship basically.

9 Q Now it also says, radar observer unlimited. What
10 does that mean?

11 A Before you are issued the license, even though you
12 have passed the exam, you have to prove proficiency on --
13 through the use of radar, and that is what that is referring
14 to.

15 Q And is that a special course you take or a special
16 test?

17 A Yes.

18 Q And when did you get that?

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

20 Q Now, did you have any special pilotage endorsements?

21 A No.

22 Q Okay.

23 What did that mean? Pilotage endorsement, what does
24 that term mean?

25 A That you're certified to navigate a vessel in a

1 certain area.

2 Q Could you have gotten that?

3 A I suppose I may have been able to.

4 Q Do you know any third mates that have Prince William
5 Sound pilotage endorsements?

6 A Not personally, no.

7 Q We talked briefly about your trips to Valdez. Can
8 you give the jury an idea of how many trips you made to
9 Valdez, in an out, as an able bodied seaman and as a third
10 mate?

11 A As an AB, I would estimate perhaps 20 times. As a
12 third mate, maybe sixteen -- between sixteen and eighteen
13 times.

14 Q And would you have been on the bridge during the
15 passage through Prince William Sound on all of those?

16 A Not always as an AB. Usually as an officer, I would
17 get some part of a transit.

18 Q Is it common in your industry to help the first mate
19 if his watch was coming up, through the Prince William Sound
20 area?

21 A Yes.

22 Q Would you explain to the jury why that would be?
23 Why you would do that?

24 A The chief mate's workload increases significantly
25 with the cargo operations. He spends sometimes an inordinate

1 amount of time up, and to relieve him a little bit, spare him
2 additional fatigue, so he is somewhat rested for cargo
3 operations.

4 Q In Valdez the cargo operations takes a fair amount
5 of time?

6 A I think we can turn around, I believe, in 24 hours,
7 is about.

8 Q Is the chief mate up for a good part of that 24
9 hours?

10 A Yes, he is.

11 Q So you give him a little break if his shift comes in
12 just to allow him to get a few extra hours of sleep.

13 A Yes. If -- for example, if his watch was coming up,
14 we probably wouldn't call him until sometime just before
15 docking.

16 Q You indicated yesterday that you had served
17 approximately three -- on three -- I can't remember the term
18 that you used, but three times you had sailed on the Exxon
19 Valdez prior to this?

20 A Two times prior to the grounding.

21 Q Okay, two times prior, but this was the third one?

22 A Yes, sir.

23 Q What do you call that?

24 A Assignments.

25 Q Assignments, okay.

1 Would you have been at the helm for any of those --
2 what was the Exxon Valdez running at that time? Was it
3 running between -- where was it going between on those?

4 A We had went -- I believe the first trip -- are you
5 talking about on each assignment?

6 Q Yeah, the first two assignments generally and then
7 the last assignment.

8 A Alaska-Panama on the first two assignments. We'd
9 start trading through Panama, they'd shifted us to San
10 Francisco or Long Beach.

11 Q And that's what you were on on the third assignment?

12 A Yes.

13 Q Can you give the jury an idea of how long it takes
14 to go from Valdez to San Francisco?

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

16 Q And if you -- was it common to go to Long Beach
17 also?

18 A Well, I don't know what the -- what was common,
19 because that was kind of a new run to me on that vessel. I
20 suppose they would split the load, wherever they needed the
21 oil. It was going to be one or the other.

22 Q What do you mean by split the load?

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

25 Q And then return up to Valdez?

1 A That's correct.

2 Q Can you -- can you give the jury an idea of what
3 your responsibilities were on the Exxon Valdez as a third
4 mate? And let's begin while the ship is out at sea and you
5 come on to do your four hour shift?

6 A As a watch standing officer, of course maintaining
7 accurate vessel position, plotting, that's your primary
8 function. Collision avoidance. There were other things,
9 compass checks. There's a little bit of celestial navigation
10 involved from -- depending upon the weather.

11 Q Now, the vessel position, would that include making
12 -- steering, navigating -- giving navigation orders?

13 A Yes.

14 Q And would that require you -- would your
15 responsibilities require you to oversee the helmsman to make
16 sure that he is following the orders that you give?

17 A Yes.

18 Q Let's move to an area of -- like entering the Prince
19 William Sound. Let's say you were on shift during the time
20 that you entered Prince William Sound. What would your
21 responsibilities then be on the bridge?

22 A Navigation, collision avoidance. Typically that may
23 also include communications with VTS.

24 Q How about when you were involved in the docking and
25 undocking process? What would your responsibilities as third

1 mate have been then?

2 A I have the aft docking station and I just direct the
3 AB's what to do with the winches.

4 Q When you say aft, some people may not be familiar
5 with that. Where is that?

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

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

10 A Yes.

11 Q Where had it come from?

12 A San Francisco.

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

14 A No, I don't; no.

15 (State's Exhibit Number 82
16 was marked for identification.)

17 BY MR. COLE: (Resuming)

18 Q If you took a look at the deck log, would that help
19 you to recall that?

20 A It might take a minute.

21 We had been on -- March 18th.

22 Q So it would have been about four days out at sea?

23 A Yes. No -- yeah, approximately.

24 Q Did you -- were you on the bridge that evening?

25 A Yes, I was.

1 Q And when were you on the bridge on the evening of
2 the 22nd?

3 A Well, I had -- the third officer has supper relief,
4 that being relieving the chief mate so he can go down and eat.
5 So I was on the bridge for approxi -- twenty or thirty
6 minutes. That would have been around 5:00 o'clock, 5:00 p.m.,
7 1700. Then again I would relieve him for my regular watch.

8 Q And that would have been about 8:00 o'clock?

9 A Yes, a little bit before 8:00.

10 Q You worked the 8:00 to 10:00 shift -- 8:00 to 12:00.

11 A 8:00 to 12:00.

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

13 A Lloyd LeCain.

14 Q Who were the people, the AB's that worked underneath
15 you?

16 A Paul Radtke and Harry Claar.

17 Q And do you remember who the AB's were that worked
18 under Mr. LeCain?

19 A Maureen Jones and Robert Kagan.

20 Q Prior to March 23rd, 1989, had you worked with
21 either Maureen Jones or Mr. Kagan?

22 A With Maureen Jones, yes.

23 Q In what capacity had she worked?

24 A She was an AB on my watch.

25 Q Had you ever had Mr. Kagan as an AB on your watch

1 prior to that?

2 A Not on my watch. He had been on the Exxon New
3 Orleans, and that was a prior assignment. But I believe he
4 was sailing in a different capacity at the time.

5 Q When had -- when was that? Do you remember?

6 A That was the assignment prior to my coming on the
7 Valdez the last -- before the grounding. I don't remember the
8 specific date. It might have been in October of '88.

9 Q When you came into Prince William Sound, where did
10 you pick up the pilot that day?

11 A At Rocky Point.

12 Q And do you remember what time you arrived in Valdez?

13 A No, I don't. Not without --

14 Q Go ahead. Would it help to refer to that?

15 A Yes, it would.

16 (Pause.)

17 Yeah, we were off the dock at 2230, 10:30.

18 Q 10:30 that evening?

19 A Uh-huh.

20 Q Now, your shift would have continued until midnight.
21 What did you do after that?

22 A After the docking?

23 Q Uh-huh.

24 A I remained on deck for a short period of time until
25 Lloyd showed up to relieve me. I went into the cargo control

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

4 Q Would you have gone to sleep at that point?

5 A I was up for a short period of time, reading the
6 mail.

7 Q What time were you scheduled to be on duty the next
8 morning?

9 A We relieve at ten minutes prior to -- if I had the
10 8:00 to 12:00, I would relieve him at 7:50.

11 Q What did you do then? Did you go and relieve the
12 first mate at that time?

13 A Yes.

14 Q The next morning.

15 What were your assignments or your responsibilities
16 during that shift?

17 A That's monitoring the cargo.

18 Q Did you end up -- did you go into town before going
19 to that assignment?

20 A No.

21 Q Tell the jury what you physically do while you are
22 monitoring the cargo.

23 A Basically you are stuck in the cargo control room
24 watching a board with gauges, monitoring what tanks are doing
25 what, keeping list and trim where they are supposed to be.

1 Q Do you get any instructions from the first mate as
2 to how to proceed with the loading and unloading?

3 A He writes cargo orders that we have to read, sign.
4 There's anything that we don't understand, we have a
5 discussion and get it understood.

6 Q Where was Mr. Kunkel during the time you were
7 working on that shift?

8 A I don't remember. I believe he was in his
9 stateroom.

10 Q And after -- you were replaced around noon that day?

11 A yes.

12 Q And who would you have been replaced by?

13 A Lloyd LeCain.

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

15 A I had lunch and after lunch I went and took
16 salinity.

17 Q Would you explain to the jury what you mean by
18 salinity.

19 A In determining how much cargo we can load, the chief
20 mate needs to know how buoyant or how salty the water is, and
21 that's basically all it is. It's -- I went down to the engine
22 room, got salt water -- got water from the deepest part of the
23 ship that we could, put the hydrometer in there and --

24 Q Okay. Do you remember about what time that would
25 have been?

1 A That's after I had lunch.

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

3 A No, I didn't.

4 Q How come?

5 A Didn't want to.

6 Q Did you do any more work that afternoon or did you
7 go to your stateroom?

8 A I did some paper work, but that was in my stateroom.
9 Perhaps half an hour of reading and then I took a nap.

10 Q What time did you get called back up to go to work
11 that evening?

12 A Again I had supper relief, so I was up at 4:30,
13 relieved the chief mate five minutes before the hour.
14 Remained in the cargo control room for approximately twenty
15 minutes, not much longer than that. Had my dinner, and then
16 returned to my stateroom. Actually I believe I went back,
17 stopped by the cargo control room for just a few minutes to
18 check with the chief mate about who is going to be doing the
19 topping off. That conversation may have taken place before
20 that, but it seems that I stopped back in the control room.

21 Q And what was the conclusion that he reached? Did he
22 tell you you were going to be involved?

23 A Yeah, he said that I would help with the topping
24 off.

25 Q So after speaking with him, did you go back to your

1 stateroom?

2 A Yes.

3 Q When were you called back up then to help Mr.
4 Kunkel?

5 A Actually I don't -- I don't know that Jim give me a
6 call -- he may have -- but I just went down to the cargo
7 control room at the approximate time that we had talked about
8 earlier.

9 Q Would you explain to the jury what you mean by
10 topping off the tanks and how that is accomplished?

11 A Well, at the end of the cargo, the tanks are pretty
12 full, and as we near the end of the load we slow the loading
13 rate down. The chief mate was out on the dock in this
14 particular case watching the draft marks, putting as much --
15 getting as much of the load on as we could. We were not fully
16 laden on this voyage. So he wanted to get down to the marks,
17 and I was in the cargo control room, slowing down the cargo
18 rate as necessary.

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

23 A These are draft marks right here.

24 Q And there are numbers that are made in alongside the
25 tanker?

1 A Yes.

2 Q They are written in?

3 A Yes, painted in.

4 Q And from those can you tell how deep in the water
5 the ship is sitting?

6 A Yes. He calculates or is given a draft that -- say
7 whatever the governing draft would be in Long Beach, that is
8 what he is looking at. It is probably more accurate than
9 drying to figure out on a computer how much oil you're going
10 to be able to load and try to work by ullage.

11 Q So these draft marks are both in the aft and in the
12 midsection and --

13 A And forward.

14 Q -- at the forward deck.

15 Okay.

16 And this line right here, does that have any
17 significance?

18 A Well, that's the -- that's our deep draft, I
19 believe. Yeah.

20 Q And when you say deep draft, what do you mean?

21 A For the fully laden tanker.

22 Q So at fully laden, this line should be sitting in
23 the water then?

24 A Yeah.

25 Q And that's why this is not a full -- this is an

1 unladen tanker right here?

2 A Yeah, that's light.

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

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

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

13 A A number, yes.

14 Q Just briefly tell the jury what you have to be --
15 what kind of things you would be concerned with.

16 A Mechanical failure.

17 Q Which would cause what?

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

21 Q Did you have AB's working with you on the topping
22 off process?

23 A Yes, we have two AB's on deck. When we check the --

24 Q What were their responsibilities?

25 A Well, we check ullages. It wasn't quite as critical

1 as a full load, but when the chief mate does his load plan, he
2 has ullages for each tank, and we have the AB's that as a
3 double check from our gauges inside, we double check that with
4 a sonic tape that the AB's use out on deck.

5 Q Now when you say ullages, explain to the jury what
6 you mean by ullage.

7 A An ullage. Tell you how -- at what level the cargo
8 is in the tank.

9 Q And you spoke about something that the AB's have to
10 check the ullage.

11 A It's a sonic tape. It's got a probe on it, lower it
12 down a tube, sounding tube into the tank. And you just read
13 the ullage out from the tape.

14 Q After you were done with the topping off process,
15 what did you do then?

16 A I remained in the cargo control room for a short
17 period of time. After that I went to the bridge and tested
18 the gear.

19 Q What do you mean when you say you tested the gear?

20 A We are required to test our steering gear, radar,
21 navigation equipment, lights, sound, signalling apparatus.

22 Q Well, let's start with the steering gear. Maybe you
23 could take that pointer again and maybe walk the jury through
24 what you did that evening as far as testing the gear up on the
25 bridge.

1 A On this ship it's a very simple procedure.
2 Basically you're just standing right here. There's an
3 engineer that will go back to the steering gear flap and
4 observe the equipment down there as I am going through a test
5 and --

6 Q Wait a minute. Where is this engineer going?

7 A To the steering gear room.

8 Q Where is that?

9 A That is in the aftermost part of the ship, about one
10 deck below the main deck. Back in here.

11 Q And is that in there area where there is housed the
12 mechanisms, the hydraulic pumps that turn the rudder?

13 A yeah.

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

15 A Yes.

16 Q Okay.

17 And you're talking with him up there?

18 A Yes. Then I gave him a call and all he does is
19 he'll stand there and watch that everything is functioning
20 properly as a test. Each pump and also the emergency
21 steering.

22 Q What do you mean by each pump?

23 A Well, there's two different systems. There's a port
24 pump and a starboard pump.

25 Q And one of them acts as a back up, is that correct?

1 A One's a backup for the other. We usually rotate
2 them. Might use the starboard pump on the southbound voyage
3 and the port pump on the northbound.

4 (Pause.)

5 Q Now when you say the pump, can you look at what has
6 previously been admitted as Plaintiff's Exhibit Number 52 and
7 point out to the jury where that --

8 A This is the controller switch that we have on the
9 steering unit. It's in the off position now. This is port
10 starboard pump, port pump.

11 Q And it's just basically the system that runs the
12 steering console, is that correct?

13 A Not the steering console.

14 Q The what?

15 A Steering gear.

16 Q Steering gear.

17 Q So you are sitting in front of that and you then do
18 what? You make some turns?

19 A Take it from hard right to hard left and time the
20 movement. It is supposed to be within a certain range, a
21 number of seconds. 25 seconds or something like that.

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

23 A The movement of the rudder.

24 Q What is supposed to be timed, from the minute that
25 you make the turn until the rudder gets there?

1 A I would take it from -- it's typically left at
2 midship. I'd take it to hard right, from hard right and then
3 swing it all the way to hard left and time it.

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

7 A Yes, there is a rudder angle indicator. For the
8 gear test I don't normally look at the screen. I watch the
9 one that is up forward of me.

10 Q Well, maybe you could --

11 A It's somewhere up here. I think it might be this.
12 Yeah, it's that.

13 Q This one right here?

14 A Yes.

15 Q Okay.

16 Okay, after -- is there an alarm that goes off at
17 all? Is there any alarms on this in case the rudder isn't
18 following your command?

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

24 Q After testing the hard right, hard left, what do you
25 do? What did you do?

1 A That would be -- for each pump I would do that. And
2 also on each pump the emergency steering.

3 Q What do you mean by that?

4 A The emergency steering?

5 Q Yes.

6 A There's a little rocker switch here that moves --
7 actually i don't know, that is probably a separate system,
8 separate pump.

9 Q Okay. You've --

10 A It's right here.

11 Q And that's the instrument directly above the
12 starboard and port pump system?

13 A Yes.

14 Q And it's a little push --

15 A It's kind of a rocker switch.

16 Q And that is in case the other two break down?

17 A That's correct.

18 Q Okay.

19 What did you do then after that?

20 A That might not have been the first thing that I did.
21 I would typically go up and turn the radars on -- they're on -
22 - we leave them on stand-by. Power them up, let them warm up.
23 Call the engineer, takes him a few minutes to get back. I'd
24 start some other checks. Check the navigation lights, the
25 whistles, and --

1 Q Whistles? What whistles?

2 A Well, our sound signalling whistles.

3 Q Would you explain that to the jury?

4 A They're just whistles. If we're making maneuvers
5 and certain maneuvers require certain signals, sound signals,
6 that is what that's for.

7 Q What else would you check up on the bridge in this
8 gear test?

9 A Just about everything is checked. The electronic
10 navigation is checked. The course recorder.

11 Q The electronic navigation. Now what do you mean by
12 the electronic navigation?

13 A Well, the SATNAV and the LORAN, you know, they're
14 turned on. You're not -- probably haven't gotten a fix up
15 there anyway since we've been there, at least on the SATNAV.
16 And the LORAN doesn't come in real strong in that area for us.
17 But you at least set it up on the right -- on the right chain.
18 Make sure that the charts -- the proper charts are out, that
19 type of thing.

20 Q What about the gyros, do you check those?

21 A You check the gyros.

22 Q What do you do when you're checking that?

23 A You go back and take a look at the master gyro. We
24 know what the dock heading is and you go back and take a look
25 at the master gyros and two small gyros sitting right back in

1 this corner.

2 Q And they actually have a digital number readout
3 there?

4 A Well, it's not a digital -- not, it's analog I guess
5 is what you would call it. Then you would check all the
6 repeaters and you have repeaters up here, you have repeaters
7 on both bridge wings. Also the course recorder is set to make
8 sure that the heading on the course recorder is correct.

9 Q And the course recorder is located where again?

10 A Right here.

11 Q How about the chronometer. Do you synchronize any
12 watches?

13 A Yes. I don't -- we do -- we check the chronometers
14 every day and chronometers typically will have some type of
15 continual gain or loss and they are important instruments but
16 they typically use the SATNAV information that displays time
17 that is highly accurate. And I coordinate, you know, my times
18 from that and there's not only the course recorder, there's
19 another digital clock here, my personal clock.

20 Q How about the communications systems on board. Do
21 you check those?

22 A Yes.

23 Q What do you do to do that?

24 A You use -- especially communicating with the engine
25 room, you use not only our regular telephone system, but you

1 use the sound powered telephones which are located over here
2 on this console.

3 Q Would you explain to the jury how those work? How
4 you call somebody up on those.

5 A Well, we have a regular telephone system on board
6 that is much like what you would find in your home. The sound
7 powered are different in that you don't dial anything, you
8 pick it up and crank. And sound powered is just what it is.
9 You speak loudly through it.

10 Q Kind of a last resort type thing?

11 A Well, it's not necessarily a last resort. That's
12 usually what you used to find on most ships. But they are
13 more than adequate for communicating. Also we have a check
14 with our hand held radics.

15 Q How about the fathometer? What is that?

16 A What is that?

17 Q Yeah, what is it?

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

24 Q Where would that have been on the bridge?

25 A Well, this is a digital readout right here. That is

1 actually a part of this back -- it is actually mounted on this
2 bulkhead is the fathograph and what that does is just give you
3 a visual display of the depth.

4 Q Does it have an alarm?

5 A Yes, it does.

6 Q What is the alarm for?

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

11 Q Did you set that that evening?

12 A I didn't set it, but I tested it, yes.

13 Q You tested it and it was working?

14 A Yes, as I recall.

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

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

20 Q About what time would then have -- is this all the
21 tasks that you are doing up here on the gear test?

22 A Well, the radars are turned on, tuned. I said the
23 lights, the whistle, synchronizing all our clocks. That's --
24 yeah, that's --

25 Q Would you do any special tests to see whether the

1 radars were working properly?

2 A yeah, that's what we were doing when we turn them on
3 and tune them.

4 Q Do you lock onto a point or something like that?
5 How would you tune it?

6 A Oh, okay. Well, I'll try not to use technical terms
7 because I get confused by them myself at times, but
8 essentially you have a gain -- a gain in a tune, and you set
9 the radar on a, as I recall these things, tuned on a twelve
10 mile scale. And you have land mass all around you. You have
11 very definite points of land that you can identify on the
12 chart. You should get the same representation looking at the
13 radar.

14 Q What would it look like when you looked into these
15 radars? What would the land show up as? Do you remember the
16 color?

17 A It's a pale, yellowish green.

18 Q Is it prominent when you look through these?

19 A If it's tuned properly, yes.

20 Q So you were talking about you identified the land
21 masses on the radar and compare them to the charts?

22 A Yes.

23 Q So what time -- I may have asked this, but I can't
24 remember your answer. What time would you have been done then
25 that evening with these gear tests?

1 A Again, I'll have to refer to this. I remember
2 something like 2248, that was the actual time that I finished
3 the gear test.

4 Q Okay.

5 A But I would imagine that I had a few other things to
6 do. So it was shortly after that.

7 (Pause.)

8 1948, excuse me.

9 Q 1948?

10 A 1948 was --

11 Q Who was up on the bridge when you got that finished?

12 A No one.

13 Q So you were just up there by yourself?

14 A Yes.

15 Q And what did you do after you got done?

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

23 Q Excuse me. What's a containment boom?

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

1 spill.

2 Q Basically it just floats on top of the water?

3 A Yes.

4 Q And a little bit below?

5 A Yes.

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

9 A That's correct.

10 Q So this evening you're standing up on the bridge.
11 When is the first time somebody came up and joined you on the
12 bridge?

13 A I believe that was the pilot. And I don't know what
14 time that was. 2020, pilot aboard. So it was shortly after
15 that that he would have gotten up to the bridge.

16 Q And 2020 converted to twelve hour time is?

17 A About 8:20.

18 Q What did you do when he came aboard?

19 A I just remained on the bridge. I was listening to
20 weather reports for the Sound and the Gulf of Alaska.

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

22 A I don't know if it was the agent or the Captain.

23 Q Who was the agent? Do you remember who that would -

24 -

25 A I can't remember. All I remember is her nickname,

1 but I don't know her.

2 Q She was a woman?

3 A Yes.

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

5 A I may have said hello or something.

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

7 A Yes. Just prior to starting our undocking, the
8 chief mate relieved me so I could go down to my station.

9 Q And when you say your station, what are you
10 referring to?

11 A Our undocking. Docking, undocking station, back
12 aft.

13 Q And so you go to the back aft. Was there another
14 mate that was out on the deck?

15 A Yes. The second mate would do the forward end.

16 Q And what were your responsibilities during that
17 process?

18 A Again, just direct the activities on deck as far as
19 winch controls and bringing the wires back on board.

20 Q Who was working with you in the aft area, do you
21 remember?

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

24 Q When in the undocking process do you return back up
25 -- did you return back up to the bridge? Maybe I mis -- said

1 that wrong. When did you return up to the bridge?

2 A Again I would have to refer to the -- actually I
3 would probably need the bell book to tell you exactly, you
4 know, with a -- within reason.

5 (Pause.)

6 Q Is that what you're looking for?

7 A Yes.

8 (Pause.)

9 At 2151.

10 Q Okay. So that would be about 9:51 that evening you
11 returned?

12 A Yes.

13 Q And where was the ship when you returned to the
14 bridge? Where was it heading? Well, it was heading towards
15 Valdez Narrows.

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

18 A The Captain, the pilot, the helmsman, and the chief
19 mate.

20 Q Who was the helmsman?

21 A I believe it was Paul Radtke.

22 Q And when you came on board, what was the reason for
23 you coming up on the bridge?

24 A Well, that was my regular watch.

25 Q Now, while the pilot was on board, what were your

1 responsibilities during that time?

2 A I would be taking the engine orders, also monitoring
3 the progress of the vessel, observing the helmsman, making
4 sure the commands are followed.

5 Q When you take engine orders, do you write that down
6 in the bell log?

7 A Well, not the -- the bell book, yeah.

8 Q Bell book.

9 A Yes.

10 Q I am going to ask you to -- there are certain check
11 marks that you make in this bell book, aren't there?

12 A Yes. It is kind of a shorthand for what the orders
13 are.

14 Q Okay.

15 Would you explain, maybe write these down, the check
16 marks, and what they mean, so that if somebody was to look at
17 that they could understand.

18 A Uh-huh.

19 Q Maybe you could start with slow ahead. What's the
20 mark for slow ahead?

21 A You want me to --

22 (Pause.)

23 Q And are those -- those notations are then kept in
24 the bell book there that you have in order to keep track of
25 what orders were given at what time?

1 A Yes.

2 Q Now is there an instrument on the vessel itself that
3 keep track of this also?

4 A Yeah, the bell logger in the engine room. These are
5 only ahead commands. Astern commands are reversed.

6 Q Okay.

7 So in other words, maybe you could just give the
8 jury an idea of what a reverse sign looks like up there.

9 Just a check the opposite way?

10 A Just -- that's it.

11 (Pause.)

12 Q When the Captain arrived on the -- do you remember
13 when he arrived on the bridge that evening, before you
14 undocked?

15 A No, I don't know what time it was.

16 Q Do you remember him arriving at some point?

17 A Yes.

18 Q How was he dressed?

19 A I remember he had a long navy blue coat on, and a
20 cap.

21 Q Would you describe for the jury --

22 A Thanks.

23 Q -- what kind of cap he had?

24 A Navy blue wool cap.

25 Q Was it a baseball hat or was it a stocking cap or --

1

2 A Oh, I don't know. I guess it was a Long Island
3 sailor's cap. I wouldn't know exactly how to describe it. It
4 wasn't a wool ski cap, it was a --

5 Q Flat? High?

6 A It was kind of flat.

7 Q Small? Large?

8 A Small.

9 Q Did it have brims?

10 A No brims.

11 THE COURT: Mr. Cole, this might be a good place for
12 us to take our break.

13 MR. COLE: Yeah, that's fine.

14 THE COURT: We'll take our first break, ladies and
15 gentlemen. Please don't discuss this case among yourselves or
16 with any other person. Don't form or express any opinions.

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

19 (A recess was taken from 10:23 o'clock a.m. until
20 10:51 o'clock a.m.)

21 THE COURT: Thank you, you may be seated.

22 DIRECT EXAMINATION (Resumed)

23 BY MR. COLE: (Resuming)

24 Q Mr. Cousins, when we left off we were discussing the
25 voyage out through the port of Valdez.

1 A Yes.

2 Q You were at the throttle at that time?

3 A Yeah, I was the watch officer.

4 Q Would you have been -- what were -- would the pilot
5 have been talking directly to the helmsman during this time,
6 or would he have been going through you?

7 A He would give the commands to the helmsman.

8 Q Did the vessel go on automatic pilot when it was in
9 the port of Valdez at all?

10 A No.

11 Q What happened -- was -- did anything of any
12 significance happen while the tanker was passing out of the
13 port of Valdez and beginning to enter the Narrows?

14 A It was for all intents and purposes a fairly routine
15 transit.

16 Q Do you remember when the tanker arrived at the
17 Narrows?

18 A I'd have to refresh my memory.

19 Q We were at Entrance Island at 2220. Twelve minutes
20 later at Middle Rock in the Narrows. That's -- Entrance
21 Island is pretty much the beginning of the Narrows.

22 Q Maybe you could point out where Entrance Island or
23 Entrance Point is?

24 A Okay.

25 Q And Middle Rock?

1 A Right here.

2 Q And that would have been at 2220 which would be at
3 what time, twenty-four hour time?

4 A 10:20.

5 Q Was Captain Hazelwood on the bridge when you went
6 through there?

7 A Not at that time, no.

8 Q When did the left the bridge?

9 A Oh, perhaps ten minutes earlier, fifteen minutes
10 earlier. I -- I don't recall specifically. That's a pretty
11 fair estimate, I'd say.

12 Q Ten to twenty minutes before the thing that you have
13 down for 2220 at Entrance Island?

14 A Ten minutes, fifteen minutes, yes.

15 Q Now, how about the passage through the Narrows.
16 Anything occur at that of any significance?

17 A No. Routine.

18 Q Who was at the helm at that time?

19 A I believe Paul Radtke was.

20 Q And what time did the vessel reach Potato Point?

21 A Potato Point at 2253, 10:53.

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

23 A It's right here.

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

1 A Yes. We changed out but I don't recall when it was
2 exactly. It wouldn't have been -- we wouldn't have done it in
3 the narrows.

4 Q What's the procedure for that to occur? How did
5 that happen?

6 A On this -- on this particular vessel, when we are
7 not in the midst of a maneuver or if there is not any traffic
8 around, we will call the bow lookout back and switch out the
9 helmsman. The helmsman will then perhaps grab a cup of coffee
10 and head up to the bow.

11 Q Does the lookout come in and --

12 A Relieves the helmsman.

13 Q -- take a break?

14 A Yes, for a break.

15 Q Who's out on the lookout during the time he is on a
16 break?

17 A There is no lookout.

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

20 A That's correct.

21 Q Who called him in.

22 A I may have. It seems that I had asked the Captain
23 about if this is a good time to do that, and I believe I was
24 the one that communicated with Claar.

25 Q Where was the Captain when you asked him?

1 A He would have been on the bridge.

2 Q And what time would this have been?

3 A My recollection on the time is not that good. It
4 seems that we changed out after the pilot -- before the pilot
5 got off.

6 Q Well, do you remember the pilot asking you to call
7 the Captain and to come up from his quarters up to the bridge?

8 A Yes.

9 Q When would that have occurred?

10 A That would have been before we reached Potato Point,
11 perhaps five or six minutes before that. We were still in the
12 Narrows as I recall.

13 Q When the Captain came up?

14 A When I gave him the call.

15 Q When did he reach the bridge?

16 A I believe just as we were reaching Potato Point.

17 Q So that would have been around --

18 A That's 2250 at Potato Point ahead.

19 Q Did -- when the Captain returned to the bridge that
20 evening, did he have a conversation with the pilot?

21 A He may have. I really wasn't paying attention, so --

22 -

23 Q What were you doing during that?

24 A Well, I would have been standing by the telegraph
25 which the radar is right there -- it's kind of my work station

1 -- watching the course being steered.

2 Q What's the telegraph again?

3 A That's the engine order telegraph. A change of --

4 Q Can you point to that for the jury?

5 A That's right here.

6 Q Were you overseeing the helmsman at that time

7 A Yes, I would keep an eye on his steering.

8 Q What about when the tanker was going through the
9 Narrows? Were you overseeing the helmsman at that time?

10 A Yes.

11 Q And what would you exactly do? If an order, a
12 steering order was given, what would you physically do?

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

16 Q And when you say, an order to come to a different
17 course, would you give the jury an idea what you're talking
18 about. Let's say you're heading on 180, you're in the
19 direction of 180 degrees. What kind of an order would a
20 helmsman expect to hear then, if they wanted to turn to 220?

21 A Depending on the pilots preference, what he needed
22 to do, he could give him a rudder command and then tell him to
23 steady up on a course of 220.

24 Q Can you just give the jury an example of what the
25 pilot would say?

1 A For example, 20 right and steady up on 2-2-0.

2 Q What would you look at to make sure that that
3 occurred?

4 A The rudder angle indicator.

5 Q Which rudder angle indicator?

6 A Well, if I am standing here, there is one right
7 above where I am standing. I believe that is it right there.
8 I can watch that. You have a pretty good view of this one
9 also. I tend to usually like to look forward.

10 (Start Tape C-3613)

11 Q And the heading, what would you use to make sure you
12 came true up on the heading?

13 A There's a digital repeater up on this board here. I
14 believe it's this one.

15 Q Which one would it be here?

16 Can you tell the jury, what is a repeater? Digital
17 repeater? What does that mean?

18 A It just repeats our gyro heading. It is not -- it
19 is not a gyro. It just tells you what the gyro -- where it's
20 heading.

21 Q Now, why is it so important for you to watch over
22 the helmsman to make sure the steering orders are followed?

23 A Usually the pilot would pick it up anyway, but -- if
24 something were not being done that he had ordered -- but
25 usually in the circumstances that we find ourselves trying to

1 maneuver a ship, seconds can make a great deal of difference.
2 The pilot is usually standing up forward looking out the
3 window. I would catch it maybe a little bit quicker, correct
4 the error.

5 Q Is it difficult to steer a vessel, I mean, to
6 physically turn the rudder, the steering wheel to cause the
7 rudder?

8 A No, very simple.

9 Q Why then is there so much concern over watching?

10 A Because it's critical. It's not difficult but --
11 the act itself is not difficult but it's critical to the
12 direction that the ship is going to take.

13 Q Now, as the pilot got ready to leave, what did you
14 do then after that?

15 A I escort the pilot down to the pilot ladder, give a
16 quick check of the pilot ladder, make sure it's secure, and
17 stand by there with -- usually we have an AB standing by also.
18 Would that have been the AB that was out on the bow?

19 A That's correct.

20 Q Does the ship slow down or speed up during that
21 time?

22 A It would slow down.

23 Q And did you -- about what time did you go down to
24 assist the pilot off the boat? Off the tanker?

25 A We have, pilot is logged off at 2324, so it takes

1 maybe three or four minutes to get down there.

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

4 A No.

5 Q And after the pilot disembarks, what did you do?

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

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

11 A The master and Harry Claar.

12 Q What did you do then when you got up to the bridge?

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

22 Q Let's stop right there because you said a lot right
23 there.

24 I'd like you to talk about how you take a fix. You
25 go out -- in this case you talked about going out on the

1 starboard wing.

2 A That's correct.

3 Q Okay. What do you do when you get out on the
4 starboard wing?

5 A At the repeater we have -- on the repeater we have
6 something that we mount on there called an azimuth circle.

7 Q Okay.

8 A What that is is a graduated circle and it has two
9 sight vanes on it. And it's --

10 Q What's a sight vane?

11 A It's a sight vane.

12 Q Something you look down?

13 A Yeah, you look through it. It's kind of like
14 looking -- sighting down the barrel of a rifle in a sense.
15 One of the vanes has a very thin piece of wire. The other's
16 kind of like a peephole that you would look through.

17 Q Okay.

18 And you set that out on the reflector?

19 A Yes.

20 Q What do you look at?

21 A In this instance I --

22 Q You can refer to the map.

23 A -- I took a visual sight of this buoy and as I
24 recall the Busby Island Light.

25 Q Now when you say you took a visual sight of these,

1 what does that mean?

2 A That means I aligned the azimuth circle up and
3 sighted the light through the sight vanes. And that --

4 Q And what does that tell you?

5 A Well, that gives me a bearing from my position to
6 the light.

7 Q When you say a bearing, can you explain what you
8 mean by that to the jury?

9 A From -- I don't know what the -- I don't recall what
10 the bearing was to, say, this buoy, but from -- say it was
11 3-2-5, in other words, from where I am standing from north you
12 come around to 3-2-5.

13 Q So let's say you were -- let's give an example that
14 is a little bit easier. What if you were abeam of this Rocky
15 Point Light and you were heading in the southbound lane. What
16 would it register out on the port side when you looked at --

17 A 90 degrees less than you are heading.

18 Q 90 degrees less than you are heading? And that is
19 because when you are abeam you are perpendicular --

20 A That's correct.

21 Q Now, once you take these two bearings, what do you
22 do? What did you do?

23 A I recall I also took a range.

24 Q A range? How do you take a range?

25 A From the --

1 Q Well, let's start a little bit -- what do you mean
2 when you say a range?

3 A A distance.

4 Q And how do you take a distance measurement?

5 A From the radar. It is outfitted with a little
6 device called a variable range marker. What it is is kind of
7 like a thumb wheel that expands or contracts a circle on the
8 radar screen.

9 Q Does it have a -- is there a little dot in center of
10 the radar where your ship is located?

11 A Yeah.

12 Q And then are there circles around that that you can
13 move in and out?

14 A No. Well, those are -- there are fixed range rings
15 and the other is the variable range marker.

16 Q Maybe if I got you to draw that, the circles around
17 the thing, that might be a little help.

18 Can you give the jury an idea of what it looks like
19 when you look through the radar and you're -- the circle, the
20 range finder that you just talked about.

21 A That's the center of the screen. You have fixed
22 range rings that you can dim or brighten as whatever your
23 preference. But as I recall there's six of them and they
24 would look something like this. Actually a little bit --
25 anyway, you would have six of these fixed range rings.

1 A variable range marker, if you took it down to zero
2 and started up with it, saying heading for six miles, you
3 would see a circle or a line originate here and expand out
4 ward like this. Of course, as it moves, this disappears until
5 you finally have a circle. And you can move this circle to
6 whatever range you want. These don't -- the fixed range rings
7 are fixed. They don't change. Only the scale will change.
8 If this is on a six mile range, then each one of these rings
9 would represent one mile. If it was a twelve mile range, they
10 would represent increments of two miles between rings.

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

12 A Certainly.

13 Q What you would do then is you would pick up -- you
14 would see the buoy on your radar and then you would move the
15 ring -- the variable ring to a point where you could determine
16 how far that was from your ship?

17 A Yes. I don't think that -- if you're referring
18 specifically to that fix, I think it was a point of land.

19 Q Just generally.

20 A Yeah.

21 Q And then with the -- when do you look at your clock?
22 At your watch? During this process?

23 A At the time of the fix.

24 Q At the time of the fix?

25 A Yes.

1 Q When you're putting it down or when you're out on
2 the wing?

3 A When I'm out on the wing.

4 Q You just hold your hand up something like this when
5 you're looking through it?

6 A Yeah, I'd take the sights real quick and I'll look
7 at my watch. By the time I have gotten into the radar --
8 normally you'd set up your range in advance so you don't have
9 to waste any time finding the range on whatever you're -- you
10 want a distance to. So you may have lost maybe a second or
11 two, but no more.

12 Q So then you went back to the chart room after taking
13 your range, and what do you do in the chart room?

14 A You plot the fix.

15 Q Can you explain to the jury -- what instruments do
16 you use to plot a fix?

17 A They have triangular protractors to measure angles.

18 Q Okay.

19 And do you have anything that draws a curve there?

20 A Compasses. Just compasses. These are dividers and
21 compasses are very similar except one leg has a piece of lead.

22 Q Now in a compass, how would you find out -- how
23 would you use the compass to draw your arc for the range from
24 a particular point?

25 A If something was, say, five miles away, you would go

1 to your scale, find five miles. Pick out the point of land
2 that you measured the distance, and just draw an arc.

3 Q And that arc, on a compass it would have a pencil?

4 A Yes.

5 Q And then you could draw just kind of a partial arc?

6 A Yes.

7 Q And then how do you determine the angle that you
8 come out from that point? In other words, place yourself on
9 that arc. How do you do that?

10 A Well, you have to -- if you take a bearing off this
11 buoy using the protractor, whatever you have sighted out on
12 the repeater, using a meridian in a triangular protractors
13 that we have on board, measure the angle.

14 Q So you did all this and you took a -- you actually
15 plotted that. Do you remember what the time you wrote down on
16 that plot was?

17 A Well, it's not in the -- let's see, in the bell
18 book. 23 -- oh, it was on the original chart and it didn't
19 get logged.

20 Q Okay.

21 If I showed you a copy of the original chart, would
22 that refresh your recollection?

23 A 2339 comes to mind. I think that is probably pretty
24 close.

25 (Pause.)

1 Q Does that refresh your recollection of the time?

2 A Yes. 2339, yes.

3 Q Now, 2339 would have been the time that you were
4 doing -- where would you have been physically at 2339?

5 A That's the time that I had finished the two sights.

6 Q So you were out on the bridge wing?

7 A Take the two sights --

8 Q The starboard wing?

9 A Yes, right.

10 Q And then you came in. And then what happened after
11 that? After you got through plotting those -- that fix?

12 A I returned to the starboard radar, assessing what
13 lay before us. That's -- I saw the ice on -- I saw ice on
14 radar prior to getting this fix, and at that point the Captain
15 said we're going to divert around the ice.

16 Q What was the starboard radar set at, do you remember?
17 ber?

18 A It may have been initially on the twelve mile scale.

19 Q Is it common to use the radar at a greater distance
20 than twelve or twenty-four miles?

21 A Greater than?

22 Q Yeah.

23 A In that area?

24 Q No, more than those.

25 A In that area?

1 Q Yeah.

2 A There's no need to.

3 Q And when you had seen the ice initially, where --
4 what did you see on the radar. You said you had seen the ice
5 prior?

6 A Yes.

7 Q When was that?

8 A In the process of taking this fix, I noticed what
9 appeared to me to be ice in front of us a number of miles. I
10 don't remember the range exactly. But I -- the Captain
11 directed me to take a fix. I didn't have time to stand there
12 and study the radar looking at the ice. I was following the
13 Captain's orders.

14 Q Where was the Captain when you were doing all this?

15 A Taking the fix?

16 Q Yes.

17 A He was standing in front of the console, as I
18 recall.

19 Q Can you point to that?

20 A Here. He was, I believe, between here and here. He
21 was walking back and forth.

22 Q Was he in a position to see the rudder angle in-
23 dicator and the heading indicator?

24 A Yes.

25 Q Who would have been watching the helmsman during

1 this time to make sure that was following the instructions in
2 the turning?

3 A The Captain.

4 Q You weren't able to do it during that time because
5 why?

6 A Taking the fix.

7 Q What -- what happens then after that?

8 A After the plot? We've turned?

9 Q Yeah. Then you -- you have a conversation with the
10 Captain.

11 A I attempt to visually sight the ice. It was a very
12 dark night. I knew there was practically no chance of seeing
13 ice, but give it a shot.

14 Q How did you do that?

15 A Well, with binoculars and with the naked eye.

16 Q Where did you go to do this?

17 A I was inside and I had also stepped just outside the
18 bridge door.

19 Q What was the weather like at -- during -- about that
20 time?

21 A I recall, misty. It had cleared some. I recall it
22 was almost a light rain, very misty night. As we approached
23 the Narrows, it seemed to clear up for a while, and then it
24 got misty again.

25 Q So it was a little bit tough at the beginning and

1 then cleared up and then --

2 A Cleared out and then it misted up again.

3 Q Were you able to see anything, any of the ice when
4 you tried to attempt a visual?

5 A No, I couldn't.

6 Q How about the seas? Were there any heavy swells
7 during that time?

8 A No. Calm seas.

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

12 A Yes. At 2324 we went back up to full ahead
13 maneuvering.

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

15 A No, I was down on deck. The Captain did that.

16 Q How would you describe what happened then after you
17 have taken your fix and the Captain has told you his
18 intentions to divert. Was there anything else that was
19 discussed at that point?

20 A Not at that point. I was checking to see how this
21 maneuver was going to progress and that entailed checking the
22 extent of the ice and with those ranges I went back and just
23 did a quick check -- a check on the chart. When I returned to
24 the forward part of the bridge, the Captain said that he had
25 contacted -- I think I initiated the conversation. I said you

1 want me to call traffic, and he said I already talked to them.

2 Q Why did you mention -- why did you ask him about
3 that?

4 A Well, I didn't know if he had called him yet. That
5 is standard procedure that you do call. I was just checking
6 to see whether, you know, I should call him or if he wanted to
7 talk to him.

8 Q Now you indicated just a minute ago you were
9 checking to -- you were taking some ranges to check and see
10 how this maneuver would go. Is that something that the
11 Captain had pointed out what he wanted to do, or were you in
12 your own mind thinking what you wanted the ship to do? Or
13 what did you mean by maneuver?

14 A Well, at this time we've -- at the time of the fire
15 we were already here in the separation zone. The Captain
16 hadn't given me any instructions or told me exactly what we
17 were going to do other than we were going to divert and at
18 that -- I don't know that he said we'll take the inbound lane.
19 But that's what I assumed. That's when I took the -- and
20 that's right after -- during the time that I was looking for
21 ice visually. Returned to the radar, took some ranges, went
22 back into the --

23 Q The ranges that you took, were they of the ice,
24 where the ice was, how far away it was?

25 A Yes. And it was right at that time that the Captain

1 told me what he had in mind.

2 Q So did you -- when you went back after taking the
3 ranges and you went back to the chart room to take -- am I
4 right, you go back to the chart room to plot out in your mind
5 basically a rough outline of where you're going to go?

6 A Yes. Well, I didn't know exactly where we were
7 going to go. What I wanted to know, I believe the course that
8 we were coming to as I was going back was 2-0-0. And I was
9 wanting to know where 2-0-0, where that was going to lead us,
10 if it was going to get us around the ice or not. Upon
11 returning to the radar, the Captain said we're going to come
12 down to Busby and go around. I believe I went back into the
13 chart room and using the ranges that I had had before, helped
14 me get a better visual picture of how this new course that he
15 was coming to, 180, would look as far as getting around the
16 ice.

17 Q So you took it from when he said we're going to go
18 down to Busby and go around that he was going to put it
19 change course to 180 then?

20 A I believe he was already coming to 180.

21 Q When you -- when you first took the first check in
22 the chart room to determine whether or not you were going to
23 clear the ice at a heading of 200, what did you find?

24 A I found that if we were going to use the inbound
25 lane that we were going to be in ice.

1 Q When you -- when the Captain indicated that you were
2 going to go to 180, did that take you -- was that going to
3 take you out of the TSS, the vessel -- the deep sea -- the
4 vessel traffic lane?

5 A Yes, it would. And I don't -- at that time I am not
6 positive that we were out. And it's when we were coming to
7 180 that the Captain informed me of his intentions to come
8 down to Busby and he was aware that that -- I believe that he
9 was -- that we were going to be out of lanes. I may have said
10 something to the effect that we will be out of the lanes or
11 that the ice is across not only both lanes, but all the way
12 across, extending past the lane.

13 Q Would you take a -- take a marker and show the jury
14 -- this green one here -- where the ice was when you looked
15 through the radar?

16 (Pause.)

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

20 Q And this is when you are taking the ranges and
21 looking out and seeing where this is, right?

22 A Correct.

23 Q And is Captain Hazelwood looking at the same radar?

24 A Captain Hazelwood looked at the ten centimeter, but
25 typically he will use the three centimeter when he is

1 maneuvering.

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

4 A Certainly.

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

7 A Well, that's kind of difficult to describe. It
8 probably may be very difficult to differentiate between a
9 large chunk of ice and a fishing vessel. They might appear
10 the same on radar. The one thing that would tip you off that
11 it is ice is that you're in Prince William Sound and we have
12 been there before and we know that there's an increasing
13 amount of ice being calved off the glacier and ending up out
14 here in the lanes. And when you get the number of returns
15 that you are getting in the confines of a silhouette similar
16 to this, that you know that it's ice.

17 Q Okay.

18 Well, is it a -- is it -- when you look at the radar
19 is just little dots or is it a mass across on that one?

20 A It wasn't -- no, it wasn't a mass. There were
21 specific individual targets, pieces of ice. Some of the
22 targets did probably paint together. Does that answer your
23 question?

24 Q Are there any problems with picking up ice on a
25 radar?

1 A There could be. Depends on the aspect of the ice.
2 If it's -- what type of ice it is. If it's small pieces of
3 ice, you may not pick them up. Ice is a fairly good reflector
4 of radio waves, and if they are big enough, you'd get a good
5 return. Depending on a number of other factors also. Whether
6 your radar is tuned properly and whether you're operating in
7 foul weather.

8 Q Does it make any difference how far away or what
9 scale you're using on the radar?

10 A Yes, it would.

11 Q Can you explain how that affects the picking up of
12 ice on the radar?

13 A Well, I don't know if it is an adequate explanation.
14 It is just that the size of the ice, for one thing, would make
15 it difficult for -- probably impossible to -- no, I won't say
16 impossible, but highly unlikely to pick up ice, say, at a
17 twenty-four mile range. It just doesn't -- not a big enough
18 object level.

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

22 A I would say so.

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

24 A yes. If it's --

25 Q Why is that?

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

5 Q And the risk of rupturing the hull, what's the risk
6 of rupture -- what happens when you rupture the hull of a
7 tanker?

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

10 Q Are there certain warnings on these charts that you
11 have about the icy conditions that you have in Prince William
12 Sound?

13 A Well, I don't know if there -- there may be a note
14 on -- I am not as familiar with this chart as I used to be,
15 but -- as far as the notes -- but in the Coast Pilots, which
16 we review all the time, there is the mention of ice, yes.

17 Q Okay.

18 And the notes that you're talking about in this case
19 would be note E, is that right?

20 A Yes.

21 Q And that says during the calving season, the
22 Columbia Glacier deposits ice which may drift into the
23 northern part of the Prince William Sound. Mariners are
24 advised to exercise extreme caution and report all ice
25 sightings.

1 A That's correct.

2 Q So when you encounter icy conditions -- serious icy
3 conditions, they are something that you need to take into
4 consideration in how the ship is operated?

5 A That's correct.

6 Q During this time you are talking with the Captain,
7 did he ever tell you what course he wanted you to take to get
8 around this ice?

9 A No, there was no course mentioned.

10 Q Did he ever go to the chart room and point out on a
11 chart what he wanted to do, lay out a track for you?

12 A We did all of this right at the radar.

13 Q Now, so what happened then after you -- the tanker
14 started to make its 180 degree turn? Do you remember that?

15 A I don't quite --

16 Q Okay.

17 What did you do after -- after going back into the
18 chart room for the second time and apparently you said the
19 tanker started to turn to a heading of 180.

20 A I believe -- this is the second? I believe the --
21 we may have already been on the 180.

22 Q Okay.

23 A After the first set of instructions from Captain
24 Hazelwood, I did go back to the chart room and look at abeam
25 - what abeam Busby is going to look like, about how far we're

1 going to be off, and using what I had as prior knowledge as to
2 the -- what I determined to be the bottom edge of the ice
3 floe, whether we are going to be able to make this turn
4 without any problems.

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

7 A The Captain.

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

10 A The Captain.

11 Maybe I should clarify something, because it -- I
12 may have given the impression that the watch officer, one of
13 his duties specifically is to watch the helmsman. That is
14 something that you do when you're again out here, but a
15 conning officer really is the officer that is monitoring the
16 helmsman. If you look at what the watch officer is supposed
17 to do, take telegraph orders, provide navigational
18 information, handle any communications if that is necessary,
19 his attention quite frequently can be diverted from
20 concentrating on the helmsman. So typically, you know, a good
21 pilot or a good conning officer doesn't necessarily rely on
22 the watch officer. But as an officer you want to do those
23 things. It becomes just second nature that if you're standing
24 there and you hear the conning officer give an order, that you
25 observe the helmsman as well.

1 Q Okay.

2 Let's talk about that just for a minute. Who had
3 the conn then on that evening while -- after the pilot left
4 the bridge?

5 A The master.

6 Q And that would be Captain Hazelwood?

7 A Captain Hazelwood, that's correct.

8 Q What do you mean by having the conn. Would you
9 explain that term of art to the jury?

10 A Well, it's short for having control of the direction
11 of the vessel.

12 Q And is there a procedure whereby you -- what happens
13 when somebody wants to be removed from the conn, or somebody
14 - you want to turn over the conn to someone else. What do you
15 do then?

16 A Turn it over, you say, you've got it.

17 Q Is there any information that is passed between the
18 two officers?

19 A Yes. There would be course. He'd say, you know,
20 I'm steering such and such a course. If there were any other
21 specific instructions, he'd pass those along. If there was
22 any -- the course, typically passing that along to somebody
23 that's been there. So --

24 Q How about whether or not it is on automatic pilot?

25 A Yes, that would be stated.

1 Q So when you were on the bridge that evening, between
2 the time the pilot was on and the time we're talking about,
3 you were what is known as a watch officer?

4 A That's correct.

5 Q And Captain Hazelwood was the conning officer at
6 that time?

7 A That's correct.

8 Q And your responsibilities were to help him through
9 the things that you talked about, the telegraph orders, the
10 navigational points, and charting out the potential problems
11 in the future?

12 A Correct.

13 Q Okay.

14 About what time is all this happening? Do you have
15 an idea of when -- of this -- the looking at the chart, the
16 radars and talking with the Captain the first time and the
17 tanker coming to 180?

18 A Oh, from somewhere in the neighborhood of 2345 to
19 2350. That's not very precise, but that's in that time frame,
20 I would say.

21 Q Now you were supposed to get off at 11:50?

22 A That's correct.

23 Q What's the normal procedure for the -- for the next
24 person to get calls to come up and replace you?

25 A Well, I would normally call my relief at twenty

1 after 11:00.

2 Q Did you do that on this evening?

3 A No, I didn't.

4 Q Why not?

5 A I was on deck.

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

7 A That's correct.

8 Q Did you -- when you got back up on the bridge, did
9 you call him after that?

10 A No, I didn't.

11 Q What time did the other people change up that
12 evening?

13 A At their normal relief time, about ten minutes to
14 the hour.

15 Q And who came up and replaced Mr. Claar?

16 A Robert Kagan.

17 Q And who was the other AB that came on board or came
18 on duty at ten 'til?

19 A Maureen Jones.

20 Q Where did Maureen Jones get assigned to?

21 A A where did she get assigned to?

22 Q Yeah, where did she go when she came up?

23 A There was up -- back to the bridge wing. I guess
24 she had -- there was some confusion as to where the lookout
25 was going to be posted. In the course of my doing things, I

1 missed the fact that the bow lookout had been pulled back to
2 the starboard bridge wing. And I recall, there was a short
3 phone conversation that I had with Maureen. She'd called and
4 said where's the lookout, and I said it was up on the bow. So
5 evidently she had started up towards the bow and we'd asked
6 Paul Radtke if he could catch her before she got all the way
7 up there, to let her know that the lookout had been shifted.

8 Q And then she came up to the bridge?

9 A Yes.

10 Q Were you aware of the tanker going on automatic
11 pilot that evening? Being placed on -- when it got placed on
12 automatic pilot?

13 A No.

14 Q Did you talk to the Captain about that at all, the
15 tanker being on automatic pilot?

16 A No.

17 Q So we -- we've talked up to about 11:45 and we are
18 getting to the shift change. The Captain has laid out a
19 course that he wants you to take at the radar. What happened
20 then?

21 A I believe we are a little bit further along now.

22 Q Okay.

23 A During the -- the -- this is a time when I was back
24 and forth between the chart room and the radar. By the time -
25 - by the time the lookout and helmsman were being relieved,

1 the Captain had already told me of his intentions to come to
2 abeam Busby, head back towards the lane at that point.

3 Q Head back towards the what?

4 A The lanes.

5 Q The lanes? Okay.

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

8 A That's correct.

9 Q And when the watch changed, what information was
10 exchanged between the two helmsmen?

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

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

16 A When Mr. Clair was relieved.

17 Q Did you hear any -- sorry.

18 What headings are announced at that time? The gyro
19 headings?

20 A Gyro.

21 Q How about the magnetic heading?

22 A No.

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

25 A A gyro head -- a gyro is referenced to true north.

1 Magnetic is referenced towards the magnetic poles. And I
2 think it might help them to see something like this where it
3 shows a magnetic compass and where true north is. Basically
4 that is the difference between magnetic and gyros, is one is
5 magnetic and one is true.

6 Q Okay.

7 Is there a term for this difference?

8 A You mean the variation?

9 Q Yeah. Okay.

10 And does that change depending on where you are in
11 the world?

12 A Yes.

13 Q And in Prince William Sound, do you what it is
14 approximately?

15 A I don't remember.

16 Q Do you check those things at certain points on a
17 voyage?

18 A Oh, yes, daily.

19 Q I am showing you what has been identified as
20 Plaintiff's Exhibit Number 82. Did you recognize that?

21 A Yes.

22 Q What is that a copy of?

23 A The compass observation book. Typically each watch
24 will check -- do a compass check.

25 Q And is this a fair and accurate representation of

1 the compass book that was on the Exxon Valdez on March 23rd,
2 1989?

3 A yes.

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

6 MR. MADSON: No objection.

7 THE COURT: Admitted.

8 (State's Exhibit Number 82
9 was admitted in evidence.)

10 BY MR. COLE: (Resuming)

11 Q Now, when you're testing this, do you test the
12 distinction between magnetic north and true north while under
13 way?

14 A Yes.

15 Q And you've got a true heading on your gyro and you
16 get a magnetic heading?

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

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

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

24 Q Now, after the changing of the crew members, the
25 helmsman --

1 A Uh-huh.

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

4 A Yes. 2352.

5 Q How did that happen?

6 A How does it happen?

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

8 A That -- to increase the speed. That -- your -- is
9 it -- at full ahead maneuvering, that is as fast as you can go
10 without doing something else, and that something else is
11 starting the load program up. And what that is is a computer
12 controlled sequence of slowly, gradually increasing RPM.

13 Q And it is done according to a computer program.

14 A That's correct.

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

17 A I don't really recall. It's somewhere in the
18 neighborhood of forty minutes, I think. I would need to ask
19 an engineer, I guess.

20 Q And why did you go up to sea speed at 11:52? Why
21 did you load up the program to go up to sea speed?

22 A Well, we didn't have any specific instruction or
23 conversation about that, but this is after the Captain and I
24 discussed the impending maneuver, and I took it to be that --
25 to -- he wanted some -- a little bit more speed to complete

1 the maneuver.

2 Q Who made the decision to load the program up?

3 A The Captain.

4 Q And again, what time was that?

5 A I have the log as 2352.

6 Q That would be 11:52 twenty-four hour time?

7 A That's correct.

8 Q How long did the Captain stay on board after he gave
9 that order?

10 MR. MADSON: Excuse me; on board?

11 BY MR. COLE: (Resuming)

12 Q On deck; I'm sorry.

13 A On the bridge.

14 About a minute and a half, I guess. Perhaps two
15 minutes.

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

18 A I had another discussion with the Captain. Looking
19 at the radar again and going through -- going over his
20 instructions.

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

23 A He asked if I felt comfortable with what we were
24 going to do, and I said yes. He said, do you feel good
25 enough that I can go below and get some paperwork out of the

1 way? And I said I felt quite comfortable. Matter of fact, I
2 was asked that twice.

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

5 A Oh, he indicated that he should be just a few
6 minutes. But the full conversation was, I should be just a
7 few minutes, but give me a call when you start the turn if I
8 am not back up on the bridge.

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

11 A No.

12 MR. MADSON: Object. That's an inference that isn't
13 necessary, your Honor.

14 THE COURT: Objection overruled. That's
15 argumentative, Mr. Cole.

16 MR. COLE: I'll withdraw that.

17 THE COURT: Mr. Cole, we're at our lunch hour.
18 Would this be an appropriate time to recess?

19 MR. COLE: Uh-huh.

20 THE COURT: We'll take our lunch until 1:15. Again
21 ladies and gentlemen, don't discuss this matter among
22 yourselves or with any other person. Avoid the media people,
23 avoid media's information. Don't form or express an opinions
24 concerning the case.

25 We'll stand in recess.

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

(Whereupon, at 11:57 o'clock a.m., the Court stood in recess.)

AFTERNOON SESSION

(1:18 o'clock p.m.)

1
2
3 THE COURT: Okay, counsel, one of the jurors gave me
4 a note saying that she is having a -- one of them is having a
5 hard time seeing the evidence with the plastic overlay because
6 of the glare.

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

10 THE COURT: Any objection?

11 MR. MADSON: No objection, your Honor. I wonder if
12 the witness might not date and sign it though, just so we can
13 keep it clear.

14 THE COURT: The Exhibit as it is now is admitted,
15 and if it dated and signed, that is okay too.

16 (State's Exhibit Number 83
17 was marked for identification
18 and was admitted in evidence.)

19 DIRECT EXAMINATION (Resumed)

20 BY MR. COLE: (Resuming)

21 Q Now, Mr. Cousins, when we left off, we had discussed
22 the events that had occurred up to the point where the pilot
23 - the Captain left the bridge. Is that about correct?

24 A Yes.

25 Q And --

1 A Have we discussed the second time that we went over
2 the instructions?

3 Q And the second time was right prior to him leaving
4 the bridge?

5 A He would have left approximately a minute later.

6 Q What I would like to do is briefly have you list for
7 me the events as they occurred, so I can write them down here,
8 from the time you took the plots at 11:39 until the Captain
9 left. 11:39 you would have been out on the pilot -- or on the
10 --

11 A Starboard bridge wing.

12 From the bridge wing, a quick stop at the starboard
13 radar to collect the range information.

14 Q Okay.

15 A From there into the chart room to plot the fix.

16 Q Okay.

17 A From the chart room back into the forward section of
18 the bridge.

19 Q Okay.

20 Where did you go from -- where did you do when you
21 were there?

22 A I stopped at the radar again.

23 Q The starboard radar?

24 A Yes.

25 Q Okay.

1 A From there I went to the windows, picked up a pair
2 of binoculars, looked for the ice. Briefly stepped out onto
3 the bridge wing. Came back in, placed the radar -- I mean the
4 binoculars in their -- in the holders.

5 Q Can we abbreviate that, looking for ice?

6 A Yes.

7 Q Okay.

8 Okay.

9 A From there, back to the radar.

10 Q The starboard radar?

11 A Right.

12 Q Have you had your first conversation with Captain
13 Hazelwood at this point?

14 A As to coming aboard Busby? No, not yet. The only
15 conversation that we had was that we were going to divert for
16 the ice. I had asked the Captain if I should call vessel
17 traffic and inform them of what we are doing. He said that's
18 already been taken care of.

19 Q When did you say that?

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

22 Q Okay.

23 That would have been right here?

24 A Somewhere in there.

25 Q So we'll just put first conversation with Captain

1 Hazelwood.

2 A That's correct.

3 (Pause.)

4 Q Okay.

5 So you've looked for ice. You've gone back to the
6 starboard radar. And what did you do then?

7 A That's when I took my first set of ranges.

8 Q Uh-huh.

9 A Went back to the chart room. Got a visual
10 representation against a chart as to estimate of the ice.

11 Q Okay.

12 And where a course of 200 would take you?

13 A No, not necessarily a course of -- where a course of
14 200 would take us. I believe by that time he had indicated
15 that we were going to come to 180. But I am not sure of the
16 chronology there. That's a little fuzzy.

17 Q Okay.

18 So you went to the chart room again.

19 How about to plot ice?

20 A I didn't make a plot. I just used a set of dividers
21 and real quick got an estimate of what that looked like in
22 relation to the lanes.

23 Q Okay.

24 How about if I write estimate of ice in lanes.

25 A Right.

1 (Pause.)

2 Q Okay.

3 What was the next thing you did after that?

4 A Returned to the starboard radar again.

5 Q Okay.

6 A I believe at this time we were initiating the turn
7 to 180.

8 Q And where -- what would you have been doing during
9 that time?

10 A Well, that's -- it's -- at that point I told the
11 Captain that it looked like the ice was across both the lanes,
12 actually beyond the inbound lane.

13 Q Okay.

14 Would that have been your second conversation with
15 Captain Hazelwood, after you went to the radar?

16 A Yes.

17 Q That would have been somewhere in this period?

18 A Yes.

19 Q Ice in lanes basically?

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

21 (Pause.)

22 Q Okay.

23 Then what happened?

24 A It was at this time that the Captain said that we
25 are going to -- we're coming to a course of 180. We're going

1 to bring it down to abeam Busby and then cut back to the
2 lanes.

3 Q This is all in this conversation?

4 A Yes.

5 Q 180. Go 'til abeam Busby?

6 A Yes.

7 Q And cut back into the traffic lanes?

8 A Start to come back towards the lanes.

9 (Pause.)

10 Q Okay.

11 What happened then after that?

12 A I took another set of ranges and went again back to
13 the chart room briefly.

14 Q Had the shift change occurred yet?

15 A No.

16 Q So this goes down then until the chart room again?

17 A At least the helm hadn't been relieved. I'm not
18 absolutely sure about the lookout.

19 Q Now these ranges were taken, that you went to the
20 chart room, from the ice? For the ice?

21 A For the ice, yes.

22 Q And I was wondering, while we're at that point right
23 here, would you mind making that line a little bit darker so
24 that people can see exactly where you saw the ice to be?

25 (Pause.)

1 And when you saw the ice in that position, did you
2 take any ranges of how far the ice was from, say, Busby Island
3 or Bligh Reef at that time?

4 A Well, what I did was I took a range of Bligh Reef
5 buoy --

6 Q Uh-huh.

7 A -- a range of the bottom edge of that -- of the ice,
8 and just backed it up --

9 Q This would be Bligh Reef buoy then right here, this
10 little marker?

11 A That's correct.

12 Q Okay.

13 And then you took a range of the southern end of
14 the ice?

15 A Correct.

16 Q And in that way you calculated from there to there?

17 A Maybe I could kind of show you a little bit better.

18 (Pause.)

19 Approximately this --

20 Q They can't see.

21 A -- 2339 fix was here. We were coming around to a
22 course of 1-8-0. And what I did was just drop a line with a
23 protractor. I just laid the protractor from that fix.

24 Q I'll hold it, because that way the jury can't see
25 you, what you're doing right now.

1 A Okay.

2 Backed up from Bligh Reef buoy. I don't recall what
3 the range was. Got a point here. Measured from here down
4 whatever the distance was that I had gotten off and I got a
5 visual representation on a chart as opposed to just looking at
6 a -- looking at the radars, the extent of the ice across the
7 lanes.

8 Q So essentially you're traveling somewhere in this
9 area?

10 A Down. The fix is right here. By the time I was
11 taking these ranges, we were probably, oh, in here somewhere.

12 Q When you say the fix, the 2339 was right about the
13 E, is that about right?

14 A Pretty close.

15 Q Okay.

16 And you took a fix on the southern edge and on the
17 buoy?

18 A I took ranges off of this, this and just backed it
19 up -- from this range backed it up and measured the distance
20 that I had gotten off the radar for the bottom edge of the
21 ice, so I could tell where it was in relation to landmarks and
22 the reef.

23 Q Do you remember what that measurement was?

24 A Well, just from having reviewed my statements.
25 That, you know, was approximately nine-tenths between the

1 upper edge of this Bligh Reef.

2 Q Would you put a mark there where the nine-tenths
3 extended down to, where you were talking about?

4 A From here in a generally -- kind of a northwesterly.
5 That was the closest point to the reef that the ice approached
6 the reef.

7 Q How about this range? Did you ever take what the
8 eastern edge of the ice was to Busby?

9 A I think I did but I don't remember.

10 Q Okay. That's fine. Thank you.

11 Now, when you went back to the chart room here, you
12 had gotten up to this point, you had the second conversation
13 with Captain Hazelwood?

14 A yes.

15 Q What did you do in the chart room here?

16 A That's what we were talking about.

17 Q Okay.

18 So this would be ice pack calculations? Fair?

19 A Yeah. That's -- also when the Captain expects you
20 to check his orders. That is part of procedure in a routine,
21 to confirm that what he wants to do is proper and right. So
22 that had a double purpose.

23 Q How about area of ice and --

24 A Actually one leads to the other.

25 Q Okay.

1 Checking navigation.

2 A Right.

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

5 A Upon returning to again the starboard radar, I told
6 the Captain that it looked like when we get down to Busby,
7 we'll be entirely out of the system, but that we had plenty of
8 room to make the maneuver.

9 Q So this would be back to the starboard radar.

10 A That's correct. That's approximately the time that
11 the load program started.

12 Q Okay.

13 Well, when would the crew have changed then?

14 A Sometime in that period of me going back and forth
15 from the radar to the chart room, back out.

16 Q Okay.

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

22 Q Okay.

23 So load program and then the crew change, or the
24 crew change and then the load program? Or all about the same
25 time?

1 A All about the same time.

2 (Pause.)

3 Q And when was the load program up command given?

4 A 2352; 11:52.

5 Q And then is when you had your third conversation
6 with Captain Hazelwood?

7 A Yes.

8 (Pause.)

9 Q And that was about the location of the ice?

10 A No, we had already discussed that. The third and
11 last conversation was again going over what he wanted to do as
12 far as making the turn, point of execution --

13 Q Okay.

14 Navigation orders.

15 A I'd say, yeah.

16 Q And this was again held at the radar?

17 A That's correct.

18 Q Was there ever any course heading giving on this?
19 Given on this?

20 A No, there wasn't.

21 Q Were you ever told a range away from the land in
22 which to turn, or anything like that? Any particular point?

23 A The reference was abeam Busby begin the turn back
24 towards the lanes.

25 Q Any indication as to what rudder to use or anything

1 like that?

2 A No.

3 Q And at that time you were told that he want -- was
4 going to leave the bridge?

5 A His words were, do you still feel comfortable with
6 this. And I said, yes. He said, do you mind if I go down
7 and get some paperwork out of the way, and I said it would be
8 fine. And he said, well, I should only be just a minute or so
9 anyway. If I am not back on the bridge, give me a call, when
10 you start the turn.

11 Q How about, leaving the bridge instructions.

12 (Pause.)

13 And when would he have left the bridge then?

14 A Approximately 2354.

15 Q One or two minutes after the load up program?

16 A Yes.

17 (Pause.)

18 Q Okay.

19 What did you do then after Captain Hazelwood left
20 the bridge?

21 A I went to the helm and put into hand steering.

22 Q Why did you do that?

23 A Because we were about to make our course change.

24 Q And that would have been at Busby?

25 A Correct.

1 Q Where did you go then after that?

2 A I went to the port radar. I shifted scales on that.
3 I believe it had been on the six mile range. I shifted it to
4 the three mile scale. Prepared to take the fix on Busby
5 light. Set variable range marker up in advance. By that time
6 we were nearly abeam Busby Light and I went out to the -- went
7 out on the port bridge wing, prepared to take a sight on the
8 light.

9 Q And what time did you take that fix?

10 A At 2355.

11 Q And where was Busby light at that time?

12 A It was abeam.

13 Q When you say abeam, what do you mean?

14 A 90 degrees away from the heading of the vessel.

15 Q Okay.

16 A 0-9-0, bearing 0-9-0.

17 Q What happened after you had taken that fix there?

18 A I went to the port radar to check the range again.
19 Went into the chart room, plotted the fix.

20 Q Who was watching the helmsman at this point?

21 A There was no one watching the helmsman.

22 Q And while you were in the chart room, what happened?

23 A During my plotting of the fix the lookout came back
24 into the chart room, reported a red flashing light, five
25 second flashing red light.

1 Q What did that tell you?

2 A I knew that to be Bligh Reef buoy. We had had that
3 on radar for quite some time.

4 Q Where did she say it was?

5 A She said it was broad on the starboard bow, as I
6 recall.

7 Q Would you tell the jury what that broad on the
8 starboard bow would mean?

9 A We have a system of reporting objects and we call
10 them points. Broad on the bow is another way of saying four
11 points. Each point represents eleven and a quarter degrees.
12 So four points or broad on the bow is 45 degrees. We call
13 these relative bearings.

14 Q So if you were -- if this were the bow of the tanker
15 -- I'm sure it's a little more pointed than that.

16 A Much.

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

19 A Okay. After I do that I would kind of like to
20 explain something about this.

21 Q Sure.

22 A Well, approximately like this. 45 degrees from the
23 heading.

24 Q And then what would be the abeam one so that they
25 can get a reference?

1 Okay.

2 A Well call these relative bearings, and I kind of
3 take it to have a double meaning in that a reference -- an
4 individuals reference to an object at a distance, depending on
5 where they are standing on the vessel, has a bearing on how
6 they perceive or where they perceive that object to be in
7 relation to the centerline of the vessel, which is where the
8 points originate at, from, the centerline on. So you -- as
9 long as they have it on the right side of the ship, if you're
10 reporting something on the bow, you know at least they're
11 looking out. So I would take, for example, someone reporting
12 an object being broad on the bow with a certain grain of salt
13 in that it may not be exactly broad on the bow because of
14 their position on the vessel, where they're standing on the
15 vessel.

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

18 A No. I knew that we had a red light off the
19 starboard side. I had that on radar.

20 Q What -- would you explain to the jury what having a
21 red light off the starboard side, can that be a concern in
22 some instances?

23 A In this instance, I expected it to be on the
24 starboard bow until we attempted the maneuver, until we
25 started the maneuver.

1 Q What --

2 (Pause.)

3 Let me rephrase that.

4 What did you do after you learned this information
5 from Miss Jones?

6 A That was at the end of a plot. I returned to the
7 forward section of the bridge. I gave the 109 right rudder
8 command to the helmsman.

9 Q And who was the helmsman at that time?

10 A Robert Kagan.

11 Q Where were you when you gave that command?

12 A On the port side of the bridge.

13 Q What did you do after you gave him that command?

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

17 Q Where was the Captain?

18 A In his office.

19 Q What else did you tell him?

20 A There was a short conversation. I told him it
21 looked like we may get into the bottom edge of the ice and he
22 responded by saying is it going to be -- does it look like
23 it's going to be a real problem. I said, no, I don't think
24 that it will. My intent was just to ease it around the
25 corner. The conversation went to whether the second mate had

1 arrived on the bridge yet.

2 Q Who asked that?

3 A The Captain.

4 Q Had you called the second mate at all?

5 A No, I hadn't.

6 Q And what else did you talk about?

7 A Well, the conversation went, has Lloyd shown up
8 yet, and I said, no, I was going to give him a call as soon as
9 we complete the maneuver and get squared away in the lanes,
10 I'll give him a call.

11 The Captain inquired about had the lookouts had got
12 everything straightened out, and there was an additional bit
13 of conversation that didn't really -- it was just kind of a
14 commentary.

15 Q What was that?

16 A Oh, I think probably in reference to no one really,
17 complaining about they headed in the wrong directions as
18 sometimes some of the more experience sailors might tend to do
19 if they walked down four or five flights of stairs and headed
20 one way and had to turn around and come back. I mean, that's
21 how -- that's what I took it to be.

22 Q Would you say that again? I didn't catch that.

23 A I think the comment was, well -- I don't exactly
24 remember the phrase, but God bless the young or something like
25 that, and I just took that to be a reference to that no one

1 was squawking about the fact that I told somebody to go in the
2 wrong direction. In reference to the lookouts.

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

4 A There's a phone that is nearly directly behind or
5 aft of the port radar on that partial bulkhead between the
6 chart room and the nav area.

7 Q Maybe you could point that out?

8 A Well, I lost my --

9 (Pause.)

10 That would be either here or here, one of those.

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

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

13 Q How long did the conversation between you and
14 Captain Hazelwood occur? Or take?

15 A In the process of sitting down and kind of trying to
16 reconstruct it and timing it, it appears that the conversation
17 lasted perhaps a little bit more than a minute and a half.

18 Q When you said, it looks like we're not going -- you
19 may still run into the lead edge of the ice, what did you mean
20 by that in this conversation?

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

25 Q Okay.

1 Would you mind pointing out to the jury what you
2 mean by that?

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

8 Q So you knew that you would be getting --

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

11 Q Okay.

12 Did you tell him about what time you'd be cutting
13 through that gap or anything?

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

15 Q What happened then after you ended the phone
16 conversation?

17 A Returned to the port radar. It became obvious then
18 that we hadn't done anything. That is -- that's really, the
19 first time that I observed the rudder angle indicator.

20 Q Is that the first time that you looked at the rudder
21 angle indicator?

22 THE COURT: Was that a yes or a no?

23 THE WITNESS: Yes.

24 BY MR. COLE: (Resuming)

25 Q When you looked at it, what did it read?

1 A As I recall, 6 or 7 degrees right rudder.

2 Q What was the course heading at that time?

3 A I don't recall. It seems like it was 180 and some
4 tenths. Not real clear on that.

5 Q What did you do then?

6 A I said get the rudder at 10 right. I stepped out --
7 from there I stepped out to -- I believe I paused for a
8 moment at the -- again at the same radar, went out to the port
9 bridge wing, took a look back at Busby Light.

10 Q Why did you do that?

11 A Busby Island Light is a sectored light.

12 Q Okay.

13 A And by looking back it would have been a quick tell
14 whether I was standing into that red sector of that particular
15 light.

16 MR. COLE: Judge, I am going to ask him to come a
17 little bit closer so that he can show this jury this subject.
18 If you could just step up here and grab your staff.

19 THE WITNESS: I feel like I'm on a leash.

20 BY MR. COLE: (Resuming)

21 Q What do you mean by a red sector?

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

1 here is white.

2 Q Okay.

3 Now is it marked on the map in any way?

4 A It says red sector --

5 Q Charts?

6 A Red sector.

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

9 A Yes.

10 Q And if you cross over that, what type of lights
11 would you expect to see?

12 A You would go from white to red. It is not
13 necessarily a clearly defined area where if you were on this
14 side of the little dotted line you'd definitely see white and
15 if you were just standing on the dotted line, you'd
16 necessarily see red, because of the way these things are
17 constructed. You would see a bleeding of white into red or
18 red into white in this, in kind of a narrow part of this
19 portion of the sector. But you would definitely see the red
20 sector if you were a tenth or so inside.

21 Q What did you see when you were --

22 A I saw a white light.

23 Q On Busby?

24 A yes.

25 Q What about on -- could you see Eligh Reef?

1 A Oh, yes, we saw Bligh Reef from up here.

2 Q And what color was it?

3 A That's a red flashing.

4 Q Now, who was watching Mr. Kagan while you were out
5 checking the Busby Island Light?

6 A No one.

7 (Pause.)

8 Q What did you do then after you came back in off the
9 wing?

10 A At that time I ordered a right 20.

11 Q Why did you do that?

12 A Because we hadn't turned.

13 Q When you came back in did you look up at the heading
14 indicator?

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

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

18 A Just by using a radar I could tell that we hadn't
19 turned. By the time that I had ordered -- by the time that I
20 had ordered the 20 right, I believe then that there had been
21 the beginning -- the initial part of the turn had started.

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

25 A He said he ought to be just a couple minutes more

1 and he would be finished up and be back up.

2 Q Now, did you watch the vessel turn after you ordered
3 20 degrees right rudder?

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

12 Q Let me get out a photograph here.

13 (Pause.)

14 Now you, when you were plotting these lines and
15 making your marks, you were doing them on a chart that was on
16 board the ship that evening?

17 A Yes.

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

20 A Uh-huh.

21 Q I would ask you to take a look at what has been
22 marked for identification as Plaintiff's Exhibit Number 30 and
23 Number 29, and ask you if you recognize those two pictures?

24 A Yes, I do.

25 Q Would you start with what has been identified as

1 Plaintiff's Exhibit Number 29, and tell -- what is that a
2 picture of?

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

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

8 A Yes.

9 MR. COLE: I would move for the admission of what
10 has been previously identified as Plaintiff's Exhibit Number
11 29.

12 MR. MADSON: No objection.

13 THE COURT: It is admitted.

14 (State's Exhibit Number 29
15 was admitted in evidence.)

16 BY MR. COLE: (Resuming)

17 Q And can you tell the jury what Plaintiff's Exhibit
18 Number 30 -- 30, is that -- what is that a picture of?

19 A It's an expanded section of the chart showing the
20 2355 fix off of Busby Island Light, it's showing these marks
21 that I referred to that I believe to be something that I did
22 in haste.

23 Q Is that a fair and accurate photograph of that
24 chart?

25 A Yes, it is.

1 MR. COLE: I would move for the admission of what
2 has previously been identified as Plaintiff's Exhibit Number
3 30.

4 MR. MADSON: No objection.

5 THE COURT: 30 is admitted.

6 (State's Exhibit Number 30
7 was admitted as evidence.)

8 BY MR. COLE: (Resuming)

9 Q Now, on Plaintiff's Exhibit Number 30, there are two
10 scratch marks. Would you explain to the jury why you think
11 you put that there?

12 A Well, for one, I don't -- I couldn't imagine anyone
13 else doing anything with this chart after the grounding. But
14 again, as I had a chart -- a copy of the chart and matched up
15 what these arcs would correspond with, they were indeed points
16 of reference that I was using all along. And that being I
17 believe the northern tip of Reef Island.

18 Q Okay.

19 Maybe you can use this to show the jury what you
20 mean. Dividers up here, and what you mean by how these
21 scratch marks got on this?

22 A Instead of using the compasses, the compasses being
23 like the dividers except with a piece of lead -- and quite
24 frankly, they were sloppy; they had a lot of slop in them --
25 so -- and it takes extra time and care from moving from the

1 distance scale over to where you want to scribe, so in haste I
2 believe that I did pick up a pair of dividers and scribe into
3 the paper ranges.

4 Q And can you give the jury an idea of how you would
5 have done that with those dividers?

6 A Yes. Whatever that range was from here real quick
7 and just scratch into the paper, and again blind, just scratch
8 into the paper.

9 Q Okay. Thank you.

10 Who would have been watching Mr. Kagan while you
11 were scratching these into the -- in the chart room?

12 A No one.

13 Q After you got done with that -- well, let me ask, do
14 you remember the other AD coming in at any time during that
15 period of time and informing you about the red light at Bligh
16 Reef?

17 A That was prior.

18 Q Okay.

19 When would that have happened?

20 A That was at the 2355 fix.

21 Q Did she come in after that?

22 A Shortly after that. I think just about the time
23 that I was giving the 10 right command, she came in and
24 corrected herself. She initially reported the light as a five
25 second light, and returned to inform me that it was a four

1 second red flashing light.

2 Q After you came out of the chart room then, what did
3 you do? And this is after you have scratched in on the chart?

4 A Being that I don't specifically remember doing that,
5 I don't --

6 Q What do you remember next happening?

7 A Being at the radar. This is a time when I am
8 becoming very concerned about the movement of the vessel
9 towards the reef. I order a hard right and I call the
10 Captain.

11 Q Hard right means steering how many degrees to the
12 right?

13 A On this vessel, 30 degrees.

14 Q And is that a command that you use often?

15 A Uh, I don't know that it is often; no. It depends
16 on the circumstance.

17 Q Did you know how long it would take you if you were
18 going in a straight line to turn it at 90 degrees, executing a
19 hard right order, with a fully laden tanker? Did you have any
20 idea?

21 A I don't under --

22 Q How far forward would you have gone --

23 A Oh, the advance?

24 Q Right, the advance of the tanker if you had ordered
25 a hard right, with a fully laden tanker?

1 MR. MADSON: Excuse me. I think more foundation is
2 necessary. At what speed, for instance.

3 THE COURT: Objection sustained as to foundation.

4 BY MR. COLE: (Resuming)

5 Q What happened when you ordered a hard right?

6 A I turned to call the Captain.

7 Q Were you watching the rudder at all during this
8 time?

9 A I observed it at 20 right. That was just before the
10 hard right command. Gave the hard right command. Called the
11 Captain. Told him that I thought we were getting into serious
12 trouble. He said, where's the rudder. And I said it's at
13 hard right. I turned, it hadn't moved to hard right. It was
14 still at 20. At that point we suffered the first shock. And
15 within a matter of seconds we were hard aground.

16 Q The first shock. What do you mean by that?

17 A Well, the first initial contact with Bligh Reef.

18 Q Were you on the phone when that happened?

19 A That was at the end of the conversation, yeah.

20 Q Did you -- what did you tell the Captain at that
21 point?

22 A There was nothing else to say.

23 Q Did he -- did he realize it?

24 A I believe so. There was -- you know, a mutual hang
25 up of the telephones.

1 Q How long did you -- would you describe what you
2 heard or what you felt when the tanker first hit?

3 A Best it could be described as a rumbling.

4 Q And how long would have -- did you get a sense of
5 where that rumbling started from and ended or anything like
6 that?

7 A Somewhere up forward, and there were a series of
8 jolts. It seemed to let up for just like a split second, and
9 we just stopped. The vessel head was still swinging, swinging
10 rapidly to the right. I had ordered a hard left by then.

11 Q What do you mean, the vessel was swinging rapidly to
12 the right?

13 A Well, the vessel head was still swinging, swinging
14 right.

15 Q Why did you order a hard left?

16 A I knew we were hard aground. My fear is that we
17 were sliding down the reef, the rear of the vessel, the aft
18 end of the vessel was swinging in towards the rocks. We had
19 people in the engine room. Typically if you, you know, you
20 don't want to endanger -- try to do something for them, you
21 know.

22 Q What were you worried about actually happening?

23 A Holing the engine room.

24 Q What happens when you hole the engine room?

25 A Well, you have people down there for one thing.

1 Another thing is that you are probably going to lose your
2 ship.

3 Q When you say lose your ship, it sinks or capsizes?

4 A Correct.

5 Q How long did it take -- who actually turned the
6 wheel on the hard left?

7 A I did.

8 Q Why did you do it?

9 A I think Mr. Kagan didn't understand the command. He
10 hesitated, and I was standing right there, and I spun the
11 wheel.

12 Q Had you ever worked with -- had you ever had Mr.
13 Kagan on your shift before?

14 A No.

15 Q Why wasn't Mr. LeCain up there and replacing you?

16 A My intent was not to call him until we were through
17 the maneuver. Complete the maneuver, get squared up in the
18 lanes and then call him.

19 Q Were you aware of Mr. Kagan's capabilities at the
20 helm?

21 A No.

22 Q Were you aware that he had had trouble at the helm
23 in the past?

24 MR. MADSON: Your Honor, I would object. It's a
25 leading question. It implies that this witness should know

1 something that he doesn't.

2 THE COURT: Objection overruled.

3 BY MR. COLE: (Resuming)

4 Q Were you aware that he had had problems in the past
5 steering?

6 A Another second mate had talked with me about
7 something that had happened on a prior voyage and that --

8 MR. MADSON: Your Honor, I would object to any
9 hearsay, your Honor.

10 THE COURT: Mr. Cole?

11 MR. COLE: It goes to his state of mind, your Honor.

12 THE COURT: It's not being offered for the truth of
13 the matter, it's being offered for state of mind. I'm
14 overruling the objection.

15 BY MR. COLE: (Resuming)

16 Q Go ahead. You were saying you had learned from the
17 other second mate about a problem that had occurred?

18 A Yes. And that happened it one other critical part
19 of the passage in the Narrows, I believe, and that Mr. Kagan
20 had quite some difficulty in steadying up on a course.

21 (Pause.)

22 Q After the vessel came to a stop -- well, when you do
23 -- do you remember looking at a clock at all after -- during
24 the time the vessel hit or when it came to a stop or any time
25 in there?

1 A Well, I did and whatever I wrote down and whatever I
2 recollect is off by several minutes, but as what I recollect
3 was 0004, which is the time that I logged as the plot I took
4 after we were hard aground. I now think that, you know,
5 that's incorrect.

6 Q And would you -- the 004 that -- would you explain
7 to the jury where you came up with that number, why?

8 A Came up with what, 0004?

9 Q 004. Was that what you put on the chart?

10 A Yes. As the time of grounding.

11 Q And you now think that that is wrong?

12 A Yes, I do.

13 Q What is it -- does the time 004 have any
14 significance to you? I mean --

15 A I could have misread the digital clock that was on
16 the console. Actually this -- this plot was made a few
17 minutes after the vessel was hard aground. Or it was just an
18 error in recollecting the time.

19 Q You didn't look -- did you have a -- your watch
20 right in front of you when you hit?

21 A This one.

22 Q Did you have it in front of you?

23 A No, I just -- to say that I was concerned about what
24 time it was at that point, I don't think I was. I was more
25 concerned about the casualty to the vessel.

1 Q After the hard left, how long did it take for the
2 vessel to start steadying up and stop its right turn?

3 A I don't recall. I would have to refer to the course
4 recorder.

5 Q Are you familiar with the course recorder that is on
6 board there?

7 A Fairly familiar.

8 Q And is it a pretty fair and accurate representation
9 of the course that was taken that evening?

10 A I would say so.

11 Q According to the course recorder, what time did you
12 steady that vessel?

13 A Well, it appears to have stopped the right swing at
14 approximately twelve minutes after.

15 Q Twelve minutes after midnight?

16 A Yes.

17 Q And would you have been at the helm at that point
18 when it steadied up?

19 A No. I was -- Kagan was always at the helm.

20 Q Okay.

21 After you turned the hard left, what did you do?

22 A Hard left, I went on out to watch the rudder start
23 to swing. I swung it, I saw that it was coming back left. I
24 went out onto the port bridge wing and turned on the bridge
25 wing flood light that shines down onto the main deck.

1 Directed that over the side of the ship in an attempt to see
2 if I could see oil coming out or --

3 Q Prior to going out on the bridge wing, had Captain
4 Hazelwood arrived on the bridge?

5 A I believe he had, but that of course, when you look
6 at the diagram of this, the bridge entry is behind me, he's --
7 he would be entering from here and I am standing up forward.

8 Q I'm sorry.

9 A I would be standing approximately, well, right here.
10 My direction -- my focus is directed out this way. From
11 spinning the wheel to hard left, I --

12 Q How long would you have been at the wheel?

13 A A second. Just --

14 Q Just enough to turn it and then --

15 A Just to turn it, look to see that the rudder was
16 moving and then --

17 Q Did you turn the wheel over to Mr. Kagan or did you
18 let it swing back or what happened then after you left?

19 A I gave the command hard left, there was hesitation.
20 I was standing right there. I said hard left again. Then he
21 responded, okay, hard left, and I watched the rudder start to
22 swing back left. From there I went out to the port bridge
23 wing.

24 Q And you would have gone out through the port wing
25 doorway.

1 A Yeah, right that way.

2 Q Do you specifically remember seeing Captain
3 Hazelwood on your way out?

4 A No, I don't.

5 Q How long would you have been out on the port wing?

6 A Perhaps for a few minutes.

7 Q Did Captain Hazelwood join you out there?

8 A When I came inside, I met the Captain. He was
9 standing in this area. I am not sure where he had come from,
10 if it was from the starboard side this way. I remember having
11 just a few words with him, probably right here.

12 Q Okay.

13 You are pointing to the area around the letter 14 on
14 the diagram?

15 A This approximate area. Somewhere around this side
16 of the steering stand as I recall.

17 (Pause.)

18 Q I would like to do the same thing that we did
19 before, Mr. Cousins, with the time period after Captain
20 Hazelwood left the bridge at -- between 11:53 and 11:54.

21 What would you have done after he left the bridge
22 that time?

23 A Switch steering modes. Go to hand steering.

24 (Pause.)

25 Q Okay.

1 A I switched that, yes, okay, to helm steering mode,
2 okay.

3 See to the port radar. Set up the variable range
4 marker in advance of taking the fix on Busby Island Light.

5 Q Okay.

6 A Proceed out on the port bridge wing. Set up for
7 taking the visual on the light.

8 Q And did you go all the way out there to the end and
9 set up the azimuth?

10 A The azimuth circle was already out there.

11 Q But you had to go out to the end?

12 A Yeah.

13 Q And you took your fix then at 11:55?

14 A Yes.

15 (Pause.)

16 Q Where would you have gone then after that?

17 A Briefly to the port radar.

18 (Pause.)

19 From the port radar back into the chart room, plot
20 the fix.

21 Q And when did Maureen Jones come in?

22 A Just as I was finishing up that fix.

23 Q Finish fix. Then after that, after she came in.
24 Finish plotting?

25 A Finish -- well, I was -- I was finished plotting

1 when she gave the report of Bligh Reef buoy.

2 Q Okay.

3 And then what did you do?

4 A I went out to the forward part of the bridge, the
5 nav area. Gave the 10 right command. Picked up the
6 flashlight on the near bulkhead and called the Captain to
7 inform him that we had initiated the turn back towards the
8 lanes.

9 (Pause.)

10 Q And then after _____, the first telephone

11
12 A Correct.

13 Q -- conversation?

14 A Uh-huh.

15 MR. MADSON: Your Honor, this I think this has all
16 been asked and answered before and written down once, so I
17 think we are redoing the same thing, if I remember from my
18 notes correctly.

19 THE COURT: That may be right.

20 MR. COLE: This part?

21 THE COURT: I don't know, but there's no objection;
22 just a statement by Mr. Madson, so you --

23 MR. MADSON: Well, I object to the question then,
24 your Honor. It's asked and answered.

25 THE COURT: I don't recall if this has been asked

1 and answered, but if it has, we'll let him ask and answer it
2 again.

3 BY MR. COLE: (Resuming)

4 Q You had your first telephone conversation, and that
5 lasted approximately how long?

6 A At least a minute and a half.

7 (Pause.)

8 Q And that conversation, you spoke about the possible
9 ice problems and Mr. LeCain and the watch?

10 A Correct.

11 (Pause.)

12 Q What happened after that conversation then?

13 A I turned again to the port radar.

14 (Pause.)

15 That's my recollection of the first time looking at
16 the angle indicator.

17 Q The rudder angle indicator?

18 A Correct.

19 Q And that would have been the one at the forward
20 bulkhead?

21 A Yes.

22 (Pause.)

23 Q Okay.

24 What did you do after that?

25 A I told Mr. Kagan to go ahead and get it all the way

1 over to 10 -- 10 right.

2 (Pause.)

3 Q What did -- what -- when you looked at the rudder
4 angle indicator, what did it look -- what did you see?

5 A It looked as though it was 6 or 7 degrees right.

6 Q What did you do after that?

7 A I stepped out on the port bridge wing --

8 Q When did Miss Jones come in?

9 A That's way back at the first --

10 Q Well, she came in the first time when you were in
11 the chart room.

12 A Yes. And then she came in just like seconds later.
13 It would be sometime in here.

14 Q If I put a line right there --

15 A Uh-huh.

16 Q -- that would be accurate?

17 A Yes.

18 (Pause.)

19 Q Then after the second 10 degree, you went out on the
20 port --

21 A Bridge wing. Looked back at Busby Island Light.

22 (Pause.)

23 Q Okay.

24 And after coming back in, what did you look at?

25 What did you do?

1 A I would have gone back to the port radar. I believe
2 that's the -- the ranges that I had taken at that time I
3 believe are indicated by the scratches, scribe marks on the
4 chart.

5 Q So you would have gone to the chart room then from
6 there?

7 A I believe so.

8 (Pause.)

9 Q When you came out of the chart room, where did you
10 go?

11 A Back to the radar, port radar.

12 Q What happened after that?

13 A Well, actually I think we skipped something. I
14 ordered the 20 right before I would have gone to the chart
15 room.

16 (Pause.)

17 Q And then you went to the chart room and then you
18 came back to the port radar?

19 A Correct.

20 Q And then what happened?

21 A I order the hard right at that time. I believe
22 there was perhaps fifteen to thirty seconds before I ordered
23 the hard right.

24 (Pause.)

25 Q And did you see the rudder come around to 30 degrees

1 when you ordered a hard right rudder?

2 A No, I didn't. At that time I turned -- I said hard
3 right, and I turned, picked up the phone, called the Captain.

4 Q So that would have been your second telephone
5 conversation?

6 A That's correct.

7 Q Did you know the heading of the ship at this time?

8 A I can't recall what it was at this time.

9 Q And how long did that conversation last?

10 A Moments.

11 Q And what happened after -- what happened at the end
12 of that? What happened after that?

13 A At the very end of the conversation, that's when the
14 vessel suffered its initial shock, impact on Bligh Reef. From
15 there that was the hard left and out to the bridge wing.

16 Q Write initial grounding?

17 A Yes.

18 Q And then you gave the counter rudder command of hard
19 left?

20 A That's correct.

21 Q And from there what happened? From there you went
22 out to the port -- the --

23 A The port bridge wing.

24 Q Okay.

25 Q Turned on the bridge wing flood lights.

1 (Pause.)

2 THE COURT: Mr. Cole, this is going to be a good
3 time for the break.

4 Don't discuss the case in any fashion with anybody.
5 Don't form or express any opinions. We'll come back in about
6 ten or fifteen.

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

9 (The Court stood in recess from 2:30 o'clock p.m.
10 until 2:50 o'clock p.m.)

11 THE COURT: You may resume, Mr. Cole.

12 BY MR. COLE: (Resuming)

13 Q Mr. Cousins, after you came in from the port wing
14 and spoke to the Captain, what did you do then next?

15 A Upon entering the bridge, I stated, well, we're hard
16 aground. The Captain said get a fix, get a position down on
17 the chart.

18 Q And is that fix -- did you take that fix and plot it
19 on that chart that morning?

20 A Yes.

21 Q Is that set forth in the photograph that you have in
22 front of you?

23 A Yes, it is.

24 Q And would you, pointing to that, hold that up and
25 point to the jury.

1 A That's right here.

2 Q Is there an intersection of a couple of lines there
3 at that point?

4 A Yes. Indicates two different ranges.

5 Q And you would have plotted the fix of the vessel as
6 right in the intersection of those two range markers.

7 A Someone might get a little confused if it was stated
8 that way and they look at the photograph. They're really two
9 positions that are close together. I believe the first one
10 may have been somewhat in error because again I used the
11 compasses that have some degree of slop in it. At that point
12 of course I think we were all shaken somewhat by the
13 grounding, the initial moments after the grounding. And the
14 first -- my first fix is the uppermost of these.

15 Q There's two --

16 A Yes.

17 Q -- dots along this one line, is that correct?

18 A Yes.

19 Q Running along here?

20 A Yes.

21 Q And that would be just north of the five fathom mark
22 right there? That would be your first fix?

23 A The uppermost or northernmost point was the first
24 fix. The one just below is the second fix.

25 Q And that would be above the letters, S-H?

1 A Correct.

2 Q What does S-H mean?

3 A That's an abbreviation for describing the type of
4 bottom.

5 Q And did you show the Captain that fix?

6 A He looked at it.

7 Q What happened next? Do you remember anyone coming
8 in on the bridge while you were plotting that fix?

9 A I don't know if it was while I was plotting, but
10 within minutes the chief mate was on the bridge.

11 Q And did you tell him anything?

12 A I told him that we were hard aground. That the
13 Captain is aware of it, he's up here on the bridge.

14 Q What did you do after you plotted that fix?

15 A Returned to the forward part of the bridge again. I
16 believe we stopped the engines at that time. Seems that there
17 was a telephone call to the engine room.

18 (Pause.)

19 Q By looking at the bell logger, could you tell when
20 the engines were shut down?

21 A Probably quicker if I look at the bell book. No,
22 actually -- yeah, I would have to look at the bell logger.

23 (Pause.)

24 Q Have you seen the bell logger for the Exxon Valdez
25 on that evening?

1 A Several times.

2 Q I am showing you what has been marked for
3 identification as Plaintiff's Exhibit Number 17. Do you
4 recognize that?

5 A yes.

6 Q What is that a representation of?

7 A That's a print out of engine speed and speed
8 changes.

9 Q And is that the whole portion of the bell logger
10 from the time you left the dock or just a part of it?

11 A I -- I believe that's most of it.

12 Q Is that a fair and accurate representation from at
13 least 11:24 on 'til the engines were stopped at 1:41 on the
14 24th?

15 A Yes.

16 MR. COLE: I would move for the admission of what
17 has previously been identified --

18 MR. MADSON: May I see that, your Honor?

19 (Pause.)

20 MR. MADSON: You Honor, could I voir dire the
21 witness for just a second with regard to this before I object
22 or not?

23 THE COURT: All right.

24 VOIR DIRE

25 BY MR. MADSON:

1 Q Mr. Cousins, you've indicated that that seems to be
2 or appears to be an accurate reproduction of a portion of the
3 bell logger, correct?

4 A Yes.

5 Q What about the little notations on there?
6 Grounding, for instance? Do you agree with the time and where
7 that is stated on there, and where midnight is? And the
8 program up, things like this?

9 A Not the -- the load program up doesn't seem to be in
10 the proper place.

11 Q Anything else?

12 (Pause.)

13 A Well, I guess the time of the grounding, that's -- I
14 think that's kind of an estimate on somebody's part.

15 MR. MADSON: Your honor, I would object. It is not
16 a true and accurate reproduction as far as the notations are
17 concerned. If they are removed from there I would have no
18 objection at all.

19 THE COURT: Is it your intention to eliminate those
20 two parts?

21 MR. COLE: Well, I am going to establish them at a
22 later time. I'll just put a piece of tape across there.

23 THE COURT: All right. Is there any reason for it
24 to go into evidence now if you're going to establish it at a
25 later time?

1 MR. COLE: No, Judge, I'll withdraw it.

2 THE COURT: Okay.

3 DIRECT EXAMINATION (Resumed)

4 BY MR. COLE:

5 Q Do you still have the bell logger in front of you.

6 A No, I don't.

7 THE COURT: Mr. Madson, except for those two
8 portions you have no objection to the exhibit then, is that
9 correct?

10 MR. MADSON: Well, your Honor, I don't know. I
11 didn't -- maybe if I could ask the witness if there's any more
12 things on there that he believes might be incorrect or he
13 can't say for sure, then I would object to those, too.

14 THE COURT: Well, I thought you had done that
15 already, but I'll give you a last opportunity.

16 MR. MADSON: Well, I would object to the
17 introduction of it in its entirety unless they're all removed.

18 THE COURT: Except for those two, the lead program
19 up timing and the grounding timing, is there any other
20 inaccuracies in that exhibit that you can see?

21 THE WITNESS: Not that I can see, your Honor.

22 THE COURT: It will be admitted if those can be
23 eliminated and those can be reinstated if there is a
24 foundation for them later on.

25 (State's Exhibit Number 17)

1 was admitted in evidence.)

2 BY MR. COLE: (Resuming)

3 Q What time did you shut down the engines the first
4 time after the grounding?

5 A Well, I see that was omitted from the bell book and
6 referring to the bell logger it was 12:20, although I haven't
7 found it in here yet. I really don't see the start and stop
8 for this.

9 Q This is the 24th.

10 A This is the 24th?

11 Q What did you do after the engine was shut down then?

12 A The Captain instructed me to go below, along with
13 the lookout and start waking people up, informing them of our
14 situation.

15 Q And did you do that?

16 A Yes, I did.

17 Q When did you return to the bridge?

18 A Approximately fifteen minutes later.

19 Q What happened when you returned to the bridge?

20 A To the best of my recollection there was the chief
21 mate and the master having a conversation about his initial
22 assessment of the damage to the vessel. I don't really know
23 what the context of that conversation was because I was not
24 included in that.

25 Q Were you ordered to start the vessel forward again?

1 A At sometime later.

2 Q And what were you ordered to do?

3 A I was given a series of engine orders, increasing it
4 to full ahead.

5 Q What was the purpose of those? Were any steering
6 commands given at that time?

7 A Yes, I believe there was. I don't know exactly what
8 those commands were.

9 Q Do you know what time the -- well, where were you
10 standing during this time?

11 A At the engine order telegraph right here.

12 Q And where was the Captain standing?

13 A Up here.

14 Q And where was the helmsman?

15 A At the helm, right here.

16 Q How long -- how long before you stopped -- you were
17 told to stop the engines on the Exxon Valdez?

18 A Well, we're going to have to refer to this.

19 (Pause.)

20 Q Can you tell from the bell logger?

21 A Yes, I was just looking through here. If this is
22 the same as that, it's 0141.

23 Q What -- what was the purpose of these rudder
24 commands and running the ship ahead forward?

25 A Well, I didn't really know what the purpose of it

1 was. I assume that it was the result of whatever the chief
2 mate and the Captain had talked about, the conversation that i
3 wasn't included in.

4 Q What did you personally believe was going on?

5 MR. MADSON: Well, you Honor, I'll object to
6 relevancy. I don't know as it matters what he believes at
7 this point, since he doesn't know what the Captain was doing.

8 THE COURT: I don't see how it is going to assist
9 the finder of fact, Mr. Cole. The objection is sustained.

10 (Pause.)

11 BY MR. COLE: (Resuming)

12 Q Do you remember telling anybody else what the
13 purpose was of trying -- of running the vessel ahead and using
14 the rudder? Have you talked to other -- been interviewed at
15 other times about that?

16 A Well, at the NTSB hearing, at the Federal attorneys.

17 Q How about an interview you had with Investigator
18 Delobier that day, that morning?

19 A Yes, I believe we would have discussed that, running
20 the engines.

21 Q Do you remember what you told him was the purpose of
22 using the throttle and the rudder?

23 A I told him initially I thought that there might be
24 an attempt to extract the -- or extricate the vessel from the
25 reef, based on part of a conversation that I overheard on the

1 radio.

2 Q Who had that -- who was having that conversation?

3 A The Captain and I believe the Captain of the Port.

4 Q Do you remember talking to the NTSB and telling them
5 the reason for these rudder commands and the engine being put
6 ahead full ahead?

7 A Yes.

8 Q What did you tell them?

9 A Essentially the same.

10 Q And that is? What did you tell them?

11 A That I thought that perhaps we may be trying to pull
12 the ship off the reef.

13 Q Did you -- during this time, until the engines
14 stopped, did you see Mr. Kunkel come back up to the bridge?

15 A I don't recall that he was back on the bridge while
16 the engines were running. He may have been, but I really
17 can't place him there at that time.

18 Q What did Captain Hazelwood tell you when you stopped
19 the engines at 1:41?

20 A He said something to the effect, well, we're
21 definitely not going anywhere, or -- we hadn't moved
22 essentially from running the engines.

23 Q Did he characterize that in sense of the ship being
24 in danger or not?

25 A I don't think he had to characterize it that way.

1 We all knew that we were in danger.

2 Q Did he indicate that what he had done had placed the
3 ship in danger by moving it ahead?

4 A No.

5 Q After the vessel was shut down, what did you do?

6 A I remained on the bridge. Kept rechecking the
7 vessel position, keeping an eye on it to see whether it was
8 shifting on the reef.

9 Q Do you have any communications with Captain
10 Hazelwood that morning?

11 A Very little. The extent of that conversation was
12 I believe the rest of the morning was, he queried me about
13 what happened. There might have been some other talk about he
14 would let me know where he was going, if he was going to the
15 cargo control room to discuss matters with the chief mate, or
16 whether he would go down to the radio operators radio shack to
17 make calls to the company.

18 Q When was the anchor dropped?

19 A I am unclear about that. It seemed that she -- they
20 have it in the log here as start lowering the starboard anchor
21 at 0448 that morning. I -- I believe that is correct. It may
22 not be. But it seems that it might -- it seems that that
23 order was given around the time or shortly after the Coast
24 Guard boarded.

25 Q When did the Coast Guard board the vessel?

1 A 0338.

2 Q Were you on the bridge when they first started
3 radioing indicating that they were in the area?

4 A Yes.

5 Q Do you remember how long prior to boarding that
6 would have been?

7 A No, I don't recall.

8 Q Did you have any contact with the Coast Guard that
9 morning?

10 A Yes. At some point I fielded a call from the
11 Commander of the Port. I don't recall the context of the
12 conversation without reviewing it.

13 Q Did you talk with the investigator that came on
14 board that morning?

15 A No -- later that morning. Much later.

16 Q Did you give a urine sample?

17 A Yes.

18 Q Was a blood sample drawn from you at a later time?

19 A Actually I think the -- it was taken -- yeah, I
20 guess it was taken later that day.

21 Q Would you tell the jury what the Exxon alcohol
22 policy is for use of alcohol on the vessel?

23 A The policy has been termination.

24 Q And is that the same thing for possession of alcohol
25 on the vessel?

1 A Yes.

2 Q Did you have any alcohol in your possession on the
3 23rd or the 24th?

4 A No.

5 Q Were you aware of any alcohol on board the Exxon
6 Valdez those mornings?

7 A No.

8 MR. COLE: I have nothing further, your Honor.

9 CROSS EXAMINATION

10 BY MR. MADSON:

11 Q Good afternoon, Mr. Cousins.

12 A Good afternoon.

13 Q I have neither met with you before nor spoken with
14 you regarding this case, have I?

15 A That's correct.

16 Q Is it fair to say, sir, that a lot of other people
17 have questioned you over the last eleven months?

18 A A number of parties.

19 Q You've had plenty of time to go over previous
20 statements and to think about this incident?

21 A Well, I have had plenty of time to think about this
22 incident. I haven't really found the desire to wade through
23 all the statements and material.

24 Q What I am getting at, sir, is that you have had time
25 to at least know at this point -- you haven't lost, let's say,

1 your memory of what happened?

2 A I don't think that I'll ever forget that.

3 Q The events are still fairly fresh in your mind,
4 correct?

5 A Yes.

6 Q Let me go back to the beginning, as Mr. Cole did,
7 and ask you something about your maritime experience. You
8 said you got your third mate license in, I think, February of
9 1986?

10 A Yes.

11 Q Prior to that time you said you were an AB, is that
12 right?

13 A That's right.

14 Q Able seaman.

15 A Yes.

16 Q Now that requires some kind of Coast Guard license
17 action, does it not, to get that license?

18 A It's not really a license, it's a certification.

19 Q Certification; excuse me.

20 That certification, does it mean something, let me
21 ask you that?

22 A Yes, it's supposed to mean something.

23 Q As opposed to say, an ordinary seaman. What's the
24 difference?

25 A An ordinary seaman is one that, i won't say without

1 skills, but is certainly not had the time nor experience an AB
2 has or the knowledge of seamanship skills.

3 Q So an AB then is tested and found, at least he is
4 certified by the Coast Guard then that he has certain
5 seamanship skills?

6 A yes.

7 Q And included in that would be the ability to steer a
8 vessel, would it not?

9 A The ability to understand commands. Quite different
10 than the ability to steer.

11 Q Okay.

12 Explain the difference.

13 A The only way that you learn how to steer is
14 steering. And you can't go into a Coast Guard licensing
15 office and demonstrate steering skill. What they ask you is
16 do you understand rudder commands.

17 Q Okay.

18 In other words, to steer a vessel means basically
19 you want to go from point A to point B, and you do that
20 yourself, right?

21 A That's correct.

22 Q That's different than saying understanding steering
23 commands, which is merely following an order, you know, 10
24 right, 10 left, something like that, correct?

25 A Yes.

1 Q All right.

2 How about a heading? Is that all also a part of it?
3 Put the ship on a heading of 2-0-0, 2-4-5, something like
4 that?

5 A That's part of the skill of being a helmsman, yes.

6 Q Now, can an ordinary seaman act as a helmsman on a
7 vessel?

8 A At sea, but only at sea. They're not -- wouldn't be
9 allowed in harbors or bays.

10 Q And following steering commands is, would you say,
11 generally pretty simple?

12 A I'd say its about the simplest thing you can do,
13 yeah.

14 Q In other words, if you gave a command to somebody
15 and said 10 degrees right rudder, that helmsman has to know
16 his left hand and his right hand, correct?

17 A That's right.

18 Q And has to be able to see a 10 on an indicator
19 somewhere, right?

20 A Yes.

21 Q And that's basically it?

22 A That's all.

23 Q And these are routine commands, are they not? They
24 are given all the time.

25 A Yes.

1 Q You can't steer a ship without giving commands as to
2 where it is going to go?

3 A Right.

4 Q I got a little off the track here, but anyway, you
5 were -- were you an ordinary seaman and then an able seaman
6 and then third mate?

7 A That's correct.

8 Q So you sort of worked your way up the ladder, is
9 that correct?

10 A Yes, uh-huh.

11 Q Once you're at the AB level, able seaman level, when
12 you want to say get your license to become an officer, what do
13 you do? What do you have to do?

14 A Well, first of all, you have to qualify timewise for
15 the Coast Guard to even allow you to sit for the exam.

16 Q How much time is required for that?

17 A Three years of actual sailing time. Takes about
18 took me approximately five years to get three years of sea
19 days in.

20 Q And then you said there is an exam. This requires
21 some formal training in addition to just being on a ship and
22 having experience?

23 A Well, if you're particularly adept student, you
24 could do it on your own without any formal education.

25 Q In other words, a degree from a college isn't

1 required, or something like that?

2 A No.

3 Q And so you studied on your own to take your third
4 mate license?

5 A I attended a marine licensing school in New Orleans.

6 Q In where?

7 A In New Orleans.

8 Q I see.

9 How long did that take?

10 A I think I may have spent four weeks -- perhaps four
11 weeks in the school.

12 Q Is that kind of a concentrated course for the taking
13 of the exam?

14 A Not just for the exam. It covers the broad range of
15 subjects that you would find in the exams.

16 Q And you did take the exam and passed it and became a
17 third mate, right?

18 A That's right.

19 Q Now, the third mate license, that is called a
20 license, is it not?

21 A Yes, it is.

22 Q That enables you to do certain things that an able
23 seaman cannot?

24 A That's correct.

25 Q For instance, you are an officer rather than just an

1 ordinary or able seaman?

2 A That's right.

3 Q You can stand a watch and I think you said on a
4 vessel of any size?

5 A Yes.

6 Q By standing the watch, that means you can be the
7 officer on the bridge in control and direct the vessel?

8 A That's right.

9 Q Then you said you got your second mates license in
10 February of '89, I think?

11 A Yes.

12 Q What added or what other necessary education,
13 experience is necessary to get the second mate license?

14 A Well, it's -- you are just in a sense graduating to
15 the next level. Your level of expertise is expected to
16 increase. For example, celestial navigation, that type. That
17 is primarily the major --

18 Q Can you explain what celestial navigation is?

19 A It's the measuring of celestial bodies and applying
20 that to fixing the position of the vessel.

21 Q In other words that is different than say taking it
22 off an electronic instrument, right?

23 A That's correct.

24 Q You actually have to go out there and --

25 A Measure it with a sextant.

1 Q That's the old fashioned way, is that right?

2 A The old fashioned way.

3 Q But it might come in handy some day if all your
4 equipment breaks down?

5 A Exactly.

6 Q Then after receiving -- and you said you received
7 your second mates license -- did you ever ship out on a vessel
8 as a second mate?

9 A Never.

10 Q Actually, you only had it, let's say, for a month or
11 so prior to this incident, correct?

12 A That's about it.

13 Q So even though, however, that you were a third mate
14 on the Exxon Valdez, you were qualified to be there as a
15 second mate, right?

16 A Yes.

17 Q Why -- I guess the question is, why does a person
18 with a second mate license actually be on a ship or a vessel
19 as a lower grade third mate? How does that happen?

20 A For one thing, available jobs. There aren't many
21 jobs available for second mates at that time, and if there
22 were, they would probably go to an individual that has
23 probably had the license a lot longer than I have.

24 Q So basically if you wanted to work at that time, you
25 take a job as a third mate, right?

1 A Yes.

2 Q I imagine there is a difference in pay, is there?

3 A I hope so, yes.

4 Q Do you intend to go on and get further in licenses,
5 like first mate, captain.

6 A I had that..

7 (Start Tape C-3615)

8 A I had that in mind, yes.

9 Q That is a normal sequence of events for a seaman, is
10 it not? I mean officers?

11 A Yes.

12 Q You indicated you also had a radar endorsement?

13 A That's required.

14 Q That's another test you had to take?

15 A Yes.

16 Q Now, with regard to your actual experience, how many
17 years would you say you have been on vessels, all together?

18 A Approaching thirteen years.

19 Q And as a third mate, how long?

20 A My first assignment was in January of 1987.

21 Q And where was that, sir?

22 A Just for a number of days -- do you want me to
23 recount the vessels or --

24 Q Well, just briefly, if you could. I mean, I don't
25 want to go into every trip and everything like that. What

1 type of vessels and what coast were you on and things like
2 that?

3 A The first assignment of any duration, and that was
4 only for approximately two weeks, a bit more than two weeks,
5 was aboard the Exxon Charleston, which --

6 Q Is that a tanker also, sir?

7 A That's a -- yeah, a product carrier on the East
8 Coast.

9 Q When you say product carrier, what does that mean?

10 A Clean products, refined products.

11 Q Of gasoline?

12 A Gasoline, chemicals.

13 Q Okay.

14 I didn't mean to interrupt you. Please go on.

15 A From there I was shifted to vessels on the West
16 Coast.

17 Q So you've had experience on both coasts, is that
18 correct?

19 A Very limited experience as a third mate on the East
20 Coast. That was a matter of fifteen or seventeen days on the
21 Exxon Charleston. The rest of my third mate time has been on
22 the West Coast.

23 Q What about standing say, a bridge watch as a
24 helmsman, before you got your third mate license. Were you
25 doing that on both coasts, too?

1 A Yes.

2 Q So you actually were let's say steering -- not
3 steering, excuse me, but following steering commands for a
4 number of years, is that right?

5 A Yes.

6 Q Now, with regard to -- what other ports say, for
7 instance. On the West Coast, what ports would you normally
8 call at?

9 A On the West Coast? San Francisco, Long Beach. I
10 had been into Puget Sound one or two times.

11 Q Do those places have a VTS system?

12 A San Francisco does. The VTS -- there isn't one per
13 se in Long Beach. The Channel Islands, there is a vessel
14 traffic system much different than, say, San Francisco or here
15 in Prince William Sound.

16 Q You were aware of the one in Prince William Sound,
17 is that correct?

18 A Yes.

19 Q How about Puget Sound, do they have one down there
20 in Seattle?

21 A In Puget Sound, yes, I've been in that.

22 Q Is there something called an active system, a VTS
23 system, and a passive system?

24 A Yes.

25 Q What's the difference?

1 A I would take a passive system, for example, the
2 Channel Island Traffic Separation Scheme, as being the passive
3 system in that there is no -- no center to communicate with,
4 no report in points, it's simply a charted scheme, looks much
5 the same as the one you see on the chart here. There is just
6 no participation with any agency, Coast Guard or local.

7 Q In other words, there may be a chart where you are
8 supposed to stay in certain lanes, but you don't communicate
9 by radio with a center?

10 A That's correct.

11 Q Then what about an active system, what does that
12 mean?

13 A I take an active system to be one such as the one in
14 San Francisco, Puget Sound, Prince William Sound.

15 Q Where you communicate with a center?

16 A Yes.

17 Q Tell them where you're at or what your intentions
18 are?

19 A Yes. Give them ETA's, positions.

20 Q And of course you are familiar with the system in
21 Prince William Sound? I think you have already indicated
22 that, right?

23 A Yes.

24 Q Would you -- you believe that to be an active system
25 then, right?

1 A Yes, I do.

2 Q When you were in, say, Valdez Arm, say in the
3 vicinity or Bligh Reef or Busby Island and in the Arm going
4 into the Narrows and into the port of Valdez, did you
5 understand that there was radar coverage by the Coast Guard in
6 that area?

7 A I understood that to be the case.

8 Q And I think you said you made perhaps a total of 26
9 to 30 trips total on the bridge, not necessarily as a third
10 mate, but on the bridge into Prince William Sound?

11 A That's a rough estimate. That's AB time as well as
12 third mate time.

13 Q Uh-huh.

14 And you -- in about half of those or more than half
15 of those, you said you were as a third mate? I may have got
16 that wrong. If my notes are incorrect, please don't hesitate
17 to stop me.

18 A About half of the time I would have been on the bridge
19 part of the transit I would have been on the bridge as a third
20 mate.

21 Q And I think you said that on the Exxon Valdez there
22 were a total of three transits, three trips, including the one
23 in March of last year?

24 A I believe that's correct.

25 Q Is it fair to say, sir, that from the number of

1 trips you made in Prince William Sound, that you were quite
2 familiar with the charts of the area?

3 A Yes, I would say so.

4 Q Fair to say that you were familiar with the
5 navigational hazards?

6 A Yes.

7 Q Did you know where Bligh Reef was?

8 A Yes.

9 Q Did you know where Busby Island was?

10 A Yes.

11 Q Potato Point?

12 A Yes.

13 Q In other words, you were familiar with all of the
14 things to worry about or concern yourself about in that area?

15 A Yes, sir.

16 Q You indicated I think in response to one of Mr.
17 Cole's questions that you don't know if you could have
18 obtained a Coast Guard endorsement, pilot endorsement for that
19 area or not. I believe that's what you said. Is that
20 correct?

21 A I had never inquired.

22 Q Uh-huh.

23 So do you know what's involved in taking the, say,
24 examination for that?

25 A No, I don't.

1 Q At the same time you felt that you were confident in
2 your ability to know the area of Prince William Sound and --

3 A Well, I generally understand what a pilot test would
4 most likely include.

5 Q What would that be?

6 A They may ask you to draw -- draw the Sound, or draw
7 the Arm, draw the Narrows, give specific bearings on, say, to
8 line up for their transit of the Narrows, that type of
9 information.

10 Q Basically it is not a driving test, right?

11 A No, it isn't.

12 Q It's a knowledge test. Do you know the roads and
13 the rules of the road type of thing?

14 A Correct.

15 Q Based on your knowledge and experience of the area,
16 sir, is there any reason why you believe that you were not
17 competent or qualified to, you know, to be on the watch of a
18 vessel in Prince William Sound?

19 A No.

20 Q The other times you were in Prince William Sound,
21 were they all on I guess I want to say tanker vessels like the
22 Exxon Valdez?

23 A Not necessarily like the Exxon Valdez. We only have
24 one other like that. But tankers.

25 Q There's one other, a sister ship, is it?

1 A Yes.

2 Q Okay.

3 When I say like, I mean in general.

4 A Tankers.

5 Q Is there a big difference between tankers, the way
6 the handle, operate, or anything like that?

7 A There could be -- yeah, there would be some
8 differences, primarily due to size and power of the vessel.

9 Q With regard to the Exxon Valdez itself, did you feel
10 that you knew its operating capabilities and its handling
11 characteristics?

12 A Yes, I had familiarized myself with that. I didn't
13 necessarily consider myself an expert, but --

14 Q And Mr. Cole asked a number of questions about all
15 the equipment that is board the Exxon Valdez. Is it correct
16 or fair to say that there's a lot of equipment -- I mean, you
17 want to call it equipment, but technical equipment, to aid you
18 in your job?

19 A Yes.

20 Q You've got, did you say, is it two radars?

21 A Two radars.

22 Q Port and starboard.

23 A Yes.

24 Q I don't want to go through all of that again, but is
25 there any equipment you could possibly think of that you would

1 have wanted on board that vessel if you had your choice?

2 A You mean after the fact?

3 Q In addition to what's already there.

4 A You mean as we sit here today talking about the
5 grounding?

6 Q No, let's go back before the grounding, okay?

7 A No.

8 Q It was in your opinion, at that time, fully
9 equipped?

10 A Yes.

11 Q What about after the grounding, do you think it
12 needed something else?

13 A Not that would have really aided in preventing the
14 grounding.

15 Q You were familiar then with all of the necessary
16 navigational and operation equipment on board?

17 A Yes.

18 Q You used it all on many occasions?

19 A Yes.

20 Q And with regard to the radar, you were qualified
21 certainly to operate the radar, had been examined and actually
22 plotted targets, is that part of the examination?

23 A Yes.

24 Q You had been alone on the bridge at other times in
25 Prince William Sound, correct?

1 A Yes.

2 Q Standing as an officer, watch officer?

3 A Yes.

4 Q And on those occasions you felt confident in your
5 abilities to do the job at hand?

6 A Yes.

7 Q Now, when you arrived in Valdez, I think you said
8 that the first job, of course, is to dock the vessel, and your
9 job at that time was to be in the aft or rear part of the ship,
10 to assist in the docking, to oversee the docking?

11 A Yes.

12 Q Exactly what's involved in doing that? I mean, you
13 don't handle the lines yourself. You tell people what to do?

14 A Sometimes I do handle the lines. But primarily it's
15 to direct the undo -- I mean the docking.

16 Q Is there generally enough crew members on board to
17 do that job, or is that why you have to pitch in sometimes?

18 A Occasionally we find ourself a little short. You
19 know, if everything goes the way you hope it'll go, the way
20 it's been planned, that's fine. But you know, when you have
21 machinery on ships, sometimes things happen and you find
22 yourself a little short handed at times.

23 Q Going back to another question I just asked you, and
24 I said you were alone on the bridge on other occasions, on
25 those occasions were there other captains on the vessel other

1 than Captain Hazelwood?

2 A Yes.

3 Q Another question in that area. You get evaluations
4 in your job on a regular basis?

5 A Well, I won't say on a regular basis.

6 Q Well, on any kind of basis.

7 A Yeah, on some kind of basis, whenever they decide --
8 someone decides that I should be evaluated.

9 Q How do they do that?

10 A How do they do?

11 Q How are you evaluated?

12 A Well, there are a number of areas that the company
13 has identified that are factors in ones performance, and each
14 area is evaluated by the master and the next -- or the chief
15 mate in my case. They would, I assume, talk about what help I
16 was to the chief mate, what abilities I had as far as getting
17 my other work done besides the bridge work.

18 Q And in these evaluations, was your navigational
19 ability or, you know, capabilities considered?

20 A Yes.

21 Q Did you -- have you -- were weaknesses also pointed
22 out?

23 A Yes.

24 Q In other words if the first mate or the captain
25 thought you were weak in handling a vessel, they would point

1 that out to you?

2 A Sure; yes.

3 Q In your evaluations, sir, were you evaluated well as
4 far as your abilities were concerned?

5 MR. COLE: Judge, I object. Hearsay

6 THE COURT: Objection overruled. He's asking for
7 the witnesses own opinion.

8 BY MR. MADSON: (Resuming)

9 Q Did Captain Hazelwood evaluate you on one occasion?

10 A Yes, he did.

11 Q And he had an opportunity then to observe your
12 capabilities and weaknesses if any?

13 A Yes.

14 Q Did he rate your navigational skills and ship
15 operating skills exceptional?

16 A I really don't recall what they are.

17 Q Well, do you know if they were rated poorly or well?

18 A No. That one I would remember. I really don't
19 remember what the rating was, but it was not bad or poor or
20 anything.

21 Q Can you think of any instance, sir, where you ever
22 gave Captain Hazelwood any reason to believe that you would
23 not follow directions or otherwise be a competent third mate?

24 A No.

25 MR. COLE: Objection: speculation.

1 THE COURT: Objection overruled. Answer the
2 question.

3 BY MR. MADSON: (Resuming)

4 Q Can you answer the question, sir?

5 A Would you restate that?

6 Q Is there anything from your experience, that is,
7 where Captain Hazelwood was in a position to evaluate you, see
8 your performance, that would cause you any concern about
9 having him believe you weren't competent or capable?

10 A No.

11 Q On your trips to Prince William Sound, I think you
12 said your jobs or your position required you to maintain
13 positions, avoid collisions, do navigation, and also give
14 steering orders if necessary.

15 A Yeah.

16 Q Is this essentially what a captain does also?

17 A I think you might want to divide those
18 responsibilities up a little bit. If you have a conning
19 officer and a watch officer, there is a division of the work
20 load.

21 Q Sure.

22 I think you said the conning officer is the one who
23 is actually giving the orders, steering orders?

24 A Correct.

25 Q And the watch officer is doing other tasks.

1 A He would provide any navigational information that
2 would be pertinent that the conning officer would request, and
3 of course, collision avoidance.

4 Q You've been both, right, conning officer and watch
5 officer?

6 A Yes.

7 Q Now when you were on the Exxon Valdez on this trip,
8 were your watch -- was your watch always the same? I mean the
9 same hours that you'd work?

10 A Yes.

11 Q And that again was?

12 A 8:00 to 12:00.

13 Q 8:00 to 12:00.

14 Q 8:00 in the morning to 12:00 noon?

15 A Yes.

16 Q And then 8:00 at night 'til 12:00 midnight?

17 A Correct.

18 Q In your off hours, what can you do besides sleep? I
19 mean, can you work overtime if you want or --

20 A That's kind of the thing that you want to do, but
21 you have a number of other duties that we need to perform.
22 The third mate was designated safety officer, and that entails
23 inspecting life boats, making sure the equipment is in proper
24 operating condition. Checking emergency equipment that we
25 have in our soleus lockers. That is one of the duties --

1 Q Sounds like -- excuse me. Sounds like all the
2 things you don't have time to do on your regular watch, is
3 that right?

4 A No, you can't do those on watch.

5 Q How about paper work. Do you have additional paper
6 work assignments?

7 A Yes.

8 Q Now, prior to this particular trip to Prince William
9 Sound on the Exxon Valdez, I think you said you had -- of the
10 crew members, you had worked previously with Maureen Jones and
11 Mr. Kagan on prior assignments?

12 A Yes.

13 Q Where was the assignment with Mr. Kagan, do you
14 recall?

15 A That was on the Exxon New Orleans. He was assigned
16 as a maintenance personnel for tank cleaning. He wasn't on my
17 watch, but you know, we were on the same ship.

18 Q So I imagine you knew him prior to I mean, you knew
19 him personally, right?

20 A Well, yeah, I knew of him.

21 Q When you came into Prince William Sound then, were
22 you on the bridge at the time the pilot came on board, do you
23 recall?

24 A Yeah, I believe I was.

25 Q And do you know who that pilot was? Do you

1 remember?

2 A I believe it was Captain Murphy.

3 Q The same pilot that was on board coming out?

4 A Yes.

5 Q And where did you -- do you recall where you picked
6 him up at?

7 A Just off Rocky Point.

8 Q Is that the pilot station?

9 A Yes. Actually I think they hide back up in there.

10 Just --

11 Q They what?

12 A -- below the light.

13 Q Right off of Rocky Point?

14 A Yes.

15 Q How do they do that? I mean, they have a small
16 vessel, boat that comes out to meet you or -- is that how that
17 happens?

18 A Yes.

19 Q You slow down and get in the position to allow them
20 to come along side?

21 A Yes.

22 Q How do they actually physically get on your vessel
23 or ship?

24 A Well, when we come in light we put the accommodation
25 ladder over for them, and they just climb up the ladder.

1 Q Is it just a rope ladder?

2 A No, this is the accommodation ladder. It's kind of
3 like a gangplank I guess you would -- could refer to it as
4 that. But we call it an accommodation ladder. It's kind of a
5 metal stairway up the side of the ship.

6 Q And once the pilot is on board, he more or less
7 guides or directs the vessel into that part of Valdez Arms and
8 the Narrows and then to the berth, is that correct?

9 A Yes.

10 Q What does the captain normally do during this time?

11 A Well, make sure that the pilot is doing everything
12 that he is supposed to do.

13 Q That seems to be pretty routine, isn't it? Pilots
14 seems to do what they normally do?

15 A Yeah.

16 Q Had you seen Captain Murphy act as a pilot before on
17 other occasions?

18 A I may have, but I couldn't tell you where or when.

19 Q Was there anything that you observed on the trip in
20 to Valdez on the 22nd that caused you any concern at all about
21 Captain Murphy's abilities as a pilot?

22 A No.

23 Q He seem competent and qualified?

24 A Yes.

25 THE COURT: Mr. Madson?

1 MR. MADSON: Yes, your Honor.

2 THE COURT: I wonder if counsel could approach the
3 bench just a minute, please.

4 (A bench conference was had.)

5 THE COURT: Ladies and gentlemen, we are not
6 finished quite for the day, but I am going to have you go back
7 to the jury room momentarily to take a matter up outside your
8 presence that needs to be addressed. I'll bring you back in
9 and give you some instructions before you do go home for the
10 day. In the meantime, don't speculate on what we're doing in
11 your absence. Don't discuss the matter in any fashion among
12 yourselves or with any other person, and don't form or express
13 any opinions.

14 If you'd go to the jury room at this time, we'll
15 call you back as soon as we can, which I expect to be around
16 ten minutes or so.

17 (Whereupon, the jury leaves the Courtroom.)

18 THE COURT: All right, Mr. Cole made the Court aware
19 and also made defense counsel aware of a matter that needs to
20 be taken up in camera. We will be clearing the Courtroom.
21 The media will be barred from covering this. The public will
22 be barred from this proceeding as well. I expect it to take
23 about ten minutes. We will put it on a sealed tape, and we'll
24 take it up in camera, and then we'll go back on the record
25 with the public present if necessary before we recess the rest

1 of the day,

2 We'll take just a two or three minute break in order
3 to clear the Courtroom. The media room will be shut down.
4 The curtains will be closed. And the doors will be locked.

5 We stand in recess.

6 THE CLERK: Please rise. This Court stands in
7 recess subject to call.

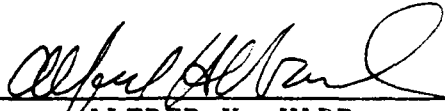
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SUPERIOR COURT)
STATE OF ALASKA) Case No. 3ANSS9-7217
Case No. 3ANSS9-7218

I do hereby certify that the foregoing transcript was typed by me and that said transcript is a true record of the recorded proceedings to the best of my ability.


ALFRED H. WARD

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VOLUME 11

STATE OF ALASKA

IN THE SUPERIOR COURT AT ANCHORAGE

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In the Matter of:	:	
	:	
STATE OF ALASKA	:	Case No. 3ANS89-7217
	:	
versus	:	Case No. 3ANS89-7218
	:	
JOSEPH J. HAZELWOOD	:	
	:	
-----	:	

Anchorage, Alaska

February 14, 1990

The above-entitled matter came on for trial by jury before the Honorable Karl S. Johnstone, commencing at 8:50 a.m. on February 14, 1990. This transcript was prepared from tapes recorded by the Court.

APPEARANCES:

On behalf of the State:

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MARY ANN HENRY

On behalf of the Defendant:

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MIKE CHALOS, Esq.

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25WITNESSESSTATE'SDIRECT CROSS REDIRECT RECROSS

Gregory Cousins

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- - 88 90

Maureen Jones

92 119 139 143

- - 145 146

Ephraim Meneses

148 149 - -

Melanie Wright

152 154 - -

Lloyd G. LeCain

155 179 197 199

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E X H I B I T S

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DEFENDANT'S

IDENTIFICATION

IN EVIDENCE

J

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42

K

6

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STATE'S

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P R O C E E D I N G S

1
2 (Tape C-3615.)

3 THE CLERK: -- presiding is now in session.

4 JUDGE JOHNSTONE: You may be seated. There are
5 two matters to take up before we get the jury in here. The
6 first up, I think it would be a good idea if Counsel didn't
7 take their coffee breaks in Judge Roland's office. That's
8 immediately next door to the jury room. The walls are not
9 as thick as they could be and I hear people laughing in
10 there and maybe they hear us laugh. So if you want to take
11 a coffee break in my office, feel free to. It's
12 geographically pretty far from the jury room. It'll avoid
13 potential problems.

14 The next thing is I've got a note from a juror.
15 I'll read it for the record. "Judge Johnstone, I believe
16 it is the Court's moral responsibility, if not legal
17 responsibility, to make every effort to assure the jurors'
18 safe passage home. I respectfully request that you keep
19 yourself apprised of developing dire weather conditions and
20 that the jurors be advised accordingly. Yesterday was the
21 pits," signed by "A Juror," who upon further investigation
22 was one of the fortunate ones who did not get into an
23 accident on the way home through Eagle River yesterday. I
24 was unaware of the weather conditions until I left here.
25 I'm going to give this to the administrative director, let

1 him handle this. And if we do get notified of dire weather
2 conditions, it might be necessary to let the jurors go home
3 early during a given day. Apparently this juror was not
4 the only one who lived in Eagle River and had a problem
5 getting home last night. I can certainly appreciate their
6 concerns.

7 I don't believe it's the Court's legal or moral
8 responsibility to take weather checks periodically, but I
9 will make steps, take steps to be apprised if there are
10 conditions that the Court system is aware of and can pass
11 on to me.

12 I asked her specifically if she felt this was
13 going to in any way affect her ability to continue to sit
14 on this jury. She said, "Oh, no, not at all," it didn't
15 concern that at all; it was just the driving conditions
16 home. Do Counsel wish me to inquire further of the juror
17 on the record?

18 MR. MADSON: I don't, Your Honor.

19 MR. COLE: No.

20 JUDGE JOHNSTONE: Okay. We'll make this part of
21 the record, as well. Is there anything we can do before we
22 get the jury in?

23 MR. MADSON: I have nothing.

24 MR. COLE: No, I have nothing.

25 JUDGE JOHNSTONE: Well, we'll bring the jury in

1 promptly at 9:00 o'clock and you can get Mr. Cousins up on
2 the stand and resume.

3 THE CLERK: Please rise. This Court stands at
4 recess.

5 (Whereupon, at 8:50 a.m., a recess was taken.)

6 (Defendant's Exhibits J
7 and K were marked for
8 identification.)

9 (Whereupon, the jury enters the courtroom.)

10 THE CLERK: -- the Honorable Karl Johnstone
11 presiding is now in session.

12 JUDGE JOHNSTONE: You may be seated. I'm really
13 sorry about the weather conditions that inconvenienced you
14 folks on the jury last night. You're not the only ones,
15 apparently. I've sent a juror letter to the administrative
16 director and to the trial Court administrator and I've
17 asked them to let me know if the weather conditions get
18 such that they think it's necessary to let people go home
19 early. And if they, we'll make arrangements to let the
20 jury go home early to avoid some of that rush hour so you
21 won't have to go through that again like last night. And
22 I'm certainly sorry for anything I may have done to not
23 accommodate you.

24 We'll resume with the cross examination of Mr.
25 Cousins.

1 BY MR. MADSON: (Resuming)

2 Q Mr. Cousins, let's resume with the say inbound
3 transit into Port Valdez. I think you said yesterday you
4 were on the bridge and the pilot was on the bridge,
5 directing the vessel in after Rocky Point.

6 A Yes.

7 Q And you arrived there at about -- actually started
8 to dock at about what time?

9 A Without reference to --

10 Q Approximately.

11 A 2230.

12 Q Then, sir, is it not true that the first mate or
13 the chief mate, his function or primary job is to oversee
14 the loading and unloading on the vessel?

15 A That's correct.

16 Q Is this normal for your industry?

17 A I believe so.

18 Q Could you just kind of summarize what this
19 involves? I think you did yesterday, but very briefly,
20 what would his function be?

21 A Prior to the load, he's worked out a load plan,
22 written cargo orders that the second and third mate would
23 read and sign, stating that we understand how he wants to
24 load the vessel. He will be in charge of starting up the
25 cargo.

1 Q When you say how you load it, you mean so the ship
2 remains stable and level, it's level at all times?

3 A Yes, it -- what level it is that the tanks will be
4 topped off; certain vessels load a little bit differently
5 than others. He will be in charge of starting up the
6 cargo. Actually, in Valdez, we'll begin with a dirty
7 ballast. You'll start that up.

8 Q It pumps it out of the ship or the vessel to
9 somewhere else.

10 A Yes, to shore. He's in charge of starting that
11 up. Once that's going, if he's not on watch, he may get a
12 chance to get a little rest. As we near the end of
13 discharge of dirty ballast, he would be up to supervise the
14 stripping of the tanks, stopping the pumps, getting ready
15 to begin the load of cargo, which he would start and
16 supervise the beginning of the load.

17 Q Is it fair to say that there isn't much wasted
18 time on the operation of getting the cargo on the vessel?

19 A Not much.

20 Q And he has to be there essentially throughout this
21 whole period to oversee it?

22 A Yes.

23 Q And this may involve say working all night.

24 A At times -- and, again, that's what the second
25 mate and the third mate there are there to assist him.

1 Once the load is started and started satisfactorily and
2 everything appears to be fairly routine, that gives the
3 chief mate an opportunity to turn the cargo watch over to
4 one of the mates.

5 Q And I imagine the chief mate kind of sets his own
6 schedule as to when he thinks things are going well or if
7 he has to stay up or --

8 A Well, he'd normally go to his stateroom and the
9 orders -- most cargo orders that I've seen say if you see
10 anything going on, give him a call at any time.

11 Q In other words, he doesn't feel that he has to be
12 present, personally, at all times to watch; he can rely on
13 your judgment, the second mate's judgment.

14 A That's correct.

15 Q And if something goes wrong, you call him.

16 A Yes.

17 Q You I think went to work, started your next watch
18 at 8:00 o'clock the next morning, is that correct?

19 A Actually, a little bit earlier.

20 Q Okay, you were still loading at this time?

21 A Yes.

22 Q And that took essentially all day, did it not?

23 A Yes.

24 Q Is an estimate made of when the ship is expected
25 to be loaded and ready to sail?

1 A We keep track of loading rates and if the rate
2 changes appreciably, we will update what we call the
3 sailing board.

4 Q But if you're not there to see the board -- in
5 other words, if it says 8:00 o'clock, 8:00 p.m., or
6 something like that, and someone's ashore, how would they
7 find out if it's going to be an hour later?

8 A The only way that they would be able to find out
9 is to call the agent or the vessel.

10 Q How about if it's an hour earlier, would the same
11 thing apply?

12 A Yes.

13 Q I take it the loading of the Exxon Valdez on the
14 23d, during the day, was uneventful, routine, or do you
15 know?

16 A That's a fair characterization, yes.

17 Q And then I think you were off after noon for
18 awhile and started again? When was your next watch?

19 A My next watch?

20 Q Yes.

21 A Well, my next watch wouldn't begin until 8:00 that
22 evening, but I had other duties in between noontime and
23 2000.

24 Q Okay, what did you do during that time interval?

25 A After lunch, I went and took a salinity reading.

1 Q A what reading?

2 A A salinity.

3 Q Oh, right.

4 A I had supper relief at 5:00 o'clock for our chief
5 mate. And I helped in topping off. I don't recall
6 specifically, perhaps somewhere around 1900, I think.

7 Q When did you start checking the gear and all the
8 associated equipment to see if it was functioning?

9 A You know, again, without some reference material,
10 I can't give you a real good time.

11 Q Just approximately, sir.

12 A 1930.

13 Q About how long does that take? Just run through
14 this precheck.

15 A 20 minutes.

16 Q As part of that checking system, then, do you
17 actually turn the rudder to see if the rudder indicator is
18 operating properly?

19 A Yes.

20 Q And did it do so on this particular --

21 A Yes.

22 Q Yes.

23 A Yes.

24 Q I think you also mentioned that one of the other
25 things you do is check the fathometer, right?

A Yes.

1 Q It has an alarm which would indicate you're in
2 water that is -- well, whatever your setting is on your
3 instrument, it would ring an alarm when you get to that
4 level.

5 A That's correct.

6 Q Is that used at all for navigation, sir?

7 A For navigation?

8 Q Yes.

9 A No.

10 Q In other words, if -- I mean have you ever heard
11 of a situation or ever done this, where you were directed
12 to make a turn or do any -- a course change at a particular
13 fathom mark on a chart?

14 A No.

15 Q Maybe you can explain to the jury why that would
16 be so. Why would it be unusual to have a fathom mark as a
17 navigation --

18 A You can't see it. You can't see it with your
19 eye. There's many other things that would be much more
20 reliable. If there was not a point of land, then you would
21 have a position, a latitude and longitude, that you would
22 use.

23 Q Otherwise, you're looking at an instrument,
24 waiting for a certain figure to show up that says 38 or 40
25 or something? I mean that's what you'd be looking for with

1 a fathometer, right?

2 A Yes, I suppose so.

3 Q I think you said that in Prince William Sound, the
4 fathometer is not used to any real extent, is it?

5 A No, it's the depth alarm. It is not -- you know,
6 it's energized, it's used, but the application is limited
7 because you go from extremely deep water to no water.

8 Q Either too much water or plenty of water or not
9 nearly enough, right?

10 A Correct.

11 Q You tested the radar and that, I think you said,
12 was working properly.

13 A Both, yes.

14 Q And you used the 12-mile scale to do that.

15 A To tune.

16 Q To tune.

17 A Yes.

18 Q By tuning, you adjust the gain so your targets
19 come in at the best possible visual sighting.

20 A The gain in the tuning, yes.

21 Q I think you said, at about 8:20, the pilot, Mr.
22 Murphy, Captain Murphy came on board, correct?

23 A Yes.

24 Q And he was there for awhile and I think you said
25 that the captain then came on board some time after that,

1 Captain Hazelwood.

2 A Yes.

3 Q Did you actually see him come on board or just on
4 to the bridge, itself?

5 A I only recall the captain coming onto the bridge.

6 Q And did you speak with him at that time?

7 A No, I didn't.

8 Q Did you hear him speaking to Mr. Murphy or anybody
9 else?

10 A Yes, I believe the agent was up there. I'm pretty
11 sure the agent was on the bridge at that time.

12 Q How close did you get to him, physically, would
13 you say?

14 A Not within ten feet.

15 Q Did you have a chance to observe his demeanor at
16 all and his manner or method of walking or any of his
17 physical coordination, anything like this?

18 A Yes, I did.

19 Q Did you see anything at all unusual about Captain
20 Hazelwood at that time?

21 A No, I didn't.

22 Q Then you started the undocking procedure and you
23 assumed your normal station on the aft of the ship?

24 A That's correct.

25 Q That went routinely?

1 A Yes, it did.

2 Q Who gave the orders to do things with undocking, I
3 mean as far as undocking is concerned? Were there certain
4 orders given?

5 A Yes, typically, we'll gather at the stern for the
6 aft docking people. I will ask the master if we can start
7 dropping lines aft and I'll let him know when indeed we are
8 going to drop lines aft after he says it's okay. That's
9 transmitted to the engineer so the screw is stopped. From
10 there, we'll -- and I direct the work being done on deck.
11 From there, we'll move up to our spring wires which are
12 forward of the superstructure.

13 Q Was there anything unusual or different about the
14 orders or the manner of undocking at this particular time?

15 A No.

16 Q Once you leave the dock, then, the engine is
17 running, the pilot more or less directs the course of the
18 vessel out to the pilot station --

19 A Yes.

20 Q -- to Rocky Point.

21 A Yes.

22 Q And I believe you said that was routine.

23 A That's correct.

24 Q You were on the bridge at all times?

25 A Yes, I was.

1 Q And who was at the helm, the wheel?

2 A I believe Paul Radtke was the helmsman when I got
3 up to the bridge.

4 Q And the pilot was there.

5 A Yes.

6 Q Anyone on lookout?

7 A Yes, Harry Claar.

8 Q Where was he stationed, forward or the bow or --

9 A On the bow.

10 Q Okay. And he has a radio, of course.

11 A Yes.

12 Q I think you said at some time that the captain
13 went down below or at least you did not see him on the
14 bridge, correct?

15 A That's correct.

16 Q Now the -- let me just show you a chart. Perhaps
17 that would be better with less glare. But, Mr. Cousins,
18 could you just more or less show the route that you took
19 out through, from the dock or the berth to the pilot
20 station?

21 A The Alyeska berths are situated here. From
22 undocking, we would generally make a track something like
23 this, make a turn and transit the Narrows, from the
24 Narrows, without ice, typically just down the lanes.

25 Q I believe you said the captain came back on board,

1 to your knowledge, somewhere before or around Potato Point,
2 right?

3 A That's my recollection, yes.

4 Q That's toward the end of the Narrows.

5 A Yes.

6 Q Did -- was there any unusual anxiety during this
7 transit at all on the part of you or the pilot, Mr. Murphy?

8 A No.

9 Q It was --

10 A Routine.

11 Q -- routine. You've done it many times.

12 A I haven't done it many times, but --

13 Q Well, a number of times.

14 A Yes, a few, yes.

15 Q It seemed like, oh, just like it always did.

16 A Yes.

17 Q The course changes that are made, are they -- you
18 know, the course you take, is that pretty much
19 established? In other words, does the pilot seem to have
20 any particular course in mind when he goes through those
21 points?

22 A Yes.

23 Q You basically stood there and watched, right?

24 A Well, you do a little bit more than that. You're
25 supposed to keep track of the vessel's movement and observe

1 the helmsman and take any engine orders the pilot would
2 give.

3 Q The pilot would give them to you and then you'd
4 transmit them to the helmsman, is that how it works?

5 A He would give rudder orders to the helmsman and he
6 would give engine orders to the watch officer.

7 Q Which would be you.

8 A Yes.

9 Q Did anything that occurred on this particular
10 transit out to Rocky Point at all contribute to the
11 eventual grounding of the Exxon Valdez?

12 A No.

13 Q I think you said then that after the pilot was off
14 -- maybe we could go over that just very briefly. Does the
15 vessel slow down or alter course to allow the pilot to get
16 off?

17 A Some -- yes, it'll do both, usually, depending on
18 if the pilot boat needs a lead, there could be a course
19 change sometimes that isn't required, but a course change
20 will also knock some way off the vessel.

21 Q I take it the pilot was taken off the vessel with
22 no problems.

23 A No problems.

24 Q Now do you know to your own knowledge, sir,
25 whether or not the chief mate had worked such long hours

1 that the captain was going to take over his watch say at
2 4:00 a.m. for him?

3 A I didn't know.

4 Q After the pilot was off, was the course changed
5 then again?

6 A Yes, it was.

7 Q To what, sir?

8 A I don't recall -- I recall coming to 200. There
9 was another change to 180 after that.

10 Q Who made those course changes?

11 A The captain.

12 Q And you were present and heard them, right?

13 A I don't know that I was present. I may have been
14 on the bridge, but not heard them. I did hear of the 180
15 course change, I was informed of that one.

16 Q And this occurred on the bridge.

17 A Yes.

18 Q And this was in the presence of the captain,
19 you're standing together?

20 A Well, we weren't standing together. I was in the
21 course of doing something and the course change was given.

22 Q Fine, but you heard it --

23 A Yes.

24 Q -- clearly. Did you see the captain also at this
25 time?

1 A Yes, I did.

2 Q Did you see any change at all in his demeanor or
3 speech or anything else from this point, compared to the
4 earlier time you saw him on the bridge?

5 A No, I didn't.

6 Q Did the commands or orders he gave seem to be --
7 you had no trouble understanding them or they made sense at
8 the time?

9 A They were clear, yes.

10 Q Did he seem to be in command of the vessel?

11 A Yes.

12 Q Now perhaps I got a little confused at this
13 point. Maybe you could relate again exactly what actions
14 you took after this course change was made and what did you
15 do next?

16 A At what point do you want to pick this up?

17 Q Well, maybe I can ask you this. I think you said
18 that the pilot was off at 2324.

19 A Yes.

20 Q And then you came on the bridge. You said the
21 captain wanted you to do a fix.

22 A That's correct.

23 Q In other words, he wanted you to plot your
24 position as to where the vessel was at that time.

25 A That's correct. I believe that at that -- during

1 the process of taking that fix, I believe the vessel
2 started to swing, heading towards 200.

3 Q 200 would put -- in what direction, could you just
4 show that on the chart for the jury, just approximately
5 where, what direction that is?

6 A That would be kind of like this.

7 Q Southwesterly, right?

8 A Yes.

9 Q What made this course change? You said it swung.
10 What made it swing? Maybe I misunderstood you. You said
11 during some process or --

12 A During the process of taking the fix, the vessel
13 began to swing to the course of 200.

14 Q Oh, I see. About how long did it take you to do
15 this fix?

16 A Oh, perhaps -- you mean the actual fix or the fix
17 and plotting?

18 Q Let's say just the fix.

19 A Just the fix? Perhaps 15 seconds, 20 seconds.

20 Q And, again, what do you do? This 15 seconds,
21 what's involved in that?

22 A On that particular fix, it was two visual sites
23 and a range.

24 Q Using the -- using what equipment?

25 A The starboard bridge repeater, bridge wing

1 repeater, and the starboard radar visual range marker.

2 Q Is it fair to say, sir, that getting a fix is a
3 very commonly done and routine operation on a ship?

4 A Yes.

5 Q And it's done -- with anyone with any degree of
6 skill it can be done very rapidly, can it not?

7 A Correct.

8 Q Then how long did it take you to plot this fix?
9 By plot, that means you actually went to a chart and put it
10 on there, put a mark on there?

11 A That's correct.

12 Q And how long did that take?

13 A Oh, 30 or 40 seconds.

14 Q So the entire fix and plotting took less than a
15 minute, is that correct?

16 A Well, I didn't have a stop watch.

17 Q Yes.

18 A Around a minute.

19 Q But it didn't take a great deal of time, is that
20 fair to say?

21 A No.

22 Q Where was the vessel when you took this fix?
23 Could you just maybe point to it? I don't know if the
24 pointer is still up there or not. There usually is one up
25 there, but, if not --

1 A The approximate position at the time of the fix
2 was right in here, approximately in the middle of the
3 separation zone.

4 Q You're in the middle of the separation zone, still
5 on a course of about 200?

6 A Coming to 200.

7 Q Is this -- at this time, did you have a discussion
8 with the captain about what the plan was about the ice,
9 things like this?

10 A I think the conversation consisted of the captain
11 telling me that, "We're going to divert for the ice."

12 Q Okay, he made the decision to divert around the
13 ice, correct?

14 A Yes.

15 Q Routing around ice is a fairly routine operation
16 in Prince William Sound, is it not?

17 A It's become routine. It wasn't always, I don't
18 think.

19 Q Well, have the ice conditions changed, in your
20 experience, over the years?

21 A Yes.

22 Q Columbia Glacier ice has increased.

23 A Calving increasing amounts of ice and larger
24 pieces of ice.

25 Q On that topic, you said you looked at the radar

1 for the ice, correct?

2 A Yes.

3 Q I want to show you what you marked on the chart
4 yesterday. Now, sir, I believe you drew that green outline
5 on there as the extent of the ice.

6 A That's correct.

7 Q Now that isn't an ice sheet, is it, solid ice?

8 A No, that's, again, a general outline of the area
9 of ice.

10 Q Would it be more accurate, Mr. Cousins, if instead
11 of the line there, you had little dots to represent
12 icebergs, ice chunks or things like that?

13 A Yes.

14 Q And these are varying sizes?

15 A Yes.

16 Q Some are small, some are big?

17 A Yes.

18 Q Can you tell from looking at the radar -- the
19 position you were at, you were in at that time, could you
20 tell how big some of the icebergs were or the size of the
21 ice floe?

22 A By the targets on the radar?

23 Q Yes.

24 A No, not really. I would say that, from
25 experience, that they were -- considering the strength of

1 the return of -- that we're getting from the chunks of ice
2 that they were a pretty good size.

3 Q When you say pretty good size, I mean that leaves
4 a lot to be understood. Can you describe it in terms of
5 feet or anything like that?

6 A Perhaps not feet. I guess the description would
7 be, as we know it, called bergy bits, which is smaller than
8 say an iceberg, larger than growlers, which are smaller
9 chunks of ice. I could characterize what you'd see in
10 bergy bits as perhaps the size of a small house sticking
11 above the water line.

12 Q 20 questions, bigger than a bread box and smaller
13 than --

14 A Yes, exactly.

15 Q Yes. In other words, some of them may pose a
16 danger to a vessel like the Exxon Valdez and others would
17 not, is that fair?

18 A That's fair.

19 Q And you don't really know, but it's -- let's say
20 it was a -- well, let me ask you this. When you said the
21 captain made this decision and told you what the plan was,
22 you, in addition to your duties of just carrying out the
23 orders, you also discussed it with him.

24 A That's correct.

25 Q You felt free to voice your opinion or objection

1 if you felt it was wrong.

2 A That's part of our job.

3 Q Did you feel there was anything wrong with this
4 decision?

5 A After I had taken some ranges and got this view of
6 the ice against -- you know, in relation to the traffic
7 lanes and the hazards, I thought that it was indeed a
8 maneuver that was practical.

9 Q I guess a decision could be made to either go
10 through the ice or try to go around it, is that basically
11 what it came down to?

12 A Yes.

13 Q You said, in your direct testimony yesterday, that
14 you felt you had plenty of room to make the maneuver,
15 right?

16 A Yes.

17 Q You were a mile off Busby Island when you were
18 going to make the turn?

19 A Approximately.

20 Q And how far at this point, then, would be Bligh
21 Reef?

22 A I don't recall the --

23 Q Can you estimate, two miles, one mile?

24 A About two miles to the northern edge of the reef.

25 Q You knew the characteristics of the vessel as far

1 as its ability to turn when it was fully laden.

2 A Yes.

3 Q And you had no question in your mind that under
4 the conditions that existed at that time, the maneuver was
5 a prudent one.

6 A That's correct.

7 Q I think you said that you asked the captain or
8 said something that you were going to tell traffic, but you
9 said that he had already done that, correct?

10 A That was earlier.

11 Q Earlier, okay. Like, "Talking to traffic," that
12 means the Vessel Control Center, does it not?

13 A Yes, it does.

14 Q It's something that you felt you were required to
15 do, was to inform them of your intentions to go around the
16 ice?

17 A Something that we have to do.

18 Q At that time, you could see Busby Light quite
19 clearly, could you not?

20 A Yes.

21 Q And you knew where Bligh Reef was and where the
22 buoy was.

23 A Yes.

24 Q It was visible certainly under radar.

25 A Yes.

1 Q And was it visible at that time, also, visually,
2 just looking out the bridge window?

3 A From what point are you talking about now?

4 Q The time you made the decision to divert around
5 the ice --

6 A Yes.

7 Q -- your earlier fix.

8 A Yes. Well, the Bligh Reef buoy wasn't.

9 Q Was it --

10 A It was visible on radar, but, visually, I don't
11 remember seeing it.

12 Q You knew where it was.

13 A Yes.

14 Q So I assume then, sir, that you knew to make the
15 maneuver, you weren't -- Busby Island was certainly not any
16 problem because you were a mile to the west of Busby,
17 right?

18 A Yes.

19 Q The only potential problem was making the turn so
20 you would go to the north of Bligh Reef and get back into
21 the traffic lanes, at the same time skirting the southern
22 edge of the ice.

23 A Correct.

24 Q At 2324, you said the order was given to go full
25 ahead on the engine controls, maneuvering speed?

1 A That was the time the pilot was off, yes.

2 Q What does full maneuvering speed mean?

3 A 55 rpm. Laden, I believe that's about ten knots.

4 Q And is it true, sir, that the vessel, such as the
5 Exxon Valdez, will maneuver better or is easier to control
6 at a little faster speed, as opposed to a slower one?

7 A Yes, you get quicker response from the rudder.

8 Q On that topic, when you turn the rudder on this
9 ship, how long -- let's say you're going at 11 knots, draft
10 is 56, 57 feet, when you turn the rudder say ten degrees,
11 how quickly do you see a response of the ship or does the
12 ship begin to respond, let's put it that way?

13 A Oh, you should see a response within 15 to 20
14 seconds.

15 Q Not instantaneous, but quickly.

16 A Yes.

17 Q The captain did not tell you to put any degree of
18 rudder on the vessel, right?

19 A That's correct.

20 Q You indicated -- did you look at the chart, were
21 you standing there at the chart with him while this
22 discussion about what the maneuver was going to entail?

23 A No, we did this at the radar.

24 Q The captain looked at the radar, too, to see the
25 ice at the same time you did?

1 A Well, I don't know if it was at the same time. I
2 was observing the ice from the time of the 2339 fix on. We
3 had two discussions at the radar and, obviously, the
4 captain had to be aware of the ice because that's why we
5 were changing course.

6 Q Right. So you assumed at least that at some time,
7 he looked at the radar and knew about it.

8 A Well, he stated that, "We're diverting for the
9 ice."

10 Q Did you know of the earlier ice reports from the
11 ARCO Juneau at all?

12 A No, I had heard that there had been a report of
13 ice in the lanes, but I didn't hear the specifics of the
14 report.

15 Q Now if I understand correctly, sir, the
16 maneuvering question was this. When you became abeam of
17 Busby Island, you were going to make a turn to the right,
18 which would then take the vessel north of Bligh Reef and
19 back into the traffic lanes.

20 A That's correct.

21 Q When -- in other words, you have to be 90 degrees
22 from Busby Island --

23 A Yes.

24 Q And you're going on -- because you're going on a
25 course straight south, 180 degrees, right?

1 A Yes.

2 Q And you then just, at that point, give an order to
3 the helmsman to say ten degrees, 20 degrees, something.

4 A Yes.

5 Q Perhaps for the jury, you can explain. Ten
6 degrees may not sound like much. Can you explain what you
7 feel a ship like the Exxon Valdez does with a ten-degree
8 rudder? Is this a normal, routine maneuver or order?

9 A Yes, it is.

10 Q Did you anticipate using a ten-degree right rudder
11 as you approached Busby Island?

12 A Shortly in advance of getting abeam, I decided
13 that I wasn't going to use a large amount of rudder, large
14 being 20 or 30 degrees, and that I estimated that that rate
15 of turn would have taken us into the ice.

16 Q At 20 or more?

17 A Yes, at more than ten, I felt that that would
18 produce a swing rate that would actually bring us into the
19 ice.

20 Q When you speak of swing rates, say at abeam of
21 Busby Island, if a ten-degree rudder turn was actually put
22 on the vessel, can you explain what you would expect by way
23 of swing rate, how fast the vessel would turn in a given
24 amount of time?

25 A Well, at this point in time, it's kind of hard for

1 me to give you anything with any degree of accuracy. I
2 would hope for the swing rate to increase from nothing up
3 to at least five-tenths of a degree per second, perhaps a
4 little bit more.

5 Q Per second.

6 A Per second.

7 Q I believe you said the discussion after this
8 decision had been made centered around your understanding
9 of what was to be done and your being comfortable with
10 doing it. The captain was not directly there, I mean right
11 on the bridge with you, right?

12 A Yes.

13 Q I think you said, yesterday, that -- you were
14 asked the question twice whether you felt comfortable with
15 doing that.

16 A Yes.

17 Q This didn't cause you any unusual anxiety or
18 anything like that.

19 A No, it didn't.

20 Q I mean you knew your capabilities and abilities as
21 a seaman, right?

22 A Yes, sir.

23 Q And Captain Hazelwood at least had some idea of
24 the same, since he had sailed with you before.

25 A Yes.

1 Q I think you said that you did not know much about
2 the helmsman, Mr. Kagan, his abilities or lack of them.

3 A No, I didn't.

4 Q After the captain went down below -- and your
5 communication with him is via telephone, right?

6 A Yes.

7 Q Maybe I can use this exhibit here, if I -- Mr.
8 Cousins, perhaps you could step down --

9 MR. MADSON: With the Court's permission, would it
10 be all right, sir?

11 JUDGE JOHNSTONE: Sure.

12 BY MR. MADSON: (Resuming)

13 Q -- and show the jury where you were physically
14 located at the same time where Captain Hazelwood was.
15 Let's turn it perhaps so it would be a little easier.

16 A And this is at the time of the phone call?

17 Q Yes.

18 A It's on the port side of the bridge, on this --

19 MR. COLE: Judge, can I lift it up so that it
20 doesn't --

21 MR. MADSON: I'd rather have someone -- well, too
22 late.

23 THE WITNESS: The phone that I was using is
24 mounted on this partial bulkhead between the nav. area and
25 the chart room, about here. The captain's office is
located

1 right here and his desk and phone are just a matter of feet
2 inside the door.

3 BY MR. MADSON: (Resuming)

4 Q Now when you say "right here," that's --

5 A D Deck, one deck below.

6 Q One deck below. Now the captain's desk is
7 situated here and there's phones on it.

8 A I think you said, yesterday, Mr. Cousins, that
9 from the captain's quarters to the bridge, if someone was
10 in a hurry, could take maybe 15 seconds.

11 A That's correct.

12 Q And, certainly, you knew in your own mind that had
13 you asked the captain, to say, "Hey, I've got a problem,"
14 he would respond and come up.

15 A Yes.

16 Q Do you feel at the time you were up on the bridge
17 that the captain still was directing the control or
18 directing, controlling the vessel?

19 A In a sense, yes.

20 Q In other words, he had the power, the ability to
21 tell you what he wanted to do and you could then carry it
22 out.

23 A That's right.

24 Q On the other hand, you could discuss that with him
25 and perhaps say, "Well, I don't think that's what we should

1 do because of the . . .," following and he could then
2 change his mind.

3 A That's part of my job, yes.

4 Q And at the same time, the actual physical
5 maneuvering of the vessel was not even done by yourself,
6 but it was being done by Mr. Kagan. When I say physical, I
7 mean hands on the wheel type of thing.

8 A That's right.

9 Q But you also had the ability to direct and control
10 Mr. Kagan by telling him what you wanted done, right?

11 A By giving orders to him, yes.

12 Q And of course you gave him, I think you said
13 yesterday, the order to go ten degrees right rudder.

14 A That's right.

15 Q Mr. Cousins, is it correct that in your mind
16 today, there's no doubt that had that ten-degree right
17 rudder command been executed at that time off Busby Island,
18 the ship would have cleared Bligh Reef by a substantial
19 margin?

20 A That's my belief.

21 Q When you told Mr. Kagan and said, "Ten degree
22 right rudder," do you know if he responded or not and said,
23 you know, said, "Aye, aye, sir," or whatever seamen do?

24 A He would have responded, "Ten right." He would
25 repeat the command.

1 Q That's normal and routine, is it not?

2 A That's, yes, routine.

3 Q That's to make sure that the person you're giving
4 the order to understood it and --

5 A Yes.

6 Q -- is repeating it?

7 A Yes.

8 Q At that time, you certainly had no reason to
9 believe that Mr. Kagan did not put ten degrees right rudder
10 on the vessel.

11 A That's correct.

12 Q I take it, though, sir -- you said you did not
13 actually look up at that point and see the rudder
14 indicator, itself.

15 A That's correct, I was -- I gave the initial rudder
16 command and was in the process of calling the captain.

17 Q Now that was the first conversation, correct?

18 A Yes, and had turned my back to the rudder angle
19 indicator.

20 Q And at that time, you told him that, "We are
21 starting the turn."

22 A That's correct.

23 Q I assume there was no anxiety in your voice or
24 anything that would cause Captain Hazelwood to think that
25 that was not the case.

A Correct.

1 Q To the best of your knowledge and belief, the
2 vessel was beginning to start turning to the right.

3 A Yes.

4 Q Now I'd like to get on another topic at this
5 point. Mr. Cole asked you, yesterday, about the auto
6 pilot, itself. Going back to that point, you said that, I
7 think, at one point, you physically turned it off, correct?

8 A Yes.

9 Q I think you said that was off at about 11:50 --
10 I'm layman's hours again -- about 11:52 or :53.

11 A Yes, as the captain was leaving the bridge, I
12 switched the steering mode to helm.

13 Q And this was the same time the load program up had
14 begun?

15 A It was a little bit after.

16 Q Okay. And load program up, again, takes some 40
17 minutes to get up to what's called sea speed, is that
18 correct?

19 A It's my recollection it takes that long, yes.

20 Q Mr. Cousins, I'd like to have you look at what's
21 been marked as Defendant's Exhibit K. Would you look at
22 this, sir, and let me ask you if you recognize that?

23 A Yes, this is our Sperry steering unit.

24 Q Would you hold that up so the jury can see it and
25 indicate where the button is that is the auto pilot?

1 A The auto pilot?

2 Q Yes, turning it off and on.

3 A Well, this is the gyro mode button. It's on a pad
4 of six buttons. It's the upper left most button that would
5 put it into the auto pilot.

6 Q How about turning it off?

7 A The helm, going to helm mode, you depress this
8 button right here.

9 Q Now when you say "this button," what does it say
10 there, helm?

11 A Helm.

12 Q And it's roughly how big in diameter, sir?

13 A Oh, perhaps an inch or more.

14 MR. MADSON: Your Honor, I would ask that Exhibit
15 K be offered into evidence at this time.

16 MR. COLE: No objection.

17 JUDGE JOHNSTONE: Admitted.

18 (Defendant's Exhibit K was
19 received in evidence.)

20 BY MR. MADSON: (Resuming)

21 Q Mr. Cousins, if the vessel is on auto pilot, is
22 this readily apparent to you at the time? Would you know
23 that and how?

24 A If I hadn't put it into auto pilot?

25 Q Yes, just in general I'm talking. You came up on

1 the bridge and you wanted to know if it was on auto or
2 helm.

3 A Well, I would ask someone.

4 Q How about looking at anything?

5 A Well, if there was enough light there, you would
6 obviously see if the helm was in the steering or not.

7 Q If it's in auto pilot, engaged in the auto mode,
8 if you turn the wheel, does the rudder indicator turn at
9 all?

10 A The rudder indicator, no.

11 Q The rudder does not turn, right?

12 A No, it's segregated at that point.

13 Q So you wouldn't go six or seven degrees, let alone
14 ten degrees, if it was on auto pilot.

15 A No.

16 Q Is it true then, sir, there is -- do you have any
17 doubt in your mind that at the time you push the button and
18 disengaged the auto pilot, it did in fact go off and you
19 were on helm steering from 11:53, approximately, on?

20 A There was no doubt.

21 Q Did the auto pilot have anything to do with this
22 grounding?

23 A No, it didn't.

24 Q Now Mr. Cole asked you exactly what you did,
25 yesterday, after say the first conversation with the

1 captain and you explained how you went here and went there
2 and, you know -- let me back up just a little bit. When
3 did you actually say to Mr. Kagan, what time in other
4 words, "Ten degrees right rudder"? Was that 11:55 or 2355?

5 A It would have been more like one minute later,
6 2356.

7 Q And you knew exactly where the vessel was at that
8 time.

9 A Yes.

10 Q No question you were abeam of Busby Island?

11 A Actually, we were, I figured, two-tenths south of
12 Busby.

13 Q Two-tenths of a mile or a nautical mile or --

14 A Nautical mile.

15 Q Nautical mile. And I think you said the leading
16 edge of the ice was approximately nine-tenths of a mile
17 from Bligh Reef, from the buoy.

18 A No, not from the buoy.

19 Q Okay, from the reef, itself?

20 A Yes, that was the distance between the reef and
21 the bottom edge of the ice.

22 Q Do you have any idea now about how much time
23 elapsed before you actually looked at the rudder indicator
24 and saw that it was only like at six?

25 A Approaching two minutes, anywhere from a minute

1 and a half, between a minute and a half to two minutes.

2 Q During this time, you were at the starboard radar
3 the entire -- was your --

4 A No.

5 Q Port radar?

6 A After the telephone conversation, I returned to
7 the -- I turned around and went to the port radar, looked
8 at the port radar, looked up at the rudder angle indicator.

9 Q There is only one overhead rudder angle indicator,
10 is there not?

11 A Well, there's actually two.

12 Q Oh, I'm sorry, one up on the forward bulkhead --

13 A Yes.

14 Q -- and one more or less directly right above the
15 console?

16 A Yes, on the starboard side.

17 Q Mr. Cousins, I'd like to hand you now what's been
18 marked as Defendant's Exhibit J and ask you if you can
19 recognize this, sir.

20 A Yes.

21 Q And what is that?

22 A This is a view of the starboard side of the
23 forward section of the bridge.

24 Q Maybe you could hold it up and just illustrate
25 where, for instance, the radar is.

1 A This is the starboard radar. This is the rudder
2 angle indicator. This is the steering stand. The other
3 radar that I was using would have been over here.

4 Q Well, from the other radar, the port radar, can
5 you see the rudder angle indicator?

6 A Not clearly, no.

7 Q How far would you have to move in order to see it?

8 A As I recall, you'd need to step fairly close to
9 the steering stand.

10 Q What about the other rudder indicator, angle
11 indicator?

12 A That is located right here --

13 Q That was it.

14 A -- the smaller --

15 Q Could you see that from the port radar station?

16 A Yes, it's kind of -- it's at an angle. I think
17 it's more directly in front of the steering stand.

18 MR. MADSON: Your Honor, I'd offer Defendant's
19 Exhibit J at this time.

20 MR. COLE: No objection.

21 JUDGE JOHNSTONE: Admitted.

22 (Defendant's Exhibit J was
23 received in evidence.)

24 BY MR. MADSON: (Resuming)

25 Q Is the port radar essentially the same as the

1 starboard radar?

2 A No, it isn't.

3 Q What's the difference?

4 A The starboard radar is a ten-centimeter radar and
5 it's equipped with a collision avoidance module. Port
6 radar is a three-centimeter radar without any other
7 attachments.

8 Q You felt, on this particular occasion, the port
9 radar was better for your purposes?

10 A That's correct.

11 Q Now when you have a helmsman that you give an
12 order to, do you naturally assume it's carried out if the
13 guy says, "Yes, ten-degree right rudder"?

14 A Yes.

15 Q You don't normally stand right over the helmsman's
16 shoulder and watch every move he makes, do you?

17 A No, but -- not right over his shoulder, but you'd
18 observe that your order was indeed executed.

19 Q Did you see Mr. Kagan actually turning the wheel
20 when you gave him the ten-degree right rudder?

21 A Well, I could only see a silhouette of the
22 helmsman. It was extremely dark in the wheelhouse.

23 Q That's because you don't want any light to
24 interfere with your night vision.

25 A That's correct.

1 Q Now the chart room, itself, is that lit so that
2 you can see the charts and everything back there?

3 A Dimly.

4 Q Do you have a curtain that's drawn across?

5 A Yes.

6 Q When you were on the phone with Captain Hazelwood,
7 the first conversation when you told him you were starting
8 the maneuver, did he ask you what rudder angle you had on
9 or did you tell him?

10 A No, there was no discussion of the rudder angle.

11 Q But you told him you were starting to make the
12 turn, right?

13 A Yes.

14 Q Now did you come in -- after you hung up the
15 phone, you then took another fix or plot or were you just
16 looking at the radar at this time?

17 A After the first conversation?

18 Q Yes.

19 A I turned to, again, the port radar, looked at the
20 rudder angle indicator. It was at that time that I stepped
21 out onto the port bridge wing and looked aft to Busby
22 Island Light.

23 Q And did it seem to be in the proper position as
24 you were starting to make the turn or can you tell, really?

25 A Well, I -- no, I expected the light to be more --

1 not off our port quarter, but more astern as the ship
2 started to swing.

3 Q Did this cause you any concern at this time?

4 A Yes, it did.

5 Q What did you do then?

6 A I entered the bridge again and I believe it's at
7 this time that I ordered the 20 right, took a couple of
8 ranges and may have, although I don't remember returning to
9 the chart room to plot these, I believe that I did.

10 Q Were these the ones you described yesterday that
11 you said you did in haste?

12 A Yes, the scribe marks.

13 Q Okay, so you believe that while you plotted them,
14 you did them in somewhat of a hurry?

15 A That's correct.

16 Q About how long did that take, sir?

17 A A matter of seconds.

18 Q Again, 15, 20 seconds?

19 A Yes, I -- 15, no more than 15.

20 Q I guess the question is why did you do these in
21 haste?

22 A Well, obviously, things weren't going as I had
23 planned and my -- the reason that I walked out onto the
24 bridge wing was a quick check to see whether we had gone so
25 far down that we were into a red sector. It was a quick

1 check, verified that with a couple of quick ranges. I had
2 ordered harder rudder, put an additional ten degrees on the
3 original rudder order.

4 (Tape changed to C-3617.)

5 BY MR. MADSON: (Resuming)

6 Q You ordered the 20-degree rudder angle before you
7 made this plot, the fix, or a fix and plot?

8 A Well, before I plotted it, yes.

9 Q You were concerned enough at that point because
10 the vessel wasn't turning as you expected.

11 A Yes, it hadn't turned at all.

12 Q And is that when you also noticed that the rudder
13 angle was only at six or seven degrees?

14 A That was prior to that.

15 Q As you were coming in, you came in and looked at
16 the radar, did you look at the rudder angle indicator at
17 that time before you did your actual fix?

18 A Yes, it was at ten then. As I stated yesterday, I
19 told him, "Put it over to ten."

20 Q And you actually saw that it was at ten.

21 A Yes.

22 Q Now from just visually from being on the bridge,
23 just being there and looking out, without the use of radar
24 or anything, you couldn't see any landmarks, is that
25 correct, any mountains or any points of land or anything?

1 A No, only lights.

2 Q It was virtually just pitch black.

3 A That's right.

4 Q And radar is used to a great extent to navigate
5 vessels like the Exxon Valdez, is it not?

6 A Yes.

7 Q I mean you could be in a virtual dead or complete
8 fog and still navigate, could you not?

9 A Yes.

10 Q Can you estimate -- I know, sir, that the degree
11 is very difficult, but can you give the jury any idea of
12 the time that might have been involved from the time you
13 said -- you did your fix or plot and the time you actually
14 heard the rumbling of the grounding, itself?

15 A Are you talking about the plot prior to the 20?

16 Q That's right, the one you did in haste, when you
17 said you were concerned.

18 A Perhaps up to a minute, a minute and a half to two
19 minutes.

20 Q During this time, you did not call Captain
21 Hazelwood and say, in effect, "Gee, Captain, the vessel's
22 not turning as I expected," or, "I just gave it 20 degrees
23 right rudder," or something?

24 A At that time, no, I didn't call him.

25 Q Did you still feel that even though you were

1 concerned that, you know, with a 20-degree right rudder,
2 you were going to have no problem clearing Bligh Reef?

3 A I thought that we were going to clear.

4 Q At some point then, you gave another rudder
5 command, did you not, the hard right?

6 A Yes.

7 Q Why did you do that, sir?

8 A We weren't -- although the heading change was
9 increasing rapidly, our advance was such that we were
10 really carrying down under the reef and that was an attempt
11 to again increase the rate of turn and hopefully shorten
12 that advance towards the reef.

13 Q So it was -- it made sense in your mind to turn
14 sharper or sharp as possible --

15 A Yes.

16 Q -- at that point, right?

17 A Yes.

18 Q Was it immediately after that that you went to the
19 phone a second time and called the captain?

20 A When I ordered the hard right, I was in the
21 process of calling the captain.

22 Q And I think you said yesterday that, at that time,
23 you were just telling him, "I think we're in serious
24 trouble," when you heard rumbling sounds.

25 A The conversation went, "Captain, I think we're in

1 serious trouble." He said, "Well, what's the matter?
2 Where's the rudder?" And I said, "I had it at hard right
3 and turned, it was a 20," the initial contact, impact on
4 the reef, that was it.

5 Q When you make a course change or any change, is
6 there something called a weigh that changes or weigh off
7 the vessel or something like that, a nautical term? Maybe
8 I've got it wrong.

9 A I don't think I understand.

10 Q I probably don't, either. In other words, does
11 the vessel tend to slide as it turns? Maybe that's a
12 better way of putting it.

13 A That would be an advance from the time you put a
14 rudder over until it actually starts off at that line.

15 Q Could you say that there's nothing unusual or
16 substantially different about the Exxon Valdez and its
17 handling characteristics as opposed to other tankers you
18 served on?

19 A They're not the same, but they're very similar.

20 Q Now you said yesterday that your original estimate
21 of the grounding time at 0004 is not correct and that it
22 was actually later than that. Where did the four come
23 from, the four minutes after; how did you arrive at that?

24 A I don't really recall. I mean it may have been
25 just a best estimate, trying to reconstruct the time that

1 I might have gotten off the digital readout on the
2 console. At the time of contact or impact on the reef, I
3 did not stand there and say, "Well, it's . . .," you know,
4 0012. I didn't do that.

5 Q And if the -- you gave the command of ten-degree
6 right rudder at 2356, let's say, and the grounding, as you
7 said yesterday, was closer to maybe 0011 or 12 -- is that
8 correct --

9 A Yes.

10 Q -- that's about 15 minutes, is that correct?

11 A Yes.

12 Q That's the time when you were on the bridge and
13 doing what you described yesterday, look at the radar and
14 things like this.

15 A Yes.

16 Q Is it true, sir, you didn't feel unusually rushed
17 or hurried in doing this until you realized there may be a
18 problem, right?

19 A I felt I think that during that time that I gave
20 the 20-degree right that it was time to --

21 Q Time to hurry.

22 A Pick up, yes.

23 Q And, again, I may have asked the question, I may
24 have not, but from that time, the 20-degree right turn
25 order, to the time you heard the rumblings or whatever, the

1 grounding, was that -- did you say about two minutes or
2 longer?

3 A A minute and a half to two minutes, somewhere in
4 that time frame.

5 Q From your earlier testimony, had you asked the
6 captain to come up at that time, he could have been there
7 say in 15 seconds.

8 A Right.

9 Q Do you feel, sir, that even if he had come up at
10 that time, there was anything that anybody could have done?

11 A No.

12 Q It was predetermined it was going to hit the reef,
13 right?

14 A I believe so.

15 Q Now, sir, you testified yesterday -- Mr. Cole
16 wrote down a lot of things on a sheet. One of the things
17 he wrote down was the term "initial grounding." There was
18 only one grounding, wasn't there?

19 A Yes, it should -- initial contact.

20 Q I mean you heard these rumblings or vibrations and
21 they lasted for a period of time and they stopped.

22 A That's correct.

23 Q After the vessel stopped, the engines were still
24 running, correct?

25 A Yes.

1 Q I think you said that you went out onto the port
2 wing, bridge wing at that time immediately after.

3 A Yes.

4 Q And you turned the lights on, floodlights.

5 A Yes.

6 Q What did the floodlights do?

7 A They illuminated the deck and --

8 Q That's a dumb question.

9 (General laughter.)

10 BY MR. MADSON: (Resuming)

11 Q What do they illuminate?

12 A They illuminated the deck and the side of the
13 vessel.

14 Q What were you looking for?

15 A Holes and oil gushing.

16 Q Did you see any on the port side?

17 A No, I didn't.

18 Q Did you go on the starboard side?

19 A Yes, I did.

20 Q What did you see there?

21 A We saw oil bubbling up in the water.

22 Q When you returned to the bridge, was the captain
23 there at that time?

24 A When I came in from the port bridge wing, he was
25 there.

1 Q That was your first trip up?

2 A Yes.

3 Q How long did you stay out there, just enough to
4 put the lights on and look and come back in?

5 A Yes, two or three minutes.

6 Q Is it fair to say, sir, that this was a -- I won't
7 say unusual, but exciting or --

8 A Shocking.

9 Q -- shocking event, right? When you saw the
10 captain come up on the bridge, did he tell you anything to
11 do right away?

12 A Yes, get a fix.

13 Q Get a fix.

14 A Yes.

15 Q And that seemed like a proper, prudent order to
16 give at that time?

17 A Yes, we needed to know where we were on the reef.

18 Q Yes, because you have to let somebody know, right?

19 A Yes.

20 Q I take it you did that.

21 A Yes.

22 Q Did you see any change in his demeanor or manner
23 of speaking or anything else that was different at this
24 time than any other time earlier that evening?

25 A Other than the stress and shock, no.

1 Q Did he appear to be somewhat in shock, too?

2 A Well, we all were.

3 Q Did he still seem to give clear and concise
4 commands, orders?

5 A Yes.

6 Q After you got the fix, did he tell you anything to
7 do with regard to the rest of the crew?

8 A He instructed Maureen Jones, the lookout, and
9 myself to go below and inform the crew members of our
10 situation.

11 Q There's a general alarm bell or something on a
12 vessel, is there not?

13 A Yes.

14 Q Was there one on the Exxon Valdez?

15 A Oh, yes.

16 Q Was there any suggestion made to sound that
17 general alarm?

18 A We thought perhaps it might not be the best thing
19 to do. The chief mate had mentioned how strong the vapors
20 were, just in the passageways that he'd come through, so --

21 Q You didn't want to cause anyone any unnecessary
22 alarm or fear?

23 A Correct.

24 Q The captain decided not to use that, but to inform
25 people?

1 A Right.

2 Q And you believed that to be a prudent order at the
3 time.

4 A Yes.

5 MR. COLE: Objection, lack of foundation.

6 MR. MADSON: If he knows, Your Honor.

7 JUDGE JOHNSTONE: I think the witness can give his
8 opinion on that. Your objection as to foundation is
9 overruled.

10 BY MR. MADSON: (Resuming)

11 Q I believe you said yes, it seemed appropriate
12 under the circumstances.

13 A Yes.

14 Q I want to go back just a little bit. I think you
15 said when the vessel hit the reef, it continued to swing to
16 the starboard or to the right.

17 A Yes.

18 Q At that time, of course, you did have the full
19 right turn rudder on.

20 A Yes.

21 Q And that's when you grabbed the wheel to stabilize
22 it, in other words, the center of the vessel.

23 A Yes -- well, I did that to slow or stop the swing,
24 to stop the aft end of the ship from getting up into the
25 reef. That was an attempt -- that was the intent.

1 Q Yes, the intent was to protect the engine room and
2 the crew down there.

3 A Whether it did anything or not -- yes.

4 Q Was there a crew or did you know there was crew
5 down in the engine room at that time?

6 A Yes.

7 Q Why are they there at that particular point of the
8 voyage, do you know?

9 A Well, because they have to be until we make
10 departure, until we're out of those waters and out into
11 open sea.

12 Q You said the engines were shut down at about --
13 again, I'm doing it in layman's terms -- about 12:20 p.m.,
14 0020, the first time.

15 A Okay, I don't have anything to reference that by,
16 but it sounds about right.

17 Q Did I say p.m.? I should have said a.m.

18 A Yes.

19 Q Okay, that would have been roughly ten minutes
20 after the initial -- after the grounding, approximately.

21 A I don't know that the engines were running that
22 long. Of course, you're assuming that my time of the
23 grounding is correct, so --

24 Q No, actually, I'm asking you to give us your best
25 estimate.

1 A I don't think -- I do not believe that it was ten
2 minutes from the time that we were fully fetched up on the
3 reef until the time that we stopped the engines.

4 Q Were you present on the bridge when the captain
5 gave any -- talked on the phone with the chief engineer,
6 for instance, stopping the engines and --

7 MR. COLE: Objection, hearsay.

8 MR. MADSON: I was only asking if he heard a
9 conversation, not what the content was, Your Honor.

10 JUDGE JOHNSTONE: All right, but don't relate what
11 the conversation was. The question is did you just hear a
12 conversation?

13 THE WITNESS: There were a number of
14 conversations. I really can only tell you who they may
15 have been with. Certainly, the captain would have talked
16 to somebody, the chief engineer. I don't know what the
17 conversation was about. I didn't overhear it. Or the
18 chief mate --

19 BY MR. MADSON: (Resuming)

20 Q Did you -- did the captain actually ask you or
21 tell you to go to the engine room or contact the engine
22 room?

23 A I did.

24 Q For what purpose?

25 A To tell the engineer that we were going to stop

1 the engines.

2 Q Did you do that from the bridge?

3 A Yes.

4 Q By phone, I guess.

5 A Yes.

6 Q Now how long were the engines off, if you can
7 estimate that time, before they restarted them?

8 A I don't recall. It was a period of time. I'm not
9 sure when they were restarted.

10 Q Were you present when the order to restart the
11 engines was given?

12 A Yes, I was.

13 Q And who gave that order?

14 A The captain.

15 Q Did he -- he didn't sound panicky or anything like
16 that, just, "Restart the engines"?

17 A Yes.

18 Q And a number of engine commands were given while
19 you were there, right?

20 A That's correct.

21 Q Were any of those engine commands ever, to your
22 knowledge, in the stern or reverse position?

23 A No, no.

24 Q To get off a reef, sir, from your experience,
25 isn't it commonly done to put engines in reverse if you

1 want to get off, if you went on forward?

2 A That would make sense. Of course, my experience
3 in being on reefs is --

4 Q Limited?

5 A -- rather limited.

6 (General laughter.)

7 BY MR. MADSON: (Resuming)

8 Q Was this the first?

9 A This was the first, yes, that's correct. But, you
10 know, you would logically assume that if you pile into a
11 pile of rocks that the way you're going to get out is to
12 back off.

13 Q You said that Mr. Kunkel, the chief mate, came up
14 the bridge and there was a discussion about the stability
15 of the ship.

16 A Yes, that took place between the captain and the
17 chief mate.

18 Q You weren't involved in that discussion at all,
19 sir?

20 A That's correct.

21 Q But you were present and overheard it?

22 A I overheard voices and that's it.

23 Q Oh, okay, you don't have any clear recollection of
24 what was said and by whom?

25 A No.

1 Q But you knew the gist of the conversation was the
2 stability of the vessel, right?

3 A Yes.

4 Q The chief mate, is part of his function to
5 determine, in other words, things like stability? Can he
6 do that?

7 A Certainly.

8 Q Can you do that?

9 A No, not to the extent that the chief mate would be
10 able to determine stability.

11 Q Do you know how he would do that, just the means
12 or method he would have employed?

13 A A general idea.

14 Q How would that be, sir?

15 A Well, he could do that -- work that manually, I
16 suppose, but we have on board computers that help calculate
17 stability in stresses at various points along the ship's
18 structure.

19 Q Does he have a computer or something that he can
20 use at his disposal to program it?

21 A Yes, he does, yes.

22 Q And, of course, Mr. Kunkel would be the person
23 that would have that knowledge, not yourself, as to how
24 it's actually done.

25 A That's correct.

1 Q From the time the vessel was actually on the reef,
2 I mean after you gave the -- turned the wheel and got it
3 centered, did the vessel ever move at any -- to any degree,
4 a substantial degree, after that?

5 A Did the position shift or --

6 Q Did the position shift, yes, that's what I --

7 A The position didn't shift.

8 Q It virtually remained motionless.

9 A Yes.

10 Q Do you know if the tide was coming in or out at
11 that time, sir?

12 A As I recall, it was flood tide.

13 Q What does that mean?

14 A Incoming tide.

15 Q So the water, if you want to call it that -- the
16 vessel would tend to rise if it's on a reef?

17 A Yes, if there was any buoyancy there.

18 Q And, of course, you were losing cargo or losing
19 oil.

20 A Yes.

21 Q At the same time, would water come in to displace
22 that oil or how does that work?

23 A The water would -- oil would not drop out to the
24 extent that whatever the pressure is outside of the hull,
25 the level of water. In other words, it would equalize.

1 Q And, of course --

2 A And it would be -- a hole the size of the holes
3 that we had, the oil would be replaced by water.

4 Q You didn't know exactly how big the holes were,
5 but --

6 A I didn't.

7 Q -- I assume you knew they were substantial --

8 A Yes.

9 Q -- by the -- that was from the amount of oil that
10 you could see coming out.

11 A Yes.

12 Q And, of course, you don't know exactly what was in
13 the captain's mind when he was giving engine orders at this
14 time --

15 A No.

16 Q -- rudder commands.

17 A No.

18 Q You remained on duty for how long, sir, after the
19 grounding?

20 A I remained on the bridge until approximately 5:00
21 o'clock.

22 Q That was after the Coast Guard arrived? I think
23 you said they came on about 3:40, something like that --

24 A Yes, approximately.

25 Q -- a.m. And what were you really doing during

1 this period of time? I think you said -- let me back up.
2 You said the engines were shut down again at 1:41 a.m. or
3 0141, right?

4 A Yes.

5 Q The captain told you at that point, "We're not
6 going any place."

7 A Right.

8 Q In other words, did you take that to mean that the
9 vessel was stable, it was sitting where it was?

10 A Yes.

11 Q And what did you do after that, after 1:41 a.m.?

12 A I continued to monitor the vessel's position and
13 see whether there was any shift in it, fielding telephone
14 calls.

15 Q You weren't in the captain's presence much after
16 1:41 when the engines were shut down?

17 A That's correct.

18 Q At 1:41, did he seem any different than you had
19 seen him earlier?

20 A No.

21 Q Did the captain yell at you or accuse you of
22 anything?

23 A No.

24 Q Did he basically just ask you what happened?

25 A Yes.

1 Q Did you tell him what you thought happened?

2 A Yes, I did.

3 Q Now at 1:41, when the engines were shut down, was
4 Mr. Kagan still on the wheel, at the helm?

5 A Yes.

6 Q Did you hear the captain say anything to Mr. Kagan
7 at this time about how well he had done or anything like
8 that?

9 A Yes, I remember a comment.

10 Q What did he say, sir?

11 A He said something to the effect of, "Damn fine
12 job, Bob," or something like that.

13 Q How did you take that to mean? Was that a
14 compliment or something else?

15 A It was kind of dark humor.

16 MR. MADSON: I have no further questions at this
17 time, Your Honor.

18 JUDGE JOHNSTONE: We'll take a recess, ladies and
19 gentlemen, for about ten or 15 minutes. Remember my
20 instructions not to discuss the case among yourselves or
21 with any other person and not to form or express any
22 opinions.

23 THE CLERK: Please rise. This Court stands at
24 recess.

25 (Whereupon, the jury leaves the courtroom.)

1 (Whereupon, at 10:18 a.m., a recess was taken.)

2 (Whereupon, the jury enters the courtroom.)

3 THE CLERK: The Court now resumes its session.

4 JUDGE JOHNSTONE: Redirect now, Mr. Cole.

5 REDIRECT EXAMINATION

6 BY MR. COLE: (Resuming)

7 Q Mr. Cousins, at the beginning of your testimony
8 yesterday, you indicated that you had not spoken with Mr.
9 Madson before, is that correct?

10 A That's correct.

11 Q How many times have you spoken with Mr. Chalos
12 about this case?

13 A Once.

14 Q And where was that at?

15 A In Orlando.

16 Q Is that where you live?

17 A I live in Tampa.

18 Q And how about Mr. Russo, have you ever spoken to
19 him?

20 A Yes, I did.

21 Q How many times have you spoken with him?

22 A Once.

23 Q When you have traveled in and out of Prince
24 William Sound in the trips you've made on the helm, were
25 you ever relying on the VTC radar system to tell you where

1 you were?

2 A No.

3 Q Why is that?

4 A Because we maintain our own position.

5 Q You indicated prior that you had been alone on the
6 bridge in the Prince William Sound. Had that ever been for
7 as long as an hour?

8 A No.

9 Q Had you ever been alone up on the bridge when
10 making a maneuver such as you've described here that you
11 made on March 23d, 1989?

12 A No.

13 Q Had you ever been alone up on the bridge with Bob
14 Kagan at the helm?

15 A No.

16 Q How long would it take to travel from Hinchinbrook
17 to the Valdez Terminal if you had a straight shot and no
18 problems?

19 A As I recall, approximately four hours.

20 Q And you indicated that, on several occasions,
21 tanker captains had left you up on the helm alone while
22 traveling through this area.

23 A Not on the helm, but --

24 Q Up on the bridge.

25 A -- on the bridge.

1 Q Were those all -- what types of circumstances were
2 those? Were they during daylight or nighttime?

3 A Both.

4 Q And when it as during the nighttime, was there ice
5 in front of you at that time?

6 A No.

7 Q Did you have to make any maneuvers -- well, let me
8 withdraw that question. What was the longest period prior
9 to this evening that a captain had not been on the bridge
10 with you?

11 A Oh, perhaps ten to 15 minutes.

12 Q Is that what you would consider a very brief
13 period of time?

14 A I'd consider that brief, yes.

15 Q And the ten or 15 minutes was the period of time
16 you said Captain Hazelwood was off the bridge when the
17 tanker grounded, is that correct?

18 A Approximately.

19 Q Do you remember talking to the NTSB and being
20 asked questions about how long you had been left alone on
21 prior occasions by tanker captains?

22 A I vaguely remember the question, yes.

23 Q Do you remember telling the NTSB that -- you were
24 asked a question which said during that time, was it -- I
25 think you followed it up by saying it was for a very short

1 period of time. Well, let me read it in context. You were
2 asked where you were left alone on the bridge in the Prince
3 William Sound area. And you indicated that during that
4 time, was it, I think you followed it up by saying for a
5 very brief period and you said, "Correct," remember that?

6 A Yes.

7 Q And you were asked, "But it was a much shorter
8 period than during this time, right," am I correct? Do you
9 remember answering?

10 A Yes, I think that was in reference to the period
11 of time that the master was off the bridge in our approach
12 and transit of the Narrows.

13 Q So that's what you were referring to at that time?

14 A Yes.

15 Q Now I'd like to talk to you for a minute about the
16 time that Captain Hazelwood was off the bridge before
17 Captain Murphy, while Captain Murphy was the pilot. If
18 Captain Murphy had made a mistake going through the
19 Narrows, would Captain Hazelwood have been able to correct
20 it?

21 A Not as quickly as I could have.

22 Q And that was why?

23 A Because he wasn't on the bridge.

24 Q If you had so much confidence in Captain Murphy,
25 why did you remain on the bridge through the Narrows?

1 A As somebody that -- I'm a representative of the
2 master and I think -- and our policy states that a member
3 of the crew, a qualified member of the crew has to be on
4 the bridge.

5 Q That's in your policy manual, itself.

6 A Yes.

7 Q Why is it that you have someone up there?

8 A It's our ship. A pilot is -- you can characterize
9 him as a contracted employee for a short period of time to
10 help us get the vessel out of the port area.

11 Q Are you aware of any Coast Guard requirements that
12 require the chief mate to be in the cargo control room
13 during the loading and unloading process?

14 A Yes. I don't -- I can't recall specifics of our
15 regulations right now, but I believe it states that the
16 chief mate will direct the or supervise the loading or
17 discharge of cargo and that a qualified member shall assist
18 him.

19 Q Would you explain to the jury how common or
20 uncommon it is for the sailing board to change?

21 A It's not all that common in Valdez. Loading rates
22 are usually pretty steady, predictable. We're usually
23 within a close approximation of the original sailing board.

24 Q How can a person who's off the vessel find out
25 about what time his sailing time is?

1 A We inform the dock of any changes. We also inform
2 the agent.

3 Q The "dock," does that mean the Coast Guard?

4 A No, that means the terminal personnel.

5 Q And a person can call up and ask those people any
6 time.

7 A Yes.

8 Q Were you aware of how much experience Captain
9 Hazelwood had coming into Valdez, the Port of Valdez?

10 A Not specifically, but I knew that he had fairly
11 extensive experience.

12 Q And when you say extensive, you mean over a number
13 of years.

14 A Over a number of years, correct.

15 Q Was there anything about the undocking process out
16 to Rocky Point that was otherwise other than normal on this
17 trip, or routine? Would you consider it nothing more than
18 a routine transit out that evening?

19 A It was pretty much routine, yes.

20 Q Did you have any high winds or --

21 A Well, it -- we did experience a short period of --
22 I wouldn't characterize it as reduced visibility, but
23 visibility greater than two miles, but probably less than
24 four.

25 Q That was in the Narrows?

1 A No, not in the Narrows, prior to entering the
2 Narrows.

3 Q And that was when the pilot was in control of the
4 navigation.

5 A That's correct.

6 Q Now you talked about fixes. Do you -- are there
7 any guidelines for taking fixes? Do you take them at a
8 certain length of time or does it make a difference
9 according to the situation?

10 A Well, a difference according to the situation,
11 that being if we're in confined waters, six-minute plots,
12 if you're able to, if you have the time to do that. I mean
13 a six-minute plot is something that is considered a general
14 rule and a prudent manner of keeping track of your vessel
15 position.

16 Q So it does make a difference what type of
17 circumstances you're traveling in as far as how many fixes
18 you make.

19 A Certainly. If we were out in the middle of the
20 Gulf of Alaska, hourly fixes or perhaps even fixes of two
21 hours would be more appropriate than six-minute positions.

22 Q And the reason is, again, for that? Why is that?

23 A Well, you're in a more confined waterway or inland
24 water space than in the open sea.

25 Q Would you consider yourself to have been in a

1 confined area when you entered -- when you left the vessel
2 traffic zone and headed in a course of 180 degrees?

3 A Yes.

4 Q If I could --

5 MR. COLE: Is this where all the exhibits are?

6 JUDGE JOHNSTONE: What are you looking for, Mr.

7 Cole?

8 MR. COLE: The operations (inaudible).

9 JUDGE JOHNSTONE: Do you want to give him a hand?

10 Do you know the exhibit number, Mr. Cole? Is it 29 or 30,
11 31, something like that?

12 MR. COLE: (Inaudible.)

13 BY MR. COLE: (Resuming)

14 Q Mr. Cousins, the Exxon Shipping Company puts out a
15 revised bridge manual, is that correct?

16 MR. MADSON: Your Honor, I want to object at this
17 point. That's beyond the scope of cross examination. I
18 never asked him any questions regarding the manual
19 whatsoever.

20 MR. COLE: Judge, he asked about whether or not
21 traveling through ice in making this turn was a routine
22 operation. I'd like to ask Mr. Cousins where he would --
23 what type of watch he would have said is required under
24 this situation, to show that it's not routine.

25 JUDGE JOHNSTONE: Objection overruled.

1 BY MR. COLE: (Resuming)

2 Q It's correct that there's a revised bridge manual
3 that's put on all the vessels, is that correct?

4 A Yes.

5 Q And it sets out some of the policies and
6 guidelines that the mates and the captain are supposed to
7 follow while they're traveling aboard an Exxon vessel.

8 A That's correct.

9 Q Is there a section on this that talks about what
10 type of watches are considered prudent in certain
11 circumstances?

12 A Yes, there is.

13 Q Would you tell the jury what watch you consider
14 this should have been placed under? And maybe you could
15 explain the different categories. Is there an A and B and
16 C and a D?

17 A Yes, there's those four watch conditions and they
18 briefly describe certain situations that you would
19 encounter. For instance, Watch Condition A would be
20 dealing with, as I recall, open waters and it will
21 prescribe the officer complement, watch complement that
22 should be on the bridge at a given time, based on the watch
23 condition that exists.

24 Q After having reviewed that manual, what would have
25 been the prudent watch detail that should have been on

1 board the bridge of the Exxon Valdez that evening?

2 MR. MADSON: Your Honor, I'll object to the form
3 of the question. If he has an opinion as to what he thinks
4 he would have considered it to be -- but whether -- I
5 object to the term "prudent."

6 JUDGE JOHNSTONE: Can you style your question so
7 it attracts the manual and the policy, rather than the way
8 it's asked?

9 BY MR. COLE: (Resuming)

10 Q Would you have considered Watch C to be the watch
11 you would prefer?

12 A That's correct, yes, I would.

13 Q And would you read for the jury what the watch
14 requirements are under Watch C?

15 A Watch Type C, "In situations such as in restricted
16 waters with clear visibility and high density traffic or
17 when entering or leaving a port with clear visibility,
18 regardless of traffic." And then it goes on to state what
19 the bridge complement should be.

20 Q What does it say about what the bridge complement
21 should be?

22 A "Supplementary personnel are necessary so that
23 there are two officers on the bridge with a lookout
24 posted." And then it goes on to make a statement about the
25 automatic pilot. It defines the role of the master and the

1 role of the watch officer.

2 Q What is the role of the master in that situation?

3 A "The master or senior deck officer is in charge of
4 the watch and will coordinate and supervise the overall
5 watch organization and the safe navigation of the vessel."

6 Q What about the watch stander?

7 A The role of the watch officer is, "To assist the
8 master or the senior deck officer by performing the duties
9 outlined below. Primary emphasis will be placed on
10 navigation and communications."

11 Q That would be the watch officer's role?

12 A Yes.

13 Q Now what about the lookout? On this particular
14 evening, the lookout was Maureen Jones, is that correct?

15 A That's correct.

16 Q And she was out where?

17 A On the starboard bridge wing.

18 Q When you encounter ice, where is the best place
19 for the person who's out on watch, the lookout, to be under
20 the right circumstances?

21 MR. MADSON: Your Honor, I'll object to that. I
22 don't even see the relevance in that, his opinion as to
23 where he thinks the best position is.

24 JUDGE JOHNSTONE: The question is difficult for me
25 to understand. The objection as to relevance is

1 overruled. But rephrase your question to make it more
2 understandable.

3 BY MR. COLE: (Resuming)

4 Q Where is it easiest to see ice from on this ship,
5 the bow or the bridge?

6 A It depends if you're talking about daylight or
7 night. At nighttime, the night that we're talking about,
8 as far forward as possible, that being the bow. But I
9 really doubt that, in my opinion, that that would have been
10 of really great assistance to the watch officer.

11 Q Do you remember talking to the NTSB about this?

12 A I haven't --

13 Q Do you remember being asked where would you have
14 preferred her to have been?

15 A I believe forward.

16 Q When you passed Busby Island and took a fix, how
17 far away from Busby Island were you?

18 A Approximately a mile.

19 Q Do you remember writing down that you were inside
20 that, a mile, within less than a mile of Busby Island?

21 A I believe that the range was 1.1.

22 JUDGE JOHNSTONE: While you're up here, would you
23 come up here a minute, Mr. Madson, please?

24 (The following was said at the bench.)

25 JUDGE JOHNSTONE: I know you're not intending to,

1 but it sounds like you're building a nest over there
2 sometimes.

3 MR. MADSON: (Inaudible.)

4 JUDGE JOHNSTONE: Mr. Chalos, would you step up,
5 please?

6 MR. CHALOS: Yes, sir.

7 JUDGE JOHNSTONE: It sounds like you're building a
8 nest over there and (inaudible).

9 MR. : (Inaudible.)

10 (The following was said in open Court.)

11 BY MR. COLE: (Resuming)

12 Q Now when you and Captain Hazelwood were discussing
13 where you would turn at the radar, do you remember which
14 radar you were using?

15 A The starboard radar.

16 Q And how do you look at the radar? Is there a way
17 that both people can look at the radar at the same time?

18 A Yes.

19 Q How does that happen?

20 A You're just standing shoulder to shoulder, looking
21 at the screen.

22 Q You were at the starboard radar?

23 A Yes.

24 Q Would you point out to the jury where this thing
25 is right here?

1 A This is for daytime. It shields the sunlight so
2 you can -- referring to this shield, that's off at
3 nighttime.

4 Q That's off at nighttime.

5 A Yes.

6 Q So you were able to point that -- he was able to
7 point to a position, is that right?

8 A Yes.

9 Q How important is it to know the capability of the
10 people that are working under you?

11 A It's very important.

12 Q Are you confident that you heard the first time
13 the Exxon Valdez hit, made contact with the ground that
14 morning?

15 A Could you --

16 Q Okay. Do you feel confident that you heard the
17 first time the Exxon Valdez struck a part of Bligh Reef?

18 A Yes.

19 Q And that was when you were on the phone.

20 A Yes.

21 Q And would you describe to the jury how fast the
22 vessel started turning at that point? Did it increase the
23 rate of its turn or did it decrease the rate of its turn
24 after striking Bligh Reef?

25 A I believe it decreased the rate of turn.

1 Q And then, at some point, it became grounded and
2 stopped all together.

3 A Shortly thereafter.

4 Q And did the rate of turn increase or decrease at
5 that point?

6 A I couldn't say for certain.

7 Q Was the rate of turn, the heading of the ship,
8 going as fast prior to the grounding?

9 A Was it --

10 Q Was the vessel heading turning as rapidly prior to
11 the grounding?

12 A Well, I think the difference in the rate of turn
13 just prior to the grounding and just after the initial
14 contact was not that distinguishable to me and I wouldn't
15 say that there was a great change in the rate. It
16 continued to swing fairly rapidly to the right. To give
17 you a reference in terms of speed, of rate of turn, I
18 really couldn't do justice to that.

19 Q But it was fast enough so that you had a concern
20 that the aft of the ship might be punctured.

21 A Yes.

22 Q And you took very quick actions after the
23 grounding occurred to counter rudder.

24 A Yes, that was -- you know, we're talking in terms
25 of split seconds. The series of jolts -- I knew we were

1 going aground. I didn't know where, on the reef, we were
2 at that time. I suspected that we were on the very
3 northern edge of it, but it didn't -- I didn't think that
4 we were going to come off the reef, that was the sense that
5 I had. And my concern was that the rate of turn, the
6 motion of the vessel was going to carry us, carry the aft
7 end of the vessel into the rocks and very well hole the
8 engine room.

9 Q From the captain's quarters -- is there a radar in
10 the captain's quarters?

11 A No.

12 Q Are there any rudder control indicators in the
13 captain's quarters?

14 A Not in his office. No, I don't think that there
15 is anything like that.

16 Q Are there any gyro repeaters in the captain's
17 quarters?

18 A No.

19 Q Are there any doppler systems in the captain's
20 quarters?

21 A No.

22 Q Does he normally keep the chart of the voyage laid
23 out in his quarters?

24 A Well, the voyage charts would be up on the bridge.

25 Q And is there any television system where he's able

1 to watch the helmsman and make sure that he is making
2 appropriate turns from his quarters?

3 A No.

4 Q Could you see the reef, itself, when you were
5 looking at the radar?

6 A No, the reef is submerged.

7 Q You indicated that there were no other equipment
8 on Bligh Reef -- on the Exxon Valdez that would have helped
9 to avoid this incident.

10 A No. You mean additional equipment that may have
11 prevented this?

12 Q Yes.

13 A I can't think of any.

14 Q And you also said that it's your belief that if
15 you had turned when you instructed that you would have
16 avoided this grounding.

17 A Correct.

18 Q If Captain Hazelwood had been on the bridge during
19 this maneuver, would you have avoided the grounding?

20 A Well, I can't say yes or no. I would assume that
21 another person up there would have caught any errors that
22 were made, the workload divided more evenly.

23 Q That's the purpose of having another person on.

24 A Yes.

25 Q Thank you, I have nothing further.

1 RE CROSS EXAMINATION

2 BY MR. MADSON: (Resuming)

3 Q Mr. Cousins, you said you can't say whether it
4 would have made any difference if Captain Hazelwood had
5 been on the bridge or not because you don't know if he
6 would have been looking out a window or maybe in the chart
7 room or doing something else.

8 A That's correct.

9 Q It would be basically sheer speculation to say now
10 what could or could not have happened, had he been up
11 there.

12 A Yes.

13 Q Going back to Mr. Cole's earlier questions, you
14 indicated you did not rely on the VTC or the VTS system to
15 tell you where you are. It's not an aid to navigation, is
16 it --

17 A No.

18 Q -- in the sense that --

19 A No.

20 Q But on the other hand, have you ever been on a
21 vessel in Prince William Sound where it's strayed out of
22 the traffic separation zone and has been notified by VTC to
23 correct the course or get back into the lane?

24 A No, I've been on a vessel that -- where we were
25 required to give a report in at a certain time. I believe
there was no pilotage on board. In the course of doing

1 some other things, we were not minutes late, but seconds
2 late or something, and they called us.

3 Q So you feel you were at least being watched or
4 under surveillance or being controlled by the VTC system?

5 A Yes, I knew that we weren't being watched as far
6 as what I was just talking about, but --

7 Q How far was that, sir?

8 A Oh, that was just past the entrance, heading up
9 into the sound.

10 Q Now you said the captain -- during this time, the
11 captain -- and when I say "period of time," that's the time
12 you started, just before you executed the maneuver just off
13 Busby Island, until the grounding was about 15 minutes,
14 right?

15 A Approximately.

16 Q It wasn't an hour. 15 minutes.

17 A An hour, no.

18 Q And again, sir, with your Coast Guard license, you
19 are a qualified watch officer to stand watch by yourself,
20 are you not?

21 A Yes.

22 Q There's nothing in there that says you have to
23 have a captain there, present with you when you're on
24 watch.

25 A Not on the license, no.

1 Q And, of course, captains have other duties just
2 besides navigating the vessel, don't they? They have paper
3 work, things to do.

4 A Yes.

5 Q They also have to sleep, don't they?

6 A Yes.

7 Q Sometimes you're alone on the bridge, you're in
8 command of that vessel when you have the conn, right?

9 A That's correct.

10 Q You said the visibility was good at Busby Island,
11 it was beyond two miles, anyway.

12 A Beyond two miles is correct.

13 Q Now, Mr. Cole asked you a few questions about the
14 Exxon operating manual guidelines. They are, in fact, only
15 guidelines, are they not?

16 A Yes.

17 Q And the master determines the watch position, does
18 he not? He's given the responsibility to do that?

19 A Yes.

20 Q At the time you had discussions with Captain
21 Hazelwood about the maneuver that was going to occur, when
22 you were going to go around the ice, you didn't tell
23 Captain Hazelwood, "Well, gosh, Captain, this is . . .," "I
24 think it's Watch Condition C, and not A, and therefore I
25 want somebody else up here," right?

1 A That's correct, there was no discussion about
2 watch type.

3 Q Under Watch Condition Type C -- if you'll turn to
4 page 51 of the manual, it says for Watch Type C, in
5 situations such as, ". . . in restricted waters with clear
6 visibility and high density traffic or when entering or
7 leaving port with clear visibility, regardless of
8 traffic." You said you believed, at the time, you were in
9 restricted waters, right?

10 A Correct.

11 Q Was visibility clear? Could you see beyond two
12 miles?

13 A Beyond two miles.

14 Q There was no high density traffic, was there?

15 A No.

16 Q Are you familiar with what's called, then, Watch
17 Condition A?

18 A Yes.

19 Q Under Watch Condition A, in open waters, that is
20 clear visibility, regardless of traffic.

21 A Yes.

22 Q That means that no matter how many ships or other
23 vessels are around --

24 A Yes.

25 Q -- by "traffic," right?

 A Yes.

1 Q Or in restricted waters with clear visibility and
2 little or no traffic --

3 A Yes.

4 Q -- right?

5 A Yes.

6 Q Would you agree, sir, there's some room for
7 interpretation as to whether it's A or C?

8 A Certainly, yes.

9 Q Mr. Cole asked you also about seeing ice when
10 you're on the bow, as a lookout on the bow of the vessel,
11 as opposed to the bridge. If you're traveling let's say at
12 11.7 knots or almost 12 knots on the Exxon Valdez and
13 someone's in the bow at night, it's very dark, how much
14 distance, how far do you think they could see ice ahead of
15 them?

16 A I have no good estimate. I mean we were
17 essentially skirting ice and no one could make visual
18 contact with the ice until we were aground and had some
19 lights on and shined it out into the water.

20 Q The ice would be very difficult to see at best,
21 right, visually?

22 A Yes, without any light.

23 Q And while you're on the bridge wing, you're much
24 higher, you're about 80 feet or thereabouts above the water
25 level?

1 A Yes, approximately.

2 Q And while you can't see, let's say you're not as
3 close to the actual ice if you were going into ice, you
4 could still see ahead.

5 A Yes.

6 Q The limit of your visibility is the extent of I
7 suppose your eyesight and the light conditions.

8 A Yes. The only restriction, of course, is, you
9 know, whatever you can't see, well, what I'd call the
10 shadow of the bow.

11 Q So if someone were up in the bow and, suddenly,
12 there was a chunk of ice ahead, by the time they got on
13 their radio and contacted the bridge, do you think there's
14 anything you could do about maneuvering around?

15 A No, not if it was close.

16 Q And isn't it true, Mr. Cousins, the whole idea was
17 not to go through the ice, but to go around the ice?

18 A Yes.

19 Q And while a person is up there on the bow, they're
20 in a very exposed condition, are they not?

21 A Yes.

22 Q They're all by themselves and almost, you know,
23 some 800 feet maybe away.

24 A Yes.

25 Q To your knowledge, bow lookouts have been washed

1 overboard or injured or --

2 A Well, I have been on other vessels that have
3 experienced severe weather a substantial distance up in the
4 sound and one of the reasons that oftentimes we bring the
5 lookout back is in anticipation of foul weather, for the
6 protection of the individual, bring them back where we know
7 they're safe.

8 Q Thank you, sir, I don't have any other questions.

9 JUDGE JOHNSTONE: Would Counsel approach the
10 bench, please? Mr. Cole.

11 (The following was said at the bench.)

12 JUDGE JOHNSTONE: Are either one of you going to
13 explore whether he had, whether he knew that Captain
14 Hazelwood had knowledge of his lack of pilotage?

15 MR. : I'm not.

16 JUDGE JOHNSTONE: Okay, I'm not going to
17 (inaudible).

18 FURTHER REDIRECT EXAMINATION

19 BY MR. COLE: (Resuming)

20 Q The work that a master has, the paper work you
21 talked about, that can be done while the tanker is in
22 Valdez, can't it?

23 A I suppose it depends on what the paper work
24 consisted of. If it was relating to the load or something
25 that transpired while we were in port, you know, obviously

1 he couldn't do it in port.

2 Q Could you do it out at sea, once you got past
3 Hinchinbrook?

4 A Perhaps, yes.

5 Q You have four days to get to San Francisco, is
6 that correct?

7 A Yes.

8 Q Where do you keep your licenses?

9 A There's a license rack on E Deck of the Valdez.

10 Q And all of the crew members' licenses are kept
11 right there.

12 A Yes.

13 Q And would Captain Hazelwood have known that he was
14 the only one who had pilotage --

15 MR. MADSON: Your Honor, I object to the leading
16 question. It's also beyond the scope of my recross.

17 JUDGE JOHNSTONE: I'm going to let this be opened
18 and I'll let you recross on this. You can recall the
19 witness for that purpose. And the leading question is
20 sustained. Please rephrase your question.

21 BY MR. COLE: (Resuming)

22 Q How would the captain have been aware of who had
23 pilotage endorsement on the tanker?

24 A Typically, the individual would inform the master
25 that he had pilotage or certainly that information would

1 have been perhaps transmitted by fleet manning as to who
2 they were sending and what qualifications they had.

3 Q Did you ever tell Captain Hazelwood that you had
4 pilotage endorsement for that area?

5 A No.

6 MR. COLE: I have nothing further.

7 FURTHER RECROSS EXAMINATION

8 BY MR. MADSON: (Resuming)

9 Q Did Captain Hazelwood have the pilotage
10 endorsement for that area, to your knowledge?

11 A Yes.

12 Q Was he on board during that transit?

13 A Yes.

14 Q Now, sir, we talked about your knowledge of the
15 area before and what a pilotage endorsement really is. I
16 think you told the jury that it's essentially your
17 knowledge, it's a test of your knowledge of the chart,
18 right?

19 A Not exclusively, but that would be part of it.

20 Q But knowing where navigational hazards are.

21 A Yes.

22 Q In Prince William Sound, would you agree that
23 probably that knowledge would include where Bligh Reef is?

24 A Certainly.

25 Q Busby Island?

A Yes.

1 Q Rocky Point?

2 A Yes.

3 Q Hinchinbrook?

4 A Yes.

5 Q The area, in general?

6 A Correct.

7 Q In other words, it would satisfy the Coast Guard
8 that you knew the area well enough to know that there are
9 certain navigational hazards in that particular location --

10 A Yes.

11 Q -- and that you should take steps to avoid them.

12 A Right.

13 Q And you already knew that, correct?

14 A Yes.

15 Q Thank you, I don't have any other questions.

16 MR. COLE: Nothing further.

17 JUDGE JOHNSTONE: May the witness be excused from
18 further participation?

19 MR. COLE: Yes.

20 MR. MADSON: May he be excused? Yes, Your Honor.

21 JUDGE JOHNSTONE: You're excused from further
22 participation in this case. You may call your next
23 witness.

24 MR. COLE: At this time, Your Honor, we would call
25 Maureen Jones.

1 Whereupon,

2 MAUREEN L. JONES

3 having been called as a witness by Counsel for the State,
4 and having been duly sworn by the Clerk, was examined and
5 testified as follows:

6 THE CLERK: Ma'am, would you please state your
7 full name and spell your last name?

8 THE WITNESS: Maureen Louise Jones, J-o-n-e-s.

9 THE CLERK: And your current mailing address:

10 THE WITNESS: 2840 South College Road, Suite 422,
11 Wilmington, North Carolina 28412.

12 THE CLERK: And your current occupation?

13 THE WITNESS: Merchant marine.

14 THE CLERK: Thank you.

15 DIRECT EXAMINATION

16 BY MR. COLE:

17 Q Ms. Jones, can you tell the jury how long you've
18 worked in the maritime industry?

19 A Since June of 1987.

20 Q Did you go to school before entering the merchant
21 marine industry?

22 A Yes, I did.

23 Q Where did you go to school?

24 A Maine Maritime Academy.

25 Q And would you tell the jury what type of school

1 that is

2 A It's a maritime academy. You go, you either have
3 the option of going into marine engineering or nautical
4 science as a major.

5 Q Which did you choose?

6 A Nautical science.

7 Q How long did it take -- did you graduate from
8 there?

9 A Yes.

10 Q How long did that take?

11 A It's a four-year -- you graduate with a bachelor's
12 degree.

13 Q And did you get any practical experience during
14 that time?

15 A Yes, sailed out three times on other -- three
16 different companies and I made two two-month school
17 cruises.

18 Q And when you come out of that school, what license
19 do you qualify for?

20 A Third mate's license.

21 Q Did you get your third mate's license, then,
22 afterwards?

23 A Yes, I did.

24 Q When did you take your first job, then? That
25 would have been 1987?

A Yes.

1 Q Who was that with?

2 A Sun Transport.

3 Q When did you start to work for Exxon?

4 A In September of 1987.

5 Q And what position did you -- were you given when
6 you were hired on by Exxon?

7 A Able bodied seaman.

8 Q When were you assigned to the Exxon Valdez?

9 A The first time I was assigned there was in
10 December of 1987.

11 Q So shortly after being hired by Exxon.

12 A Yes.

13 Q And did you work your assignment continually on
14 the Exxon Valdez?

15 A No, I didn't.

16 Q Would you tell the jury a little bit about what
17 jobs you had after December of 1987?

18 A Well, after I got off the Valdez in February of
19 1988, I got on a ship on the East Coast, a chemical
20 carrier, and I did two consecutive tours on there.

21 Q How long is a tour?

22 A Usually, two months.

23 Q And then what were you assigned to after that?

24 A The Exxon Valdez.

25 Q Did you always work as an AB?

1 A No, I was a third mate on the Exxon Charleston on
2 the East Coast.

3 Q How many trips -- can you tell the jury how many
4 trips you would have taken in and out of Prince William
5 Sound on an Exxon vessel?

6 A Right now, how many have I taken?

7 Q Well, up until March of 1989.

8 A Approximately five.

9 Q And how many of those would you have been on the
10 bridge during the time that the vessel --

11 A I don't recall.

12 Q Do you think it was all five times or a couple of
13 them?

14 A No, it wouldn't be all five.

15 Q When you were assigned to the Exxon Valdez in
16 1989, when did you come aboard; when did you start your
17 assignment?

18 A I believe it was February 5th.

19 Q Did you have a partner, an AB partner.

20 A At the time, yes.

21 Q Who was that?

22 A I got on watch with Bob Kagan.

23 Q And who was the mate that you worked under?

24 A Initially, it was Nathan Carr and, later, it was
25 Lloyd LeCain.

1 Q What shift did you work?

2 A 12:00 to 4:00.

3 Q Do you remember arriving in Valdez on March -- the
4 late evening of March 22d, 1989?

5 A Yes.

6 Q You would have worked the 12:00 to 4:00 shift. Do
7 you remember what you did after the Exxon Valdez arrived in
8 port?

9 A Well, we arrived prior to the 12:00 to 4:00
10 watch. We arrived and we just got out fast, just before
11 the 12:00 to 4:00 watch, so I was out on dock before and
12 then, during watch, I started on discharging ballast.

13 Q And you just helped monitor that procedure.

14 A Yes, and watched the lines.

15 Q After you got off duty that morning, when did you
16 go back on duty the next day or that -- I guess it was
17 that, the 23d. When did you go back on duty on the 23d?

18 A After we were at the dock?

19 Q Right.

20 A It would be noon the next day.

21 Q Did you go into town that day?

22 A No, I did not.

23 Q What did you do during the afternoon shift that
24 day?

25 A Well, the best I can recall, just monitored the

1 cargo and the lines again.

2 Q Anything out of the ordinary occur during that
3 time?

4 A No.

5 Q When did you get off in the afternoon?

6 A At 4:00 o'clock.

7 Q When would you have been called back that evening?

8 A I believe it was some time around 7:30 that they
9 called standby again.

10 Q What were your duties then when you were called up
11 at 7:30?

12 A To go out on deck and secure the gear. It's
13 usually rough in the wintertime. We bring all the fire
14 hoses and all the leg frames, et cetera. We store them
15 inside so they don't get washed overboard in the sea.

16 Q Did you have a position during the unloading
17 process at either the bow or the aft of the vessel?

18 A During the unloading process?

19 Q During the undocking.

20 A During the undocking process, yes, I was on the
21 stern.

22 Q And after the vessel was away that evening, where
23 did you go?

24 A After we got clear of the dock and we got done on
25 deck, I went back to my room.

1 Q What did you do when you were at your room?

2 A I took a nap.

3 Q How do you -- how do shift changes occur? How are
4 you notified that your shift is coming up?

5 A They call us 20 minutes after the hour prior to
6 going out.

7 Q Did that happen in this case?

8 A Yes.

9 Q Were you called? What time would that have been?

10 A At 20 after 11:00.

11 Q When did you reach -- where did you go after --
12 what did you do after being called?

13 A Well, I brushed my teeth, et cetera, and put my
14 clothes on, bundled up and went out to take the lookout
15 position.

16 Q Where did you go toward, where did you go to?

17 A Well, initially, I was headed up to the bow, but
18 as I stepped out of my room, the AB that I was to relieve
19 was standing there and told me that we were shifting the
20 lookout to the bridge wing.

21 Q Where did you go then?

22 A Directly to the bridge.

23 Q What time would you have made it up to the bridge?

24 A I wasn't watching my watch, but as a rule, I leave
25 my room approximately 15 minutes before the hour, at the

1 latest, and head right up, so it was probably approximately
2 47 minutes after the hour.

3 Q When you got up there, who was there?

4 A When I got to the bridge, Jack Claar was on the
5 helm and the captain and Greg Cousins.

6 Q What did you do, once you entered the chart room,
7 where did you go?

8 A I proceeded out to the bridge wing.

9 Q Did you check the charts at all before going out
10 there?

11 A I don't recall. I know that, that evening, I
12 looked at the chart and the radar and I don't recall if it
13 was before I went on watch or after I had been on watch for
14 some time.

15 Q Where would you have gone, then, after going
16 through the bridge?

17 A Well, I walked up on the port side, around the
18 curtains, behind the chart table and I saw that it was
19 closed, so I proceeded forward to the console, over to the
20 starboard bridge wing.

21 Q Do you happen to recognize that diagram at all?
22 Does that look familiar?

23 A Yes.

24 Q Would you show the jury with this pointer how you
25 came in and where you went to?

1 A I came up the stairs and through the passageway
2 right there and to the bridge and, from behind the chart
3 table, I walked over to the port side.

4 Q And then where did you go?

5 A And then I walked up and forward, above this
6 console, and across and out to the starboard bridge wing.

7 Q Where was the captain?

8 A He was right about there.

9 Q What was he doing?

10 A He and Greg appeared to be peering out the window,
11 keeping a lookout.

12 Q Were they leaning or standing there?

13 A They were standing. I didn't study them when I
14 walked up.

15 Q Did you report or did you just go straight out on
16 the bridge or out on the wing?

17 A No, they saw me coming. They knew I was there.
18 There was some casual conversation as I walked out and then
19 I went right out to the bridge wing.

20 Q And that diagram, the model that's in front of
21 you, would you have gone all the way out on the starboard
22 wing?

23 A Yes, I was all the way out to the outboard edge.

24 Q Out by where the _____ is placed.

25 A Yes, even further outboard than that, all the way

1 to the end.

2 Q Did you take a radio out with you?

3 A I don't recall. I don't imagine I had one. I
4 imagine Paul would have secured it when he came back from
5 -- this is just the usual practice when you come up from
6 the bow because you don't need a radio when you're on the
7 bridge wing. You report directly; you don't radio your
8 reports.

9 Q While you were out on the wing, the starboard
10 wing, do you remember seeing any lights?

11 A Yes.

12 Q Would you describe for the jury what you saw?

13 A The one light, the light that came up while I was
14 out there, I saw a light, a red flashing light on the
15 starboard bow.

16 Q How often was it flashing?

17 A Every four seconds.

18 Q And can you give the jury an idea of how long
19 after you got out on the starboard wing, how long
20 afterwards it took for you to see this light?

21 A It was shortly after, but I have no idea of the
22 time. I didn't check my watch when I went and reported the
23 light.

24 Q What did you do after seeing the light?

25 A I went in and reported it.

1 Q Did it cause you any concern that you had a red
2 light on your starboard side?

3 A No.

4 Q And when you got into the -- onto the bridge,
5 where did you go?

6 A When I stepped into the bridge, I didn't see Greg
7 or the captain where they were when I first initially went
8 to the bridge and I just made a quick check. I didn't see
9 anyone standing, you know, the mate or the captain,
10 forward.

11 Q Made a check of where, where were you looking?

12 A Basically, just to see if someone was there, you
13 know, someone to report the light to. And I didn't see
14 anyone just at a quick glance and so I went back behind the
15 curtain.

16 Q Did you see who was at the helm?

17 A I imagine I did. I didn't, you know, directly
18 point it out.

19 Q Do you remember who was at the helm?

20 A I didn't look and verify that it was Bob Kagan,
21 but I imagine that Bob Kagan was up there. You know, we
22 had relieved the watch.

23 Q Where did you go then?

24 A I went back behind the curtain to -- well, I
25 pulled the curtain aside.

1 Q Can you point for the jury where you went?

2 A Right here. This is the curtain, basically, and I
3 just pulled it aside and saw Greg back there.

4 Q What did you tell him?

5 A I said we had a flashing red light broad on the
6 starboard bow, flashing every five seconds.

7 Q I thought you said that it was flashing every four
8 seconds.

9 A Yes, when I initially reported the light, I said
10 five seconds. Then I went back out to the bridge wing and
11 after I had time to observe it for a longer period, I
12 realized it was every four seconds and I came back in and
13 corrected my report.

14 Q Would you explain to the jury what you meant by
15 "broad on the starboard side"?

16 A Board on the starboard bow is --

17 Q Or bow.

18 A -- 45 degrees, approximately, from the center line
19 towards the starboard side of the ship.

20 Q What's the center line?

21 A The middle of the ship.

22 Q Did you -- when you walked back out on the bridge,
23 how far did you go -- when you walked back out on the wing,
24 how far did you go out on the wing?

25 A I imagine right back where I came from, all the

1 way up.

2 Q Do you remember?

3 A I know it was to the outboard edge.

4 Q Do you remember looking back and seeing Busby
5 Light at all?

6 A I remember there were some lights astern of us or
7 abeam. I didn't check them out and see exactly what lights
8 they were. I remember faintly having seen some lights,
9 though.

10 Q Do you remember whether they were green or red?

11 A No.

12 Q Are you familiar with what a red sector is?

13 A Yes.

14 Q What does that mean?

15 A A light has a certain area they have and on the
16 chart, they have the certain degrees from where you are
17 looking at the light from. And if you are having -- from
18 this bearing, this certain bearing on the light, you see it
19 red. If you are not in that area, that bearing, you see a
20 white sector, a white light.

21 (Tape changed to C-3618.)

22 Q What's a red sector mean as far as your ship is
23 concerned? Does that cause you any concern?

24 A It depends on the light.

25 Q If you are in a red sector, what would the lights

1 flash?

2 A I don't understand what you're asking.

3 Q Now how long -- did the ship get grounded then,
4 shortly thereafter you walked out on the bridge wing?

5 A The second time?

6 MR. CHALOS: Objection, Your Honor, no foundation.

7 MR. COLE: I'll ask the question.

8 BY MR. COLE: (Resuming)

9 Q Did you walk out on the starboard wing then, after
10 that?

11 A After my second report, yes.

12 Q How long -- did you stay inside the bridge for
13 very long after reporting that to Mr. Cousins, what you had
14 reported?

15 A Neither time, no, I didn't.

16 Q And the second time you reported to Mr. Cousins,
17 you told him it was flashing every five seconds?

18 A Every four seconds.

19 Q Four seconds. How long after you were out on the
20 starboard wing did the grounding occur?

21 A I wasn't looking at my watch at the time, I don't
22 know. I don't know what time it was when I reported.

23 Q Do you have any estimate of how long you were out?

24 A After the second report. I'll give you a guess.
25 Less than five minutes before we started to turn, that's

1 just a guess.

2 Q Did you see whether or not -- did you notice
3 whether or not the vessel was turning at any time prior to
4 the grounding?

5 A Yes.

6 Q And was it a rapid turn or was it a not rapid
7 turn?

8 A It seemed to be a slow turn.

9 Q When you went in to talk to Mr. Cousins the second
10 time, did you see Captain Hazelwood there?

11 A I didn't look around for anyone. I just came in,
12 stated the fact that it was corrected and I report --

13 Q Did you see Captain Hazelwood in there?

14 A No, I did not.

15 Q How soon before the ship grounded did the ship
16 start to turn to the starboard side? Do you have any
17 concept of how long after the ship began to turn that it
18 grounded?

19 A That would be a guess again, too, because I wasn't
20 looking at my watch. It was -- I'll give you an estimate
21 of one minute.

22 JUDGE JOHNSTONE: Excuse me, I can barely hear
23 you. We've got you turned up as high as we can, so if you
24 move the microphone a little higher, it might help. Speak
25 up a little more loudly, if you can. Thanks.

1 BY MR. COLE: (Resuming)

2 Q Would you describe for the jury what you heard or
3 what you felt when you first realized that you had hit
4 something?

5 A Initially, I heard a scraping sound and I saw a
6 type of aura around the bow of the ship and then I felt the
7 vessel jerking slightly.

8 Q How loud was the scraping sound?

9 A It was quite loud.

10 Q Do you know what the aura was that you saw on the
11 bow?

12 A No.

13 Q Would you describe that, I mean give the jury an
14 idea of what you saw? Was there lights around or --

15 A I don't know if it was from the water splashing up
16 and maybe a reflection from the lights or they're talking
17 maybe it was phosphorescence, studying that now about maybe
18 it's heat induced. I don't know what it was caused by, I
19 just saw a type of greenish glow.

20 Q How long -- did the scraping sound -- where did it
21 originate from?

22 A The bow.

23 Q And did it move down the ship at all?

24 A Not that I could determine.

25 Q No. How long did the jerking go on, the jerking

1 feeling you had?

2 A That's very hard to say.

3 Q Do you have any kind of an estimate?

4 A No.

5 Q How long after you first heard the scraping sounds
6 before the vessel came to a halt?

7 A You have to understand, at this point in time, I
8 wasn't looking at my watch. I will give you a guess that
9 the whole process took less than 60 seconds. That's a
10 guess, an estimate, again.

11 Q But it wasn't just an immediate --

12 A No.

13 Q Do you remember there being any breaks in between
14 at all during this time, for a short period, the ship
15 sailed without you hearing that or feeling the bumps?

16 A No, it seemed -- to the best that I can recollect,
17 it was a continuous process.

18 Q What did you do then after the ship came to a
19 halt?

20 A I looked around and, from the shore, I saw that --
21 when I seen where we stopped, it looked like we were dead
22 in the water and I walked in to the bridge, the main area
23 bridge.

24 Q Was the vessel listing at all?

25 A Not that I can recall.

1 Q Would you explain to the jury what "listing"
2 means?

3 A It's a actually a tilt on the vessel. A list, you
4 either have so many degrees to the port, to the starboard,
5 and it is the degrees that you're either down to one side
6 or the other of the vessel. It can turn or rock on either
7 side.

8 Q You couldn't feel any kind of a list.

9 A Immediately, no.

10 Q When you got into the bridge, who was there then?
11 Who did you see?

12 A When I walked onto the bridge, who I saw
13 immediately was Greg and Bob Kagan.

14 Q What was Greg doing?

15 A I couldn't tell you.

16 Q Do you remember seeing him making any phone calls?

17 A Yes.

18 Q When would that have been?

19 A Directly after, I believe.

20 Q Where was Mr. Kagan?

21 A Behind the wheel.

22 Q What did you do then?

23 A The next thing I recall happening is we turned on
24 this -- well, I walked out on the port bridge wing.

25 Q Did you walk out there with anyone else?

1 A Yes, Greg Cousins. I was behind him.

2 Q Were the lights on or off?

3 A I believe they were off at the time.

4 Q What happened then? What did you do out there?

5 A Evaluated the situation, looked.

6 Q How long would you have been out on the bridge?

7 A I don't know, not a long period.

8 Q Did you look on the side to see if there was any
9 oil coming out?

10 A At that time, no.

11 Q Where did you go then after that?

12 A I believe back onto the bridge.

13 Q And what happened when you got on the bridge, came
14 back on the bridge?

15 A Well, shortly after that, we turned on the
16 spotlights and we were looking in the water for oil after
17 that.

18 Q Where were you looking from?

19 A The bridge wing.

20 Q Which bridge wing, starboard or port?

21 A I believe I walked out on both of them.

22 Q Did Captain Hazelwood walk out on the port bridge
23 wing when you and Mr. Cousins were out there?

24 A I don't remember.

25 Q When do you first remember seeing Captain

1 Hazelwood on the bridge after the grounding?

2 A I don't know, I wasn't looking at my watch again.
3 It was shortly thereafter.

4 Q Shortly thereafter, what do you mean? Was it
5 before you went out on the port bridge wing or was it after
6 that or --

7 A It was after, I believe after the first time I
8 walked out. Possibly when I came back onto the bridge, he
9 was right there.

10 Q What did you do then, after going out on both
11 bridges, both wings?

12 A I stayed right up there on the bridge.

13 Q Did you ever leave the bridge?

14 A Later on, yes.

15 Q When was that?

16 A I don't know, again. You know, all this time, I
17 wasn't looking at my watch. But I went down to the deck
18 that we live on and I talked to a few people.

19 Q Why did you go down there?

20 A To wake them up.

21 Q Did you wake up everybody in the --

22 A No, Greg had gone down before me and he mentioned
23 he had talked to a few people and I went down and talked to
24 a few different ones.

25 Q Did you make sure that you woke everyone up or did

1 you know that everyone was woken up?

2 A Did I make sure we woke everyone up?

3 Q Is there any way that you checked to make sure --

4 A Well, Greg told me some people that he had talked
5 to and I knew not to go and talk with them.

6 Q What did you do after you went down and woke some
7 people? What did you tell the people you woke?

8 A I believe that we had had an accident, you know,
9 that we were aground?

10 Q Is that it?

11 A To the best that I can recall, yes.

12 Q Where did you go after giving these warnings?

13 A Back to the bridge.

14 Q What was going on when you got up to the bridge?

15 A I don't remember.

16 Q Well, were there -- were the engines still
17 running?

18 A I didn't look at the color graph, I couldn't tell
19 you.

20 Q Were there any orders being given?

21 A Later on, yes.

22 Q Well, what about this time when you got up on the
23 bridge, was there anything being done up there?

24 A I don't recall exactly what was going on when I
25 returned to the bridge, no. There was some contacts made

1 with Vessel Traffic Service, letting them know at the time
2 where we were, et cetera.

3 MR. COLE: Judge, would this be a good time to
4 stop?

5 JUDGE JOHNSTONE: Yes, sir. We'll take our lunch
6 break, ladies and gentlemen, until about 1:15. Don't
7 discuss this case among yourselves or with any other person
8 and don't form or express any opinions. See you back then.

9 THE CLERK: Please rise. This Court stands at
10 recess.

11 (Whereupon, the jury leaves the courtroom.)

12 (Whereupon, at 11:58 a.m., a luncheon recess was
13 taken.)

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1 correct?

2 A Correct.

3 Q Who was up on the bridge at that time, when you
4 came up?

5 A I assume, I don't remember exactly for sure,
6 probably the captain and Bob Kagan and Greg Cousins.

7 Q And were any instructions about steering the ship
8 being given at that time?

9 A I don't know.

10 Q At some point, however -- where did you go, then,
11 after you came up on the bridge?

12 A I remained on the bridge.

13 Q How long did you remain on the bridge?

14 A Until about 2:30 and then I returned back to it
15 after awhile.

16 Q I can't hear you.

17 A Then I returned back after that. I was gone for a
18 short period and then I went back to the bridge.

19 Q Well, let's talk about the time from when you came
20 up to the bridge after talking to people and 2:30, when you
21 left the bridge. Where were you during that time on the
22 bridge?

23 A Either on the bridge wing or right inside the
24 bridge area.

25 Q And what was happening on the bridge during that

1 time?

2 A There was a couple of phone calls made, talking on
3 the radio to the commander of the port and there were some
4 engine maneuvers.

5 Q Tell the jury what those engine maneuvers that you
6 saw -- what were they?

7 A They consisted of dead slow ahead, slow ahead,
8 half ahead and full ahead and different rudder orders.

9 Q What kind of rudder orders were given?

10 A Initially, I believe a number, a course number was
11 given. Then, after that, I believe there was -- degrees
12 rudder was just put on.

13 Q Why was that; what was the purpose of those rudder
14 orders?

15 A I would not know.

16 Q Well, have you ever spoken with anybody about the
17 purpose of those rudder orders?

18 A No one ever told me what was being done at the
19 time.

20 Q Have you ever expressed -- have you ever told
21 anyone else what the purpose of what those rudder orders
22 were?

23 A I only would assume. I would never have been told
24 by the person who was giving the commands what was the
25 purpose of them.

1 Q Are you saying that you didn't have any idea of
2 what the captain was trying to do while you were up on the
3 bridge?

4 A I'm saying I was never told by anyone what he was
5 doing.

6 Q What did you think he was doing?

7 A What did I think at the time?

8 Q Yes.

9 A I assumed he was trying to get the vessel off, but
10 that was just what I thought. I had never been told that
11 by anyone.

12 Q You told a number of people that, though, correct?

13 A Yes, I've mentioned it before.

14 Q You testified before the NTSB and you told them,
15 in essence, that he was trying to get it off the reef.

16 A What I thought he was doing, yes.

17 Q And you talked with the troopers immediately after
18 this incident occurred, correct?

19 A Correct.

20 Q And you told them that you thought he was trying
21 to get it off the reef.

22 A That's what I thought.

23 Q And you also talked to the FBI.

24 A Correct.

25 Q And you told them, also.

A Correct.

1 Q Now what did you do after -- why did you leave the
2 bridge at 2:30?

3 A I went down to rig the pilot ladder for people
4 boarding the vessel.

5 Q When -- who were the people that were going to
6 board the vessel?

7 A The Coast Guard.

8 Q When did you realize that the Coast Guard was
9 coming out to the vessel?

10 A I believe I probably heard it on the radio; they
11 said they're on their way out.

12 Q And when you returned to the bridge, what were
13 your responsibilities until you went off at 4:00 o'clock?

14 A After we rigged the pilot ladder, I just remained
15 on the bridge.

16 Q Did you take the helm at any point?

17 A No, I did not.

18 Q Do you remember when the anchor was dropped?

19 A I couldn't give you a time. I remember Mr. LeCain
20 going out and doing it.

21 Q Would it have been before or after the Coast Guard
22 arrived?

23 A I believe it was before.

24 Q Now what was the policy on board Exxon tankers at
25 that time as far as possession of alcohol?

1 A They didn't allow it on board.

2 Q I can't hear you.

3 A They didn't allow it on board.

4 Q What were the consequences?

5 A I assume you would be fired.

6 Q And how about for alcohol use on board the Exxon
7 Valdez?

8 A It was not allowed.

9 Q Did you have any alcohol on board the Exxon Valdez
10 that evening or morning?

11 A No, I did not.?

12 Q Are you aware of any alcohol being on board?

13 A No.

14 Q How many captains did you serve with while you
15 were assigned to the Exxon Valdez?

16 A Two.

17 Q Who was the -- who were those two people?

18 A Captain Hazelwood and Captain Stalzer.

19 MR. COLE: I have nothing further, Your Honor.

20 CROSS EXAMINATION

21 BY MR. CHALOS:

22 Q Good afternoon, Ms. Jones. You hold a third
23 mate's license, is that correct?

24 A Correct.

25 Q You're qualified as a third mate?

1 A Yes.

2 Q And you served as a third mate, correct?

3 A Yes.

4 Q You stood third mate watches on the Exxon
5 Charleston, you said?

6 A Yes.

7 Q You've sailed with Captain Hazelwood before, have
8 you not?

9 A Yes, I have.

10 Q That was in December 1987 and January of 1988?

11 A Correct, and a little bit into February.

12 Q How long was that tour of duty?

13 A Just a little over two months, I believe.

14 Q That was on the Exxon Valdez?

15 A Correct.

16 Q Now on the evening of March 23d, what were you
17 doing at about 8:00 p.m.?

18 A I was out on deck, securing fire hoses.

19 Q Did you see the captain come on board right around
20 that time?

21 A Yes, I did.

22 Q Could you tell the jury what you saw?

23 A I saw the radio officer and the chief engineer
24 come on board with pizzas and the captain approximately ten
25 feet behind them also coming on board.

1 Q Where were you standing in relation to the
2 gangway?

3 A I was back by the house, just alongside the house
4 on the port side.

5 Q About 50 or 60 feet away from the gangway?

6 A Approximately.

7 Q Did you have an opportunity to observe Captain
8 Hazelwood coming on board?

9 A I saw him walk probably for about 40 feet or so.
10 I didn't watch him come right directly on board, but I saw
11 him as he was coming into the house, going into the house.

12 Q Did you notice anything unusual about his manner
13 of walking?

14 A No.

15 Q Did he appear to you to have staggered?

16 A No.

17 Q Swayed?

18 A No.

19 Q Were his movements steady?

20 A Yes.

21 Q Did you speak to Captain Hazelwood?

22 A Yes, I did.

23 Q How close were you to him?

24 A Just right within speaking distance.

25 Q A couple of feet?

1 A Yes.

2 Q Did you smell any alcohol on his breath?

3 A No, I did not.

4 Q Were his eyes watery?

5 A No.

6 Q Did he appear to you to be impaired in any way?

7 A No.

8 Q What did you discuss?

9 A I asked him if he had a good time ashore and he
10 showed me his briefcase. I assumed that to mean a business
11 trip and I started joking him about having red suspenders
12 on or something, that he was, you know, doing a type -- a
13 lot of business work, going ashore and being a business
14 professional, et cetera.

15 Q What did he say to you?

16 MR. COLE: Objection, hearsay.

17 JUDGE JOHNSTONE: Don't answer the question. Mr.
18 Chalos?

19 MR. CHALOS: I'll withdraw it, Your Honor.

20 BY MR. CHALOS: (Resuming)

21 Q Did you observe the captain going into the living
22 quarters?

23 A Yes.

24 Q Anything unusual about his walk at that time?

25 A No.

1 Q Was the captain acting normal, as you knew him at
2 that time?

3 A Yes.

4 Q Now you finished securing for sea some time around
5 10:20, 10:30.

6 A Correct.

7 Q And then you went back to your room?

8 A Yes.

9 Q Took a nap?

10 A Yes.

11 Q And then you were awoken at 11:20, is that right?

12 A Correct.

13 Q And some time around a quarter to 12:00, you
14 started to go on watch?

15 A Correct.

16 Q And at that time, you were told by AB Radtke that
17 your watch had been changed to the bridge wing, instead of
18 the bow?

19 A Correct.

20 Q Was there anything unusual about that instruction?

21 A No.

22 Q Have you stood bridge wing watches before as a
23 lookout?

24 A Yes.

25 Q Is it the custom and practice, once you drop a

1 pilot off at Prince William Sound, you move the lookout
2 back to the bridge wing?

3 A As far as I can remember on the ships I've been
4 on, that's basically what it is. You get rid of the pilot
5 and you secure the ladder and you secure the anchors and
6 you shift to the bridge wing.

7 Q Is it your practice when you come on watch to look
8 at the charts?

9 A Yes.

10 Q Do you do that because of your training as a third
11 mate?

12 A I like to know where I'm at.

13 Q Do you have a recollection of looking at the
14 charts on this evening?

15 A I know I did at one point in time. I don't know
16 -- I don't remember when it was.

17 Q Now you said that you came in and looked around
18 the front of the bridge and stopped and spoke with the
19 captain and Mr. Cousins, do you recall that?

20 A Yes.

21 Q How close were you to the captain?

22 A Within a couple of feet, again.

23 Q Did you smell any alcohol at that time?

24 A No.

25 Q Was this at about 11:50?

1 A A little before 11:50.

2 Q Did the captain appear to you to be in the same
3 condition as he had been that evening --

4 A Yes.

5 Q -- earlier that evening?

6 A Yes.

7 Q Did he appear to you to be in any way impaired?

8 A No.

9 Q Was his speech slurred?

10 A No.

11 Q Would you describe Captain Hazelwood's speaking
12 manner?

13 A He doesn't speak very loud. He's got quite a low
14 tone.

15 Q Deliberate? Deliberate in his speech?

16 A I wouldn't say really, no.

17 Q Now what did you talk about?

18 MR. COLE: Objection, hearsay.

19 JUDGE JOHNSTONE: Mr. Chalos?

20 MR. CHALOS: Your Honor, I'm not offering it for
21 its truth, only for the fact that they had a conversation
22 and she stood there for a minute or so, talking with him.

23 JUDGE JOHNSTONE: Why don't you approach the
24 bench? I don't know what it's being offered for until I
25 hear it, so maybe you can give me an offer of proof by the

1 bench.

2 (The following was said at the bench.)

3 JUDGE JOHNSTONE: Quietly, so that the jury
4 doesn't hear.

5 MR. CHALOS: (Inaudible.)

6 JUDGE JOHNSTONE: What is it you think she's going
7 to say?

8 MR. CHALOS: Just basically (inaudible).

9 JUDGE JOHNSTONE: Without anything further, I'm
10 going to sustain the objection if you can't give me a
11 better offer of proof.

12 (The following was said in open Court.)

13 JUDGE JOHNSTONE: Objection sustained.

14 BY MR. CHALOS: (Resuming)

15 Q Before you went on watch, were you told by Mr.
16 Radtke that there was ice ahead?

17 MR. COLE: Objection, hearsay?

18 JUDGE JOHNSTONE: Counsel approach the bench,
19 please.

20 (The following was said at the bench.)

21 JUDGE JOHNSTONE: He's asking for your offering of
22 the truth of the word that lies ahead, aren't you?

23 MR. : (Inaudible.)

24 JUDGE JOHNSTONE: (Inaudible) it's a state of mind
25 exception. I think it's done for that purpose, to show

1 (inaudible). I'm going to sustain the objection and I'll
2 continue sustaining hearsay objections that are properly
3 made.

4 (The following was said in open Court.)

5 JUDGE JOHNSTONE: Objection sustained.

6 BY MR. CHALOS: (Resuming)

7 Q Ms. Jones, before you went out on the bridge wing,
8 did you look at the radar?

9 A I looked at the radar at one point. I don't
10 remember if it was after or before.

11 Q Did you see any ice on the radar?

12 A Yes, I did.

13 Q When you went out on the bridge wing, what was the
14 visibility?

15 A I'll give you an estimate of five miles. That's
16 just an estimate.

17 Q Now you -- in response to Mr. Cole's question, you
18 mentioned that you saw a light that you originally
19 identified as being five seconds and then later corrected
20 it to four seconds, do you remember that?

21 A Yes.

22 Q How far away did you estimate that light to be
23 from the ship at the time you saw it?

24 A Oh, I wouldn't know, I couldn't tell you that.

25 Q When you saw it, when you saw this light, you were

1 all the way out as far as you could go on the wing, is that
2 correct?

3 A Correct.

4 Q When you reported the light as broad on the bow,
5 were you reporting it from your relative position on the
6 wing?

7 A Yes.

8 Q In other words, if you were standing in the middle
9 of the bridge, the relative position may have been
10 something less, am I correct?

11 A Basically, if you get down -- basically, what the
12 lookout is there to do is report the light. They know
13 where it is. You just let them know.

14 Q Now based on your experience as a mate and an AB,
15 seeing the red light on your port bow -- on your starboard
16 bow, rather, doesn't necessarily mean that you're standing
17 into danger, does it?

18 A No, it does not.

19 Q And as a matter of fact, red lights, when you're
20 headed out to sea, are not always necessarily on your port
21 side; they could be on your starboard side, too?

22 A Correct.

23 Q It's true, is it not, that you would have reported
24 the light, the red light that you saw, no matter what side
25 of the ship it was on?

1 A Yes, that was my job.

2 Q There was nothing about your sighting of the
3 light, the red light on your starboard bow, to trigger any
4 alarms in your head, was there?

5 A No, there wasn't.

6 Q When you came in and reported the light to Mr.
7 Cousins the first time, what did he say to you?

8 MR. COLE: Objection, hearsay.

9 JUDGE JOHNSTONE: Mr. Chalos?

10 MR. CHALOS: I'll withdraw the question, Your
11 Honor.

12 BY MR. CHALOS: (Resuming)

13 Q After -- you said you came in and you reported the
14 light the second time, am I correct?

15 A Correct.

16 Q And Mr. Cousins at that time was standing at the
17 port radar?

18 A Yes.

19 Q At the port radar, you would have been to the left
20 of the helmsman, am I correct?

21 A Correct.

22 Q Did Mr. Cousins acknowledge the report?

23 A Yes.

24 Q Now you mentioned that you noticed the ship
25 steering to the right or to the starboard hand, am I

1 correct?

2 A Yes, turning towards the starboard.

3 Q Was that some time after you made your two
4 reports?

5 A It was shortly after my second report.

6 Q When you say "shortly," would you say two minutes,
7 three minutes?

8 A It would be a guess again, since I wasn't look at
9 my watch, but I would say less than two minutes.

10 Q Now could you describe to us how the ship was
11 turning?

12 A It wasn't a sharp turn. It was a --

13 Q Slow, loping type of turn?

14 A -- slow, easy turn, yes.

15 Q Did you notice the light at this point, what it
16 was doing relative to the ship's heading?

17 A It was coming across the bow to the port.

18 Q In a slow manner?

19 A Yes, that's how I assumed -- that's where I came
20 up -- how I judge the rate of turn, by watching the light.

21 Q Now you don't know, do you, sitting here today,
22 how long after the turn started the grounding occurred?

23 A No.

24 Q I'd like to talk a little bit about the grounding
25 for a second. You mentioned that when the ship first hit,

1 you saw this aura on the bow, do you remember that?

2 A Correct.

3 Q And you started talking about heat induction.

4 What did you mean by that?

5 A The phosphorescence, they've been studying it and
6 I had been asked about, approached about it after the fact,
7 that that's a study they're doing, that maybe it is -- they
8 wonder what makes it glow. You know, it's in the water. I
9 guess they're studying it to see if it's heat induced, the
10 friction --

11 Q When you say "heat induced," you mean the mass,
12 the vessel mass hitting the rock --

13 A Yes.

14 Q -- causing friction?

15 A Yes, that would be my guess. I'm not doing the
16 study, I don't know much about it, but that's what I would
17 assume.

18 Q You said you heard a loud noise and then a jerky
19 motion?

20 A Yes, I heard a scraping sound.

21 Q And you said that you thought it took about 60
22 seconds for the ship to come to a complete stop, do you
23 remember that?

24 A That was a guess, again.

25 Q If I were to tell you that other witnesses --

1 MR. COLE: Objection.

2 MR. CHALOS: Your Honor, this is in evidence and I
3 want to give her a hypothetical.

4 JUDGE JOHNSTONE: That's for expert witnesses, not
5 this witness. Objection sustained.

6 BY MR. CHALOS: (Resuming)

7 Q Could the whole process have taken something like
8 around 30 seconds?

9 A Yes, it's possible. This was a very strenuous,
10 whatever, situation. I wasn't watching my watch and time
11 has a way of getting lost when something like that happens.

12 Q You said that after the grounding, you saw Mr.
13 Cousins make some calls, do you recall that?

14 A Yes.

15 Q Or at least when you came in from the bridge wing
16 after the grounding, you saw Mr. Cousins on the phone.

17 A Yes.

18 Q Do you know who he was calling?

19 A No, I don't.

20 Q Did he tell you who he was calling?

21 MR. COLE: Objection, hearsay.

22 JUDGE JOHNSTONE: Mr. Chalos?

23 MR. CHALOS: Your Honor, I'm not asking what was
24 said, only whether Mr. Cousins indicated anything to her
25 after the phone call.

1 JUDGE JOHNSTONE: Objection sustained.

2 BY MR. CHALOS: (Resuming)

3 Q Now you told Mr. Cole that you were out on the
4 port wing, that you looked over the side and then you came
5 back to the bridge.

6 A After, yes.

7 Q And you saw the captain at that point, did you
8 not?

9 A At one point in time, yes.

10 Q Did you see the captain out on the starboard wing?

11 A I don't remember. I remember definitely for sure
12 he was walking out on the port. I don't remember for sure
13 if he walked on the starboard or not.

14 Q Did you look over the side with him at that point?

15 A Yes, probably at the same time, we were looking
16 over the side. We were all out there, looking.

17 Q How did the captain look when you saw him on the
18 bridge the first time after the grounding?

19 A He looked as he usually looks.

20 Q Did he look serious?

21 A Yes.

22 Q Did he look sober?

23 A Yes.

24 Q Did he look in any way impaired?

25 A No.

1 Q Did he appear to be in control of the situation at
2 that time?

3 A As much as you could be, yes.

4 Q Did you hear the captain give any commands?

5 A Yes.

6 Q What were those commands?

7 MR. COLE: Objection, hearsay.

8 JUDGE JOHNSTONE: Don't answer the question.

9 BY MR. CHALOS: (Resuming)

10 Q Did the captain give you any commands?

11 A He gave --

12 JUDGE JOHNSTONE: Don't answer the question.

13 There's an objection, Mr. Chalos, and rather than -- when
14 you ask another question, I am assuming you are withdrawing
15 the question.

16 MR. CHALOS: I'm withdrawing the first question.

17 JUDGE JOHNSTONE: Okay, there's an objection to
18 this question.

19 MR. CHALOS: Your Honor, may I just have a moment?

20 JUDGE JOHNSTONE: Yes, sir.

21 BY MR. CHALOS: (Resuming)

22 Q Okay, Ms. Jones --

23 JUDGE JOHNSTONE: Before you go any further, I
24 just want to make sure we understand each other. If I
25 don't hear you respond when I give you an opportunity with

1 an exception under our rules or some reasoning you have, I
2 am assuming that you are going onto the next question,
3 withdrawing your question.

4 MR. CHALOS: That's right, Your Honor.

5 JUDGE JOHNSTONE: Okay.

6 BY MR. CHALOS: (Resuming)

7 Q Ms. Jones, did you see the captain looking at the
8 radar?

9 A Yes, I did.

10 Q Were you given any orders to go below and wake up
11 the crew?

12 A Greg and I spoke about it. He told me who he had
13 talked to.

14 MR. COLE: Objection, hearsay.

15 JUDGE JOHNSTONE: The answer called for a yes or
16 no answer, were you given any orders to wake up the crew.
17 It didn't call for what the orders were. So the answer is
18 yes now. Let's go on to the next question.

19 BY MR. CHALOS: (Resuming)

20 Q Were you given any orders to wake up the crew?

21 JUDGE JOHNSTONE: That just calls for a yes or no
22 answer.

23 THE WITNESS: It's hard to answer with a yes or
24 no.

25 JUDGE JOHNSTONE: Okay.

1 THE WITNESS: We talked about it and he told me
2 who he had talked to and I just went down and talked to
3 some other people. It wasn't a very planned out thing; it
4 was very casual. He didn't order me to go down. We just
5 were talking about it and figured that was what we should
6 do.

7 BY MR. CHALOS: (Resuming)

8 Q I take it you don't know whether the captain gave
9 any orders to Mr. Cousins about waking up the crew.

10 A I'm not aware if he did or not.

11 Q You say at some point, you saw the chief mate, Mr.
12 Cousins, and the captain standing in the chart room.

13 A The chief mate came up and he walked from behind
14 the chart room and they went on back behind the chart room
15 and talked.

16 Q Was that before or after you went below?

17 A I don't know.

18 Q Did you hear any of the conversation that was --
19 did you hear the captain and the chief mate and the third
20 mate speaking?

21 A No, I did not.

22 Q Now in response to Mr. Cole's question, you said
23 that you had assumed that the captain was trying to get
24 this vessel off the reef by the engine maneuvers and rudder
25 commands he was giving, is that correct?

1 A Right.

2 Q Did the captain ever tell you that that's what he
3 was trying to do?

4 A No, he did not.

5 MR. COLE: Objection, hearsay.

6 MR. CHALOS: Your Honor, I don't think that's
7 hearsay. I'm not asking this witness for the truth -- I'm
8 not offering it for the truth, only her state of mind.

9 JUDGE JOHNSTONE: Objection overruled. The answer
10 is no. Go on to the next question.

11 BY MR. CHALOS: (Resuming)

12 Q The assumption that you testified to is strictly
13 your own assumption, am I correct?

14 A Correct.

15 Q Have you ever been aground before?

16 A Yes, I have.

17 Q And in those instances when you were aground, was
18 the engine put in reverse to get the vessel off the strain?

19 A Yes, it was.

20 Q In this instance, the engines were never put
21 astern, is that correct?

22 A That's correct.

23 Q Did you notice the vessel's heading after the
24 grounding?

25 A I believe it was 289, once it settled.

1 Q Did you have occasion to observe the vessel's
2 heading after the engine and rudder maneuvers were being
3 performed?

4 A That's when I believe it was 289.

5 Q And did it remain at 289 through the whole period
6 of the engine and rudder maneuvers?

7 A I believe it might have changed a degree, at the
8 most, to the right or to the left during the commands.

9 Q But that's all?

10 A Yes, to the best I can recall.

11 Q Did you notice any movement on the part of the
12 ship in a forward direction as a result of the engine
13 maneuvers?

14 A No, I didn't.

15 Q Who was giving the helm and engine orders?

16 A The captain.

17 Q Were you in close proximity when these orders were
18 being given?

19 A Yes, I was right in the bridge area.

20 Q How did the captain appear at that time?

21 A Very much in command.

22 Q Cool, calm?

23 A Yes.

24 Q Did you notice any -- let me strike that and
25 rephrase it. Did you notice any impairment on his part?

1 A No, I did not.

2 Q Did you smell any alcohol on his breath at this
3 point?

4 A No, I did not.

5 Q Do you remember -- well, strike that. Did you do
6 anything with respect to the fire monitors?

7 A That was done after, when we called the port aide
8 out, that I went down with the port aide and put out the
9 pilot ladder on the port side. I returned to the bridge
10 and they went out and started -- they put in the scuppers
11 and chained the fire monitors.

12 Q Just to be ready, I suppose.

13 A Yes, I imagine.

14 Q Have you ever seen Captain Hazelwood intoxicated
15 on board the Exxon Valdez?

16 A No.

17 Q Have you ever seen him impaired?

18 A No.

19 MR. CHALOS: I have no further questions of this
20 witness, Your Honor.

21 REDIRECT EXAMINATION

22 BY MR. COLE: (Resuming)

23 Q Ms. Jones, I guess I'm a little confused. The
24 period that you were on the bridge, from say 12:30 to 1:40,
25 you're saying that the heading of the ship never changed?

1 A From 12:30 to 1:40. I'm saying when the commands
2 were given, I didn't notice much of a heading change.

3 Q What's a course recorder?

4 A It records the vessel's heading.

5 Q The actual heading of the ship --

6 A Yes.

7 Q -- is that your understanding?

8 A Yes.

9 Q Would that be a better judge of what the heading
10 of the ship was than what you saw that night?

11 A Probably, since it's mechanical and perfect and it
12 was awhile ago.

13 Q You talked about being off -- running a ship
14 aground. How many ships have you been on that ran aground?

15 A I've been on ships before. It's a common
16 occurrence when you're going up the Mississippi River, you
17 get in the mud.

18 Q How many reefs are there, rock reefs are there in
19 the Mississippi River?

20 MR. CHALOS: Objection, Your Honor. How would
21 this witness know how many reefs are --

22 MR. COLE: I'll rephrase the question.

23 BY MR. COLE: (Resuming)

24 Q How many rock reefs have you run into on the
25 Mississippi River?

1 A None.

2 Q Would you -- do you think that the same tactics
3 that you use to get a tanker or a ship off the mud might be
4 a little different than those used to get a tanker off of a
5 reef?

6 A I'm not a captain, I wouldn't know that.

7 Q The only reefs -- the only times you've been
8 aground on a vessel is on the Mississippi River, is that
9 right?

10 A No.

11 Q Where else have you been on the ground in ships?

12 A Making a turn into Port Manatee, shifting from
13 Tampa.

14 JUDGE JOHNSTONE: I can't hear you any longer. I
15 could hear you earlier, but I can't hear you, you fade
16 out. What did you say?

17 THE WITNESS: I said that when we were making a
18 ship from Tampa to Port Manatee in Florida.

19 BY MR. COLE: (Resuming)

20 Q What type of ground is that?

21 A I wouldn't know, that was quite awhile ago.

22 Q You don't remember if it was mud or rocks?

23 A No, I don't.

24 Q Did the ship sink after you ran aground?

25 A No, it did not.

1 Q How often did you look for signs of intoxication
2 when you see Captain Hazelwood on board the Exxon Valdez?

3 A I would have no reason to look for signs of
4 intoxication.

5 Q Do you look for signs of intoxication when you
6 talk with him?

7 A No.

8 Q Did you watch Captain Hazelwood the whole way when
9 he came on board the Exxon Valdez at about 8:00 o'clock
10 that evening?

11 A No, I said that I saw him walk approximately 40
12 feet, just going into the house. I didn't see him come on
13 board.

14 Q What was the -- was it light or dark out?

15 A It was -- the lights were on deck. I could see
16 clearly.

17 Q How dark was it out?

18 A I don't recall.

19 Q Then it must have been dark enough to require the
20 lights.

21 A I assume.

22 Q Can you tell the jury how many times -- how many
23 red lights flash on your starboard side in Prince William
24 Sound?

25 A I don't know.

1 Q Well, are you familiar with the warning buoys in
2 Prince William Sound at all?

3 A Some, yes. I don't have them memorized.

4 Q Do you know any of them that flash on the right
5 side, on the starboard side?

6 MR. CHALOS: Your Honor, I'm going to object as to
7 foundation. Which way is the ship heading? Where is it
8 at?

9 MR. COLE: I'll withdraw that.

10 BY MR. COLE: (Resuming)

11 Q On the outbound voyage out of Prince William
12 Sound, are you aware of any that flash red on the right
13 side?

14 A It would depend where you are in reference to the
15 channel. If you have a turn up ahead and the light -- the
16 visibility is good and you have a light quite a ways up
17 ahead, after you make your turn, it would be on the
18 starboard side, but it could be on the port side before you
19 make your turn.

20 Q Would you give the jury an example of where that
21 would happen in Prince William Sound?

22 A I don't have all the lights memorized out there,
23 that's the pilot's job.

24 MR. COLE: You indicated that from the first time
25 that the Exxon Valdez grounded until it came to rest, you

1 initially said -- you gave a guess of 60 seconds. And then
2 Mr. Chalos asked you could it have been 30 seconds and you
3 said yes, is that correct?

4 A I wasn't able to answer the question.

5 Q Could it have been more than 60 seconds?

6 A I wasn't watching my watch. It could have been,
7 yes. It could have been less.

8 Q I have nothing further, thank you.

9 RE-CROSS EXAMINATION

10 BY MR. CHALOS: (Resuming)

11 Q Ms. Jones, have you ever been intoxicated?

12 A Yes.

13 Q Do you know how that feels like?

14 A Yes.

15 Q Do you remember the movements that you had when
16 you were intoxicated, the way you acted?

17 A Yes.

18 Q Have you ever observed anybody else intoxicated?

19 A Yes.

20 Q Have you observed people impaired by alcohol --

21 A Yes.

22 Q -- and the way they act?

23 A Yes.

24 Q Did Captain Hazelwood act in any way impaired or
25 intoxicated as you know it?

1 A No.

2 MR. CHALOS: No further questions, Your Honor.

3 MR. COLE: I just have two follow-up.

4 FURTHER REDIRECT EXAMINATION

5 BY MR. COLE: (Resuming)

6 Q You gave a blood test and a urine sample in this
7 case, is that correct?

8 A Correct.

9 Q And Captain Hazelwood --

10 MR. CHALOS: Objection, objection, Your Honor.

11 JUDGE JOHNSTONE: This is going outside the scope
12 of the direct and redirect and recross.

13 MR. COLE: Judge, I can step forward and make an
14 offer of proof of why I don't think that's true.

15 JUDGE JOHNSTONE: Why don't you do that?

16 (The following was said at the bench.)

17 MR. COLE: I want to ask her if she noticed any
18 signs of intoxication. She just went into it here and I
19 want to ask her if she noticed any signs of intoxication
20 when she gave this urine sample and blood test at 11:00
21 o'clock that morning.

22 MR. CHALOS: I wouldn't have any objection, so
23 long as it doesn't get into (inaudible).

24 JUDGE JOHNSTONE: Okay, without objection, I'll
25 let you proceed.

1 (The following was said in open Court.)

2 MR. CHALOS: Thank you, Your Honor. Mr. Cole.

3 BY MR. COLE: (Resuming)

4 Q Ms. Jones, were you called into the captain's
5 quarters at one point to give a blood sample?

6 A Yes, I was.

7 Q Had -- did you make contact with Captain Hazelwood
8 within a half an hour that that occurred, prior or after?

9 A He, I believe, was in his office when I went up
10 there.

11 Q When you went to give the blood sample.

12 A I believe so.

13 Q Did you notice any signs of intoxication at that
14 point?

15 A No, I did not.

16 Q Okay.

17 MR. COLE: Nothing further, Your Honor.

18 JUDGE JOHNSTONE: May this witness be excused from
19 further participation?

20 MR. CHALOS: No, just a couple of more questions
21 and then --

22 FURTHER RECROSS EXAMINATION

23 BY MR. CHALOS: (Resuming)

24 Q Ms. Jones, when you saw Captain Hazelwood in his
25 office at the time you gave a blood test, how far away from

1 name and then spell your last name?

2 THE WITNESS: I'm Ephraim Meneses.

3 THE CLERK: Would you spell your first name, too?

4 THE WITNESS: My first name is Ephraim; Meneses,
5 that's my last name. Ephraim is my first name.

6 THE CLERK: Spell your last name.

7 THE WITNESS: Meneses, my last name.

8 THE CLERK: Spell it.

9 THE WITNESS: M-e-n-e-s-e-s.

10 THE CLERK: And your current mailing address?

11 THE WITNESS: My home address, sir?

12 THE CLERK: Either one.

13 THE WITNESS: I live at 126 Daley City,
14 California.

15 THE CLERK: And your current occupation, sir?

16 THE WITNESS: I'm not working right now. I work
17 on Exxon as a pleacher.

18 THE CLERK: Thank you.

19 THE WITNESS: Okay, sir.

20 DIRECT EXAMINATION

21 BY MR. COLE:

22 Q Mr. Meneses, how long have you worked for Exxon
23 shipping?

24 A Almost 11 years.

25 Q And in what position do you work for them? What's

1 your job?

2 A I'm a chef. I bring everything. I used to be
3 steward, a cook.

4 Q Were you the cook on the Exxon Valdez when it went
5 aground?

6 A I was, yes.

7 Q Do you remember going to sleep the night before?

8 A The day the accident happened, I was asleep.

9 Q What time did you get off work that evening, the
10 night before?

11 A 5:00 o'clock.

12 Q And do you remember when the ship left Valdez?

13 A I was asleep, I have no idea.

14 Q Did you wake up when the ship was grounded?

15 A I do, but I was still laying down when the ship
16 was grounded.

17 Q And what did you do after that?

18 A I just sleep again.

19 Q And when did you wake up?

20 A 5:00 o'clock in the morning.

21 Q Thank you, I have nothing further.

22 CROSS EXAMINATION

23 BY MR. CHALOS:

24 Q Good afternoon, Mr. Meneses.

25 A Good afternoon, sir.

1 Q Other than being a cook, you had no other duties
2 on the Exxon Valdez, do you?

3 A That's all I have.

4 Q No deck duties?

5 A No, sir.

6 Q No stations to go to?

7 A I have -- during fire drill, we have.

8 Q Now let me ask you this. You say that you woke up
9 when the grounding occurred?

10 A Yes, sir.

11 Q You don't know if anyone tried to wake you up, do
12 you?

13 A Nobody wake me up.

14 Q But, in fact, you did wake up when you heard the
15 grounding.

16 A Yes, sir, that's right.

17 Q And I take it you don't know whether Captain
18 Hazelwood told anybody to come down and wake you up.

19 MR. COLE: Objection, Your Honor. Objection,
20 hearsay.

21 JUDGE JOHNSTONE: The only way he'd know that is
22 if somebody told him. He said he's been asleep, so the
23 objection is sustained. The form of the question is
24 improper.

25 MR. CHALOS: Your Honor, I have no further

1 questions of this witness.

2 JUDGE JOHNSTONE: Okay, any further need for this
3 witness?

4 MR. COLE: No.

5 JUDGE JOHNSTONE: Mr. Chalos?

6 MR. CHALOS: No.

7 JUDGE JOHNSTONE: You're excused, Mr. Meneses.

8 MR. COLE: At this time, the State would call Ms.
9 Melanie Wright.

10 JUDGE JOHNSTONE: Are you folks running out of
11 pads?

12 MS. : Not yet.

13 JUDGE JOHNSTONE: Okay, if you run out of pads or
14 pencils, just let us know and Mr. Purden will renew them
15 for you.

16 Whereupon,

17 MELANIE WRIGHT

18 having been called as a witness by Counsel for the State,
19 and having been duly sworn by the Clerk, was examined and
20 testified as follows:

21 THE CLERK: Ma'am, would you please state your
22 full name and then spell your last name?

23 THE WITNESS: Melanie Wright. Spell the first
24 one, too? M-e-l-a-n-i-e.

25 THE CLERK: And the last name, spell it.

1 THE WITNESS: W-r-i-g-h-t.

2 THE CLERK: And your current mailing address,
3 Ma'am?

4 THE WITNESS: Exxon Shipping Company, Box 1512,
5 Houston, Texas.

6 THE CLERK: And your current occupation?

7 THE WITNESS: Ship's cook.

8 THE CLERK: Thank you.

9 DIRECT EXAMINATION

10 BY MR. COLE:

11 Q Ms. Wright, would you tell the jury how long
12 you've worked for Exxon Shipping?

13 A Eight years.

14 Q And how long had you been serving on the Exxon
15 Valdez prior to its grounding?

16 A 50 some days.

17 Q Do you remember the Exxon Valdez being in port in
18 Valdez on March 23d, 1989?

19 A Yes.

20 Q What time did you get off work that day?

21 A 7:00.

22 Q What did you do after you got off work?

23 A Went to the crew's TV room and watched TV.

24 Q Did you watch anything in particular, do you
25 remember?

1 A I tried to watch the news and the movie, but the
2 movie that was on was one we'd already seen last week in
3 San Francisco, so we turned the TV off and everybody went
4 to bed.

5 Q What time would you have gone to sleep that
6 evening?

7 A 10:00 o'clock.

8 Q What time did you wake up?

9 A 5:00 in the morning.

10 Q Do you remember waking up prior to that?

11 A For a few seconds.

12 Q Why did you wake up prior to that?

13 A I heard an unusual noise.

14 Q Did you think anything about that?

15 A I thought the wind was blowing, probably because
16 the wind blows a lot where I live, and when I was asleep,
17 sometimes you can't tell if you're at home or you're at
18 work. And I heard a few scraping noises in with that, but
19 I didn't get up or anything, just went back to sleep,
20 because it got quiet. The engines shut down, it was quiet,
21 and just went back to sleep.

22 Q When did you learn that the Exxon Valdez had
23 grounded?

24 A When I came out of my room, I ran into the oiler
25 and he took me outside.

1 Q What time would that have been?

2 A Quarter to 6:00.

3 MR. COLE: I have nothing further, Your Honor.

4 CROSS EXAMINATION

5 BY MR. CHALOS:

6 Q Good afternoon, Ms. Wright.

7 A Hi.

8 Q You don't have any other duties on the Exxon
9 Valdez besides being a cook, right?

10 A Yes.

11 Q You don't have any deck duties or any engine
12 duties?

13 A No, just inside the house.

14 Q Do you know whether anyone knocked on your door
15 that evening?

16 A No. I would say nobody did knock on it.

17 Q But you did wake up when you heard the scraping
18 sound.

19 A Yes.

20 MR. CHALOS: I have no further questions.

21 JUDGE JOHNSTONE: Mr. Cole.

22 MR. COLE: Nothing further.

23 JUDGE JOHNSTONE: May this witness be excused from
24 further participation?

25 MR. CHALOS: Yes, sir.

1 MR. COLE: Yes, sir.

2 JUDGE JOHNSTONE: You're excused, thank you.

3 MR. COLE: Your Honor, at this time, the State
4 would call Lloyd LeCain.

5 Whereupon,

6 LLOYD G. LE CAIN

7 having been called as a witness by Counsel for the State,
8 and having been duly sworn by the Clerk, was examined and
9 testified as follows:

10 THE CLERK: Sir, would you please state your full
11 name and spell your last name?

12 THE WITNESS: Lloyd George LeCain, Junior. And my
13 last name is spelled L-e-capital C-a-i-n.

14 THE CLERK: Your current mailing address, sir?

15 THE WITNESS: 416 Evesham -- that's spelled
16 E-v-e-s-h-a-m Place, that's Longwood, Florida 32779.

17 THE CLERK: And your current occupation?

18 THE WITNESS: Merchant marine officer.

19 THE CLERK: Thank you.

20 JUDGE JOHNSTONE: Mr. Cole, keep your eye on the
21 clock and we'll break at quarter of.

22 MR. COLE: Quarter of? Fine.

23 DIRECT EXAMINATION

24 BY MR. COLE:

25 Q Mr. LeCain, how long have you been in the merchant

1 marine industry?

2 A Including time as a cadet, 21 years.

3 Q You mentioned cadet. Would you explain to the
4 jury what that means?

5 A I went to Texas A&M University and trained as a
6 merchant marine officer and I have a bachelor of science in
7 marine transportation.

8 Q Did you -- how long -- can you just briefly
9 summarize what type of jobs you've held in the merchant
10 marine industry?

11 A Able seaman for a short period and second mate and
12 third mate.

13 Q When did you get your third mate's license?

14 A In 1972, probably, right around the very end of
15 1971, somewhere in December.

16 Q And your second mate's license?

17 A It's about six years later, 1978. I'm not sure on
18 that.

19 Q Approximately.

20 A 1978.

21 Q Do you have any special pilotage endorsement that
22 you received to go along with your second mate's license?

23 A No, sir.

24 Q And how long have you worked for Exxon Shipping
25 Company?

1 A Over 17 years.

2 Q Did you sign on with them as an able bodied
3 seaman?

4 A Yes, I did.

5 Q Have you worked with Exxon ever since you started
6 with them 17 years ago?

7 A That's correct.

8 Q When did you get assigned to the Exxon Valdez?

9 A It was about five months before the accident. Was
10 it 1988? It must be 1988, at the end of say -- like July,
11 July of '88, July or August of '88.

12 Q Who were the captains that you served under while
13 you were doing assignments on the Exxon Valdez?

14 A Captain Hazelwood and Captain Stalzer.

15 Q And in your work with Exxon, have you regularly
16 been going in and out of Valdez?

17 A No.

18 Q Where have you worked primarily?

19 A Between either Port Amarillus, Panama, and New
20 York or Cherokee Grande _____, the Atlantic side, in
21 Baton Rouge, Louisiana.

22 Q So that would be considered mostly East Coast
23 work, then.

24 A Yes, that's correct.

25 Q Can you give the jury an idea how many trips you

1 made into Valdez?

2 A It's hard to say. I was on the Exxon Baton Rouge
3 years ago. I made maybe, total, maybe 20 trips up and down
4 in the area and there were two or three trips this time, so
5 let's say somewhere around 20.

6 Q The times you were on the Exxon Baton Rouge?

7 A Yes, sir.

8 Q When was that?

9 A That was ten or 12 years ago, it was a long time
10 ago.

11 Q When you were working on the Exxon Valdez
12 beginning in July, do you remember how many times you would
13 have been at the helm when the Exxon Valdez came into --

14 A I was never at the helm, but I was the navigation
15 officer.

16 Q I'm sorry, yes, the navigation officer.

17 A Maybe three or four times. You know, when I say
18 times, I'm saying just watches on there, maybe two or three
19 transits, but wasn't, you know, how many times --

20 Q Would you -- you were the second mate on the Exxon
21 Valdez. Would you tell the jury, what were your
22 responsibilities while you were in port, let's begin there?

23 A In port? Well, I was assisting the chief officer
24 with cargo, preparing the charts for sailing. I had duties
25 in the steward's department and just assist the chief

1 officer, as necessary, with the cargo. I mean I'm right
2 under the chief officer. I help him with cargo figures and
3 things occasionally and that's just about it.

4 Q Can we talk a little bit about preparing the
5 charts? Would you explain to the jury what you mean by
6 that?

7 A Okay, on the charts on the ship, we have all our
8 courses laid out coming -- where we're going to, especially
9 with the run like we have from San Francisco to Valdez.
10 And what we do is we lay the courses out on the chart and
11 we put magic Scotch tape over it, over the courses. And
12 then all the way up, we plot our positions on the chart, on
13 our charts that we use going up to wherever we're going.
14 And then before we sail, a couple of hours before we sail,
15 I'll erase the previous fixes on the chart because we
16 wouldn't want to mix things up with the next voyage. So
17 the positions usually stay on the chart almost the whole
18 time we're in port, in case somebody from the office wants
19 to come down and inspect the charts or something happens.

20 Q And would you have done this in -- on March 23d,
21 1989, when the Exxon Valdez was in --

22 A Yes, I would have. I did that.

23 Q Do you remember doing that?

24 A Yes, I do.

25 Q Is there anything else that you do with the

1 charts?

2 A I correct the charts. There are something called
3 Notice to Mariners that comes out from the Defense Mapping
4 Agency which has all the corrections to the chart, where
5 lights have been added or destroyed. Also, there's a local
6 notice to mariners from the Coast Guard in different ports
7 with the same information on it and what I do is I bring
8 the charts up to date. I correct the lights and all that
9 sort of thing. And the Coast Guard does inspect that on
10 the ship, they make sure that I've done that work.

11 Q When do they inspect it?

12 A It was not this trip, it was previous.

13 Q Now these notices to mariners, have any of them --
14 while you were on the Exxon Valdez, did any of them include
15 ice hazards?

16 A I can't recall now.

17 Q Is there anything else that you do to keep the
18 charts in good working condition?

19 A Sort the new editions when they come in. I always
20 check with the captain to make sure -- you know, when we
21 get a new edition, I'll lay the courses out and then the
22 captain will check the courses I've laid out.

23 Q Is it common when you get a new chart to read over
24 the chart and look at it and read what's on it?

25 A What I usually do is correct it first. Then I

1 look at it and if there's something unusual, I'll point it
2 out to the captain. Also, when I do get the Notice to
3 Mariners, a lot of times if I see something unusual, I'll
4 tell the captain about it. Some of the captains read the
5 Notice to Mariners themselves first and look through them.

6 Q But it's fair to say that as the navigating -- as
7 the second mate, if you were to notice new notes up on the
8 charts, themselves, you would bring those to the captain's
9 attention.

10 A Yes, sir.

11 Q Would you tell the jury, what were your
12 responsibilities then as a second mate when you were out at
13 sea?

14 A I was a watch officer then. That included a
15 four-hour -- two four-hour watches a day, just navigating
16 the ship, maneuvering the ship, the vessel around traffic.
17 I also -- I run the steward's department, put overtime on
18 the computer in the steward's department and I order stores
19 for the deck department and the engine department when I'm
20 asked to. Just general duties. I work eight hours a day
21 as a watch officer and I have clock order duties.

22 Q What were your times that you worked on the Exxon
23 Valdez? What was your block of time?

24 A I worked from 12:00 to 4:00.

25 Q And did you have people, ABs, that you were

1 responsible for?

2 A Yes, I did.

3 Q Who were those two individuals?

4 A At this time or --

5 Q Yes.

6 A That was Ms. Jones and Mr. Kagan.

7 Q How important is it to know the capabilities of
8 the people that work under you?

9 A It's pretty important. It's very important. I
10 mean you're doing a job, you have to rely on them.

11 Q How long had you worked with Mr. Kagan?

12 A Just -- well, the length of time was from San
13 Francisco up to Valdez, seven days, eight days, whatever
14 that was.

15 Q Are you responsible while you're in port for
16 making sure that any of the instruments were working
17 properly?

18 A Not specifically. I mean I'll go to the bridge
19 when I'm correcting the charts. I'll make sure the course
20 recorders are wound up and things like that, but the actual
21 instrumentation for the trip, when you're going to leave,
22 is checked by the officer who's up there checking gear.
23 You know, if I noticed something that was absolutely wrong
24 -- another thing, like the radars, we don't want to turn
25 those on while we're handling because you could have an

1 explosion because of the static discharge and some of the
2 other equipment like that. So it's -- in port, it would
3 just be something stuck out, like if I'm writing in the
4 course recorder and ran out of ink or something like that.

5 Q Do you remember being on duty when the Exxon
6 Valdez entered Hinchinbrook on March 22d, 1989?

7 A Not specifically. I'd have to look at the log
8 book to refresh my memory.

9 Q Would you have worked -- what would your shift
10 have been that day?

11 A I would have had the 12:00 to 4:00 watch the day
12 before and then I would have had the 12:00 to 4:00 while we
13 were tying up, when we got up to the dock. Then I had -- I
14 was up for the cargo a little while until around 5:30. I
15 went to bed for about two or three hours and then I got
16 up. I had something to do in the steward's department,
17 went down to the steward's department. I had lunch and I
18 went to work for four hours. Then I had something else go
19 on and I finally sat down in my chair maybe for a short
20 period. Then Mr. Cousins, he was supposed to let me sit
21 down a little longer than I was supposed to and he called
22 me out early. This was an error. And then I finally got
23 to bed I guess around 10:15 to 10:30, somewhere around
24 there.

25 Q You covered a lot there.

1 A I know, I know.

2 Q We're going to cover everything.

3 A It's hard for me to remember, it's a long time
4 ago.

5 Q Would you basically tell the jury what you were
6 doing between 12:00 and 4:00 that morning.

7 A I think that was -- we tied the ship up and I was
8 doing something with the cargo, getting ready for cargo
9 operations.

10 Q Who would you have been working with?

11 A The chief officer.

12 Q And did you go to town that day at all?

13 A Absolutely not.

14 Q Why not?

15 A I'm busy, working. I don't go ashore in Valdez.
16 It's a long ride from the place over to the town, the cab
17 ride's kind of expensive and you're only going to be in
18 port a few hours, so why go into town?

19 Q Did you make any phone calls from Valdez?

20 A I can't remember if I called my wife or not. I
21 might have.

22 Q And when you came on at noon, what time -- what
23 did you do then?

24 A Well, I made a round of the deck. I then went to
25 the cargo control room to relieve Mr. Cousins I guess about

1 ten of and just stood cargo watch for four hours.

2 Q Did anything happen as to the rate of oil flow
3 while you were on deck that day, on watch that afternoon?

4 A It went up and down a couple of times. There was
5 something on the dock and I forget how many barrels
6 exchange there was. I'm not going to say, I don't remember
7 now.

8 Q Do you remember having to change the sailing board
9 that day?

10 A I don't remember whether -- I really can't
11 remember, can't recall.

12 Q Do you remember seeing the sailing board that day?

13 A I was walking around; I know it was out there.
14 See, it didn't concern me much, I'm not going ashore, and
15 -- I'm just trying to remember. I think the chief mate may
16 have changed the sailing board, but I can't remember any
17 more.

18 Q Do you remember what was on the sign that day?

19 A No, I don't, not now.

20 Q If you saw it, might it refresh your recollection?

21 A If I saw the log book entries.

22 Q The log book?

23 A Some sort of entry that would show it.

24 Q How about this, does this refresh your
25 recollection?

1 MR. MADSON: What are you looking at there, sir,
2 can I ask you that, please?

3 MR. COLE: This is Defendant's Exhibit Number 36.

4 MR. MADSON: Your Honor, I would object. I noted
5 before my objection. This was taken in San Diego some time
6 later. We don't know who put this on or when.

7 MR. COLE: It's being used to refresh his
8 recollection

9 JUDGE JOHNSTONE: Any document can be used to
10 refresh recollection.

11 BY MR. COLE: (Resuming)

12 Q Does this refresh your recollection as to what
13 time?

14 A It says 2100. I don't know. I'd really have to
15 look at the log book entry for that day.

16 Q Is that what you're looking for? That would be
17 it?

18 A Should be it. Sailing board advanced to 20 and
19 2100, it says right here. It's my notation, my entry.

20 Q Okay. And who changed -- who actually changed the
21 sailing board?

22 A It would be one of the able seamen.

23 Q You don't remember seeing that board, though.

24 A No, I don't.

25 Q After you got off work that day, how long did you

1 work on cargo control that afternoon?

2 A I worked for four hours in the control room and
3 then I hung around a little while afterwards, you know,
4 just to see if something was going on, topping off or
5 something, and then I just went down and had supper. And
6 then I went down in the steward's department to see how
7 everything was going, wanted to see, just make sure
8 everything was secured and that's about it. I just sat
9 down for a few minutes and then I went right back out on
10 deck again.

11 Q What were your responsibilities for the undocking,
12 while the undocking occurred?

13 A Under the captain's direction, supervise laying
14 the lines for the dock.

15 Q Were you at the bow or the aft?

16 A The bow.

17 Q Who did you have working for you?

18 A I can't recall now.

19 Q What did you do after that, the undocking process
20 was finished?

21 A I helped secured the deck for sea and, about 10:15
22 or so, I called the bridge. I don't know who I talked to
23 up there. I just said, "I'm going to go inside now. They
24 don't need me out here for this." And then said go ahead
25 and that's the last -- the next thing I knew, we were -- I

1 went in and laid down and went to sleep and, the next thing
2 I knew, we were having a problem.

3 Q You were having a problem. Was that --

4 A The grounding, okay.

5 Q Did you hear that or were you --

6 A I felt it. I felt it. It was like running your
7 car about 30 miles an hour alongside a wall. I've done
8 that one time, so I know what it feels like, and that's
9 what it felt like.

10 Q What time was that when you woke up?

11 A I'm not exactly sure on that. I didn't look at my
12 clock. I just, you know --

13 Q When was the first time you remember looking at
14 your clock?

15 A Well, I guess the chief mate got me up right after
16 it happened. I was up on the bridge about ten to 15 after
17 the hour, I was on the bridge.

18 Q When were you scheduled to be on duty that
19 evening?

20 A About ten minutes to 12:00.

21 Q Why were you called up?

22 A They just -- it's a common practice when we'll
23 work over, work extra hours for people -- to hang on for
24 people, hang over. I intended to hang over for Mr. -- the
25 chief officer, until 5:00, give him an extra hour's sleep.

1 It's commonly done. You just would do it.

2 Q What time would you have been called if you had
3 been --

4 A Well, if you're going to be sleeping an extra
5 hour, it would have been around 12:30, okay. Normally, if
6 they were going to get me up for my watch, it would have
7 been 11:30.

8 Q You indicated that you had worked with Mr. Kagan
9 prior to this, for a little bit prior to coming up to -- to
10 leaving Valdez, do you remember talking about that?

11 A Yes.

12 Q Had you had any problems with Mr. Kagan at the
13 helm?

14 A No. Coming out of San Francisco, he did okay, he
15 steered the ship okay. And we had to supervise him, but I
16 mean it was -- you know, just keep an eye on him.

17 Q What do you mean, you had to supervise him?

18 A Well, my job is to supervise the quartermaster, so
19 I just watch people when they steer the ship.

20 Q How would you rate Mr. Kagan in terms of his
21 abilities?

22 A I'd say slightly below normal.

23 Q Did you ever have any discussions with Captain
24 Hazelwood about that?

25 A Yes, I did. It was just we knew we had a problem

1 -- not a problem. We knew -- you know, he just told me to
2 keep an eye on Kagan when he's steering because -- you
3 know, we had to watch him.

4 Q Captain Hazelwood said that?

5 A Yes.

6 Q When did he tell you that?

7 A Coming out of San Francisco and I kept an eye on
8 him and we had no problem.

9 Q Had you thought about that when -- prior to go to
10 sleep or where you were going to place Mr. Kagan and Ms.
11 Jones?

12 A Well, I was thinking possibly for the first part
13 of the transit was to put Ms. Jones on the wheel and maybe
14 an hour down the line, put Kagan on the wheel.

15 Q Why is that?

16 A The navigation load is heavier up there at the top
17 of Prince William Sound. I figured out where I would be.
18 So I had never had Mr. Kagan in a loaded condition, so I --
19 the chief officer had talked to me and Cousins about
20 keeping an eye on Kagan, you knew, about his steering
21 ability. And since -- and Mr. Cousins said he'd been with
22 Kagan on a previous ship, so I'm the one that was sort of
23 left in the situation where I didn't know. And so I
24 thought, "Well, I'll just change out." But if I handed it
25 to Mr. Kagan, that's the way it was, I'm sure he could have

1 done all right.

2 (Tape changed to C-3619.)

3 Q What happened when -- after you were woken up,
4 what did you do?

5 A I went up to the bridge.

6 Q And would you describe -- do you remember the
7 grounding at all? Do you remember the sounds or anything
8 that occurred?

9 A Just what I told you. It just was a grinding
10 sound -- not a grinding sound. It was a feeling like
11 running your car about 30 miles an hour along a stone
12 wall. I mean there really wasn't much noise to it. It was
13 just like a rattle.

14 Q Do you know how long that --

15 A No, sir, I don't. Remember, I was asleep, you
16 know, just sort of falling asleep, you know.

17 Q When you got up to the bridge, where did you go?

18 A I went into the wheelhouse and I stood there and I
19 could see what was happening. And let's see -- well, I
20 just -- I asked Mr. Cousins what happened, okay. Well,
21 see, when I first got on the bridge, I looked at the chart,
22 that's the first thing I did. I looked at the chart. I
23 saw where we were and I was absolutely startled. That's
24 what happened. And I really felt -- it didn't make any
25 sense to me, being where we were. So I went out on the

1 bridge and I saw the captain there and Kagan and Cousins
2 and I said, "Mr. Cousins, what happened?" He said, "I was
3 maneuvering around ice and I slid up on the rocks."

4 Q Where did you go after that?

5 A I said to Captain Hazelwood, I said, "I'm going to
6 go down and assist the chief officer." And I went down
7 with the chief officer and assisted him.

8 Q Would you describe, were there any -- was there
9 any fumes in the stairwells or on any of the floors?

10 A No, there wasn't.

11 Q Do you remember ever smelling any?

12 A No.

13 Q Were you in a rush? Describe how you -- was this
14 a casual thing that you went down to the cargo control
15 room?

16 A No, I went directly to the cargo control room by
17 stairs, not in a rush, but in a deliberate way to go to
18 work. Obviously, we were hurt and we had to -- the ship
19 was hurt and we had to go to work.

20 Q Where did you go then?

21 A After I was in the cargo control room?

22 Q No. Where is the cargo control room?

23 A It's down a few decks from the bridge. The
24 stairwell just goes down there.

25 Q What did you do while you were in the cargo

1 control room?

2 A I talked to the chief officer. I looked at the
3 gauges that showed how much oil was in the ship and --

4 Q What did you see, what did the gauges tell you?

5 A The gauges were a blur. We couldn't really -- we
6 didn't know how fast the oil was coming out. It was --
7 immediately numbers moving, you know, like a digital
8 readout, how much oil was in there, the number of feet
9 between the top of the oil and the tank top, and this was
10 just blurred out. We were getting a few readings, but the
11 oil was going out of the ship very, very fast. It was
12 obvious to the chief officer and myself.

13 Q That you had some real problems.

14 A Yes.

15 Q Did you know the extent of the problems at that
16 time?

17 A No, sir, I didn't.

18 Q I'm showing you what's been marked for
19 identification as Plaintiff's Exhibit Number 47. Do you
20 recognize that photograph?

21 A That's the cargo control board.

22 MR. COLE: Your Honor, I'd move for the admission
23 of what's previously been identified as Plaintiff's Exhibit
24 Number 47.

25 MR. MADSON: No objection.

1 JUDGE JOHNSTONE: 47 is admitted.

2 (Plaintiff's Exhibit Number 47
3 was received in evidence.)

4 BY MR. COLE: (Resuming)

5 Q Now Plaintiff's Exhibit Number 48, do you
6 recognize that?

7 A That's another view of the cargo control room --
8 the cargo control board.

9 MR. COLE: I would move for the admission of
10 what's previously been identified as Plaintiff's Exhibit
11 Number 48.

12 MR. MADSON: No problem, no objection.

13 JUDGE JOHNSTONE: All right, it's admitted.

14 (Plaintiff's Exhibit Number 48
15 was received in evidence.)

16 BY MR. COLE: (Resuming)

17 Q Now can you give the jury an idea of what things
18 you were looking at that were confusing?

19 A Well, not confusing. It was just that these
20 gauges show the amount of oil in the tank, all right, the
21 overages and things. It was just really -- you could just
22 tell it was going out very fast, the oil.

23 Q They were moving constantly?

24 A Yes, sir.

25 Q What happened then, did you go down with the first

1 mate, the chief mate, down into the cargo control room?

2 Was he ahead of you?

3 A He was already down there. He had left before I
4 got there.

5 Q What was he doing when you got there?

6 A He was working the computer, trying to figure out
7 stability. We were trying to get some figures and we were
8 trying to ascertain what happened to the ship. You have to
9 understand, this is a very confusing period. You know,
10 it's -- what can I say? It's a brave, new world now.

11 We've got to (unintelligible). Our job is to save the ship
12 or do whatever we had to do to stop what was happening.

13 Q How long were you then in the cargo control room?

14 A I can't recall. The chief officer dispatched me
15 to different parts around the ship, on deck, to check
16 things out, check gauges, and it was, you know, in and out,
17 in and out.

18 Q Was anybody helping you during this time?

19 A The pumpman was on deck and a couple of the
20 engineers were around, just that sort of thing, people
21 pulling together, trying to figure out what was wrong, what
22 was happening.

23 Q Was there -- when you went out on the deck, was
24 there oil out on the deck?

25 A At some period while I was out on the deck, one of

1 the engineers opened up one of the void spaces, empty
2 spaces. Oil had gotten in there and when he opened up the
3 sounding tube, we had a spout of oil come up out of there
4 like a geyser. I was very concerned about this because
5 small particles of oil are explosive and I wanted to get it
6 stopped and we managed to get that stopped almost
7 immediately. We did get the oil on the deck at that point.

8 Q And what else would you have been doing from that
9 period, helping Mr. --

10 A Just checking things out. You know, I can't tell
11 you now because it was just a series of things, trying to
12 find out -- we were looking over the side to see if oil was
13 coming out of the ship, looking around the deck to see if
14 we could see any cracks on the deck, just a number of
15 things like that.

16 Q Did you see any oil coming out?

17 A I could see oil on the water, oil on the ship.
18 The oil was coming way under, way far underneath the ship,
19 so you really couldn't --

20 Q Do you remember lowering the anchor?

21 A Yes, I did that.

22 Q When would that have been?

23 A Some time after 2:00 o'clock. I saw the bell book
24 and I think it's a different time than what the bell book
25 says.

1 Q But it was some time after 2:00 o'clock?

2 A Yes.

3 Q Do you remember when the Coast Guard came?

4 A I can't tell you the time they came. I can
5 remember them coming alongside the ship.

6 Q Had you already lowered the anchor at that point?

7 A I believe I had.

8 Q Why would you have lowered the anchor?

9 A Well, I guess we knew we were on the rocks and
10 weren't going any place, wanted to hold the ship there. We
11 didn't want to just, you know, float off the rocks.

12 Q Did you, at some point, start preparing for the
13 lightering process?

14 A Yes, during that period, after the anchor was
15 down, I -- the chief mate directed me to see what hoses we
16 had in our fo'c's'le head and I did that sort of thing. I
17 just was -- well, they had a couple of hoses up there. We
18 were getting the hoses out and just getting gaskets ready,
19 getting wrenches ready, everything that was necessary for
20 the lightering.

21 Q When did you relieve Mr. Cousins on the bridge?

22 A A little after 4:00 o'clock.

23 Q How long were you there?

24 A With a few exceptions, almost I think close to 30
25 hours, off and on. It was -- I did get off my feet at

1 6:00 o'clock that night, but then the Exxon San Francisco
2 came alongside, or one of the other Exxon ships, and I had
3 to get out and supervise that, supervise my end of the ship
4 for tying up. And after that happened, it had become late
5 again, it was close to my watch, so I went right back on
6 watch, at midnight, and stayed on until 6:00 in the
7 morning. Then we flew out to the NTSB hearing.

8 Q Were you on board when Captain Deppe came on
9 board?

10 A I can't recall. He might have come aboard while I
11 was at the NTSB hearing. I think he did.

12 Q What is the Exxon policy toward possession of
13 alcohol?

14 A It's forbidden.

15 Q What were the consequences?

16 A Termination.

17 Q What about the use of alcohol on board?

18 A That's the same thing.

19 Q Did you have any alcohol on board the Exxon Valdez
20 on the 23d?

21 A No, I did not.

22 Q Did you of any being on board the Exxon Valdez?

23 A No, I don't.

24 MR. COLE: I have nothing further, Your Honor.

25 JUDGE JOHNSTONE: We'll take our recess now.

1 Don't discuss this case among yourselves or anybody else.

2 Don't form or express any opinions.

3 THE CLERK: Please rise. This Court stands at
4 recess.

5 (Whereupon, the jury leaves the courtroom.)

6 (Whereupon, at 2:39 p.m., a recess was taken.)

7 (Whereupon, the jury enters the courtroom.)

8 THE CLERK: This Court now resumes its session.

9 JUDGE JOHNSTONE: Mr. Madson.

10 CROSS EXAMINATION

11 BY MR. MADSON:

12 Q Mr. LeCain, you indicated that you were on the
13 fateful voyage of the Exxon Valdez on March 23d, correct?

14 A Correct.

15 Q And you were the second mate at that time.

16 A Correct.

17 Q I think you described a number of your duties and
18 among them was the navigational officer keeps track of the
19 charts and updated charts, things like this.

20 A Yes, sir.

21 Q When you spoke -- I think you said the Coast Guard
22 sends out Notice to Mariner.

23 A Yes.

24 Q That's changes on charts, for instance --

25 A Yes, it is.

1 Q -- to charts? If a buoy is removed or something
2 like that?

3 A That's correct.

4 Q Whatever the Coast Guard feels is important to aid
5 you to navigate a ship or vessel safely.

6 A That's correct.

7 Q And Mr. Cole asked you and I think you said that
8 there were no ice hazards that were issued by the Coast
9 Guard in Prince William Sound.

10 A I can't recall that. You know, I just don't
11 recall that.

12 Q Now, sir, with regard to your duties as watch
13 officer, say you're on the bridge as a watch officer and
14 you and the helmsman are present, okay?

15 A Yes.

16 Q You give an order to the helmsman, ten degrees
17 right rudder. What does he do?

18 A He brings the rudder of the ship to ten degrees
19 right.

20 Q How do you know that?

21 A It's indicated on the rudder angle indicator.

22 Q First of all, is that really a simple order, ten
23 degrees right rudder?

24 A Yes, sir.

25 Q You have to know your right hand from your left?

1 A That's all you have to know. I mean that's --

2 Q And it's mechanically turning the wheel until --
3 is there a little arrow indicator on a part of the wheel to
4 indicate when it's ten degrees?

5 A Yes, there was.

6 Q Let me show you this, sir.

7 A I have to see the stand again.

8 Q Let me show you now. So this is Defendant's
9 Exhibit K. Do you recognize that, sir?

10 A Yes, that's the steering stand, the Sperry SRP
11 2400.

12 Q Okay, could you just perhaps show the jury how a
13 helmsman would know, at least approximately, when he was at
14 ten degrees?

15 A Right here, when you put the wheel over, this goes
16 to ten degrees.

17 Q Maybe you can show a little --

18 A I'm sorry, this indicator here, okay.

19 Q It's a dial that looks like it's black with white
20 numbers on it?

21 A Right. And then there's a -- let me --

22 Q Yes, let me hand you now Defendant's Exhibit J.

23 A Yes, okay. The quartermaster is right here. Here
24 is an indicator up here, the amount of rudder. This is lit
25 at night and you can always see it. So he would be able to

1 tell. And this sometimes is maybe a half a degree off or a
2 degree off, so what you'd want to do is actually to keep
3 your eye on this when you change course.

4 Q When you say "this," that's the angle, what --

5 A I'm sorry, angle indicator, yes, sir.

6 Q -- indicator that's mounted on the --

7 A On the overhead.

8 Q The overhead.

9 A Yes.

10 Q Can you see that fairly well when you're on the
11 bridge?

12 A Yes, you can.

13 Q So if you gave a simple order like ten degrees
14 right rudder, how much time would elapse before something
15 would occur, the rudder indicator would indicate that --

16 A Almost instantaneous. There would be -- you know,
17 my eye would be on it to make sure that he went in the
18 right direction and he completed the order, but it would be
19 completed in seconds, the rudder would go right over.

20 Q Just look up and -- that's a glance, right? You
21 could see that it's there where it's supposed to be or it
22 isn't.

23 A Right, yes.

24 Q Now with regard to Mr. Kagan, had you ever had any
25 problems in the past with him chasing the compass, as it's

1 called?

2 A Not on my watch, no. I just kept a close eye on
3 him. But I keep a close on any quartermaster.

4 Q You keep a close eye on everybody.

5 A That's my job.

6 Q So you never had any -- Mr. Kagan never told you
7 he's had problems chasing the compass or steering a
8 particular course?

9 A Not on my watch, he never said anything about it.

10 Q Well, how many times have you been with Mr. Kagan
11 on your watch?

12 A Only the trip out of San Francisco and at sea, the
13 trip up, just that short period.

14 Q So if you believed you had some reason to keep an
15 eye on him and you kept an eye on him and he didn't do
16 anything wrong, apparently he could steer all right -- or
17 not -- I don't want to use "steer." You do the steering,
18 correct --

19 A Right.

20 Q -- when you give commands He could follow rudder
21 orders.

22 A That's correct.

23 Q You said ten degrees right rudder, you looked up,
24 it was on ten degrees.

25 A Right, I'd make sure it was there with anyone,

1 it's just --

2 Q On your trip up -- when you said your trip up from
3 San Francisco, is this the trip you're talking about on
4 March 20 -- from say the 14th to the 23d?

5 A Right, it's the trip previous to the grounding.
6 It's that trip up to San Francisco -- up to Valdez. The
7 trip from San Francisco to Valdez. I had him steering
8 coming out of San Francisco Harbor and he steered okay, as
9 far as I was concerned, all right.

10 Q And, in fact, did you not testify before the NTSB
11 hearing that you thought he did all right when he was
12 coming from San Francisco?

13 A Yes.

14 Q And you thought that if you knew something about
15 him, you would have told the master.

16 A Right.

17 Q And you did not.

18 A Wait a minute. I had mentioned to Captain
19 Hazelwood on our trip north that Kagan told me he felt a
20 little nervous about steering the ship loaded and -- other
21 quartermasters have told me that before. It's different to
22 steer a ship loaded than it is to steer a ship light.

23 Q Now are you saying that you told -- wait --

24 A I believe I told the captain, yes.

25 Q You believe --

1 A I told the captain..

2 Q Mr. LeCain, are you afraid that perhaps you might
3 be blamed for this?

4 A No, I'm not afraid of being blamed for this.

5 Q Are you sure?

6 A Yes.

7 MR. COLE: Objection, asked and answered.

8 BY MR. MADSON: (Resuming)

9 Q Well, Mr. LeCain, if you thought you knew
10 something about Mr. Kagan and didn't tell the captain or
11 didn't tell Mr. Cousins, do you feel that perhaps somebody
12 might say it was your fault?

13 A No, because Mr. Cousins was aware of Kagan's
14 steering problem.

15 Q How do you know that?

16 A He told -- Mr. -- the chief officer, I and Cousins
17 were on the bridge, just having coffee, and the chief
18 officer said to keep an eye on Mr. Kagan, he had a steering
19 problem. So Cousins was standing there when it happened.

20 Q Okay. And when was this, sir?

21 A On the trip north from San Francisco to Valdez.

22 Q And who -- where, exactly, did this take place?

23 A On the bridge, having coffee.

24 Q And who was present?

25 A The chief officer and myself and Mr. Cousins.

1 Q The chief officer is Mr. Kunkel?

2 A Kunkel.

3 Q And Cousins.

4 A Yes.

5 Q So you're saying Cousins would be aware of some
6 steering problems that Mr. Kagan may have.

7 A Yes, sir, he told me he had been on a previous
8 ship with Kagan and that Kagan was having problems there.

9 Q Cousins told you.

10 A Cousins told me that, yes, sir.

11 Q There's no question in your mind that he would
12 have watched Kagan very carefully, right?

13 A That's correct, sir.

14 MR. COLE: Objection, speculation, it calls for
15 speculation.

16 MR. MADSON: If he knows, based on his knowledge
17 of that incident, Your Honor.

18 JUDGE JOHNSTONE: Do you think you can answer?
19 Can you answer that question?

20 THE WITNESS: I can't say what's going through the
21 man's mind, Your Honor.

22 JUDGE JOHNSTONE: Exactly, objection sustained.

23 BY MR. MADSON: (Resuming)

24 Q Mr. LeCain, do you remember being interviewed
25 March 29th of this last year, 1989 --

1 A Yes.

2 Q -- by the Coast Guard Office in Valdez?

3 A I remember the day, yes.

4 Q Do you remember telling anyone at that time
5 that --

6 MR. COLE: Can we get a page cite? What is this?

7 MR. MADSON: One and two. I'm talking the record
8 of interview, March 29th, 1989.

9 MR. COLE: This is the NTSB?

10 MR. MADSON: Well, that's what it says here, I
11 don't know, NTS -- it's interview summary.

12 JUDGE JOHNSTONE: Mr. Madson, if you're going to
13 use a document like that, be able to give Mr. Cole the
14 document cite so that he can refer to it.

15 MR. MADSON: Well, I thought I did, Your Honor, as
16 soon as he asked me. I wasn't aware he didn't have it.

17 THE WITNESS: Your Honor --

18 JUDGE JOHNSTONE: There's no question to you,
19 sir. Wait until you have a question. Unless you need to
20 take -- unless there's something you need personally, you
21 need to take a break or something like that.

22 THE WITNESS: Okay, sir, I'm sorry.

23 BY MR. MADSON: (Resuming)

24 Q Do you recall that interview, sir?

25 A I recall the interview, yes.

1 Q Do you recall saying anything at that time that
2 Captain Hazelwood knew anything at all about Kagan's
3 abilities as a helmsman?

4 A I don't know, I forget. That was a long time
5 ago. I don't believe I said anything.

6 MR. MADSON: Your Honor, this might take some
7 time, but I have a number of interviews and perhaps I could
8 ask for a recess for this witness to examine all his
9 previous statements because I'll be going into each and
10 every one of them.

11 JUDGE JOHNSTONE: Would Counsel approach the
12 bench, please?

13 (The following was said at the bench.)

14 JUDGE JOHNSTONE: Was he ever asked the question
15 about _____?

16 MR. MADSON: Mostly what he knew about Kagan.

17 JUDGE JOHNSTONE: Was he ever asked the question
18 whether or not he told Captain Hazelwood about Kagan's
19 difficulties?

20 MR. MADSON: Your Honor, I think that he was asked
21 a number of times about Kagan's --

22 JUDGE JOHNSTONE: Okay, you can use that, but to
23 ask him if he ever said something like that, if you know he
24 did, you don't need to have him go through all these
25 things. That's not a proper question. If he didn't say

1 anything, then it's not in the interview. If he did say
2 something that's inconsistent, then you can use that to
3 impeach him.

4 MR. COLE: The one interview that he's talking
5 about, he says Kagan had problems. There's no evidence in
6 there that he was asked whether he told Hazelwood that.

7 MR. MADSON: That's correct and there's no
8 evidence in there that Hazelwood ever told (inaudible).

9 JUDGE JOHNSTONE: Okay, well, you have to prove
10 that he was asked. Are you going to use specific portions
11 of his interviews to impeach him?

12 MR. MADSON: No, I just want him to recall the
13 interview and ask him if he ever said anything (inaudible).

14 MR. COLE: If he's using it to impeach, then he's
15 got to establish that he was asked that first.

16 JUDGE JOHNSTONE: That's right, the absence of
17 that information without being asked is not relevant. If
18 he was asked and he gives an inconsistent answer
19 (inaudible). Otherwise, the form of the question is
20 objectionable and I'll sustain the objection.

21 MR. : (Inaudible.)

22 JUDGE JOHNSTONE: And if you want to use the
23 interview as an inconsistent statement, you're going to
24 have to make an offer to me that he was asked that
25 question. Now if he was never asked that question -- these

1 aren't voluntary statements he's giving. These are
2 questions and answers he's being asked in an interview.

3 MR. : (Inaudible.)

4 JUDGE JOHNSTONE: Well, what's going to happen is
5 he's going to say no after he reviews it and then Mr. Cole
6 is going to say, "Were you ever asked this question," and
7 he's going to say (inaudible).

8 MR. MADSON: (Inaudible.)

9 JUDGE JOHNSTONE: Well, how long is it going to
10 take for him to refresh his recollection of whether he did
11 make the statement? That's the problem with this kind of a
12 question. He could have given a deposition for six hours
13 and I'm not going to have him sit by and read a deposition
14 to find out that he wasn't asked the question.

15 MR. MADSON: It would probably take ten to 15
16 minutes.

17 JUDGE JOHNSTONE: I think (inaudible).

18 (The following was said in open Court.)

19 JUDGE JOHNSTONE: The objection is sustained as to
20 the form of the question.

21 BY MR. MADSON: (Resuming)

22 Q Mr. LeCain, do you remember being interviewed by
23 the State Police --

24 A Yes, I do.

25 Q -- on the 30th of March?

1 A Yes.

2 Q Were you ever asked the question about Captain
3 Hazelwood's knowledge of Mr. Kagan?

4 A I can't recall.

5 Q Do you recall at the NTSB hearing the question
6 being asked of you to page 709?

7 MR. COLE: Objection. Is he talking about the
8 NTSB or the interview with the troopers?

9 JUDGE JOHNSTONE: He just said NTSB hearing, Mr.
10 Cole.

11 MR. MADSON: I just said NTSB, page 709 of the
12 transcript.

13 JUDGE JOHNSTONE: Why don't you give Mr. Cole just
14 a brief opportunity to get that in front of him? Do you
15 have that, Mr. Cole?

16 MR. COLE: I'll find it, Judge. Go ahead.

17 JUDGE JOHNSTONE: Okay, you may proceed.

18 BY MR. MADSON: (Resuming)

19 Q Do you remember being asked the question, Mr.
20 LeCain, "What is your opinion of Bob Kagan's ability as a
21 helmsman?" Do you remember what your answer was?

22 A No, I don't.

23 Q Do you remember saying, "I felt he was all right."

24 A That's still my opinion, he's all right.

25 Q Again, on the wheel coming out of San Francisco,

1 light conditions, the man did okay?

2 A Yes.

3 MR. COLE: I object. Is he using this to impeach
4 him? If he's not, he hasn't said anything different than
5 that.

6 MR. MADSON: I'm attempting to do that.

7 JUDGE JOHNSTONE: Well, the testimony of this
8 witness indicated that he thought, at least it's my
9 recollection that he thought there was some difficulty, Mr.
10 Kagan had told him of some difficulty. So this is, to some
11 extent, inconsistent with that and it can be used in the
12 manner that Mr. Madson is using it. I don't know what the
13 rest of the statement says and I think that maybe you ought
14 to just take enough time so that you can have the statement
15 in front of you, Mr. Cole, so you can go along with it.

16 MR. MADSON: It perhaps would be easier if I could
17 ask the witness to just look at this and see if it
18 refreshes his recollection.

19 JUDGE JOHNSTONE: Yes, sir. Well, which
20 recollection are you trying to refresh, Mr. Madson? He's
21 given answers.

22 MR. MADSON: The questions and answers regarding
23 his opinion about Mr. Kagan's abilities.

24 JUDGE JOHNSTONE: There's no objection. You can
25 use it.

1 MR. MADSON: Okay.

2 BY MR. MADSON: (Resuming)

3 Q Do you want to just read this and then maybe the
4 next page, part of it?

5 A Okay. "I felt he was all right. I had . . ."

6 Q Just read it to yourself.

7 A All right. Okay.

8 Q Do you recall giving that statement, then, at the
9 NTSB hearing?

10 A Yes, sir.

11 Q So you're saying -- let me just ask you this,
12 sir. Are you saying, today, your opinion is the same
13 regarding Mr. Kagan as it was back at the time you gave
14 this testimony at the NTSB hearing regarding Mr. Kagan?

15 A Yes.

16 Q That he is all right?

17 A He's all right, yes.

18 Q You're confident Mr. Kagan would tell you if he
19 had a problem.

20 A With my short experience with him, yes, I would.

21 Q Back then, you told the NTSB that, did you not --

22 A Yes.

23 Q -- that if he had a problem, he'd tell you about
24 it?

25 A Yes.

1 Q Basically, all anybody would have to do is simply
2 glance at a steering -- a rudder indicator to see if he
3 followed a simple command --

4 A That's correct, sir.

5 Q -- ten degrees or 20 degrees, right?

6 A Yes.

7 Q Now is it correct that under normal situations,
8 you would have been on duty before midnight on your watch?

9 A That's correct.

10 Q At about, what, ten minutes to or so?

11 A About that.

12 Q And it was only because you had worked late and
13 Mr. Cousins was giving you some extra sleep that you were
14 not on duty at midnight on the 23d.

15 A Correct.

16 Q And you said this was common practice, to hang
17 over?

18 A Yes.

19 Q In other words, the one who's tired should get
20 more sleep and the guy who's fresher should take over for
21 awhile.

22 A Yes.

23 Q You'd do the same for somebody who --

24 A I intended to do it for Mr. Kunkel.

25 Q Did you know that was going to happen?

1 A No, I didn't.

2 Q Well, if it's common practice, didn't you have
3 some kind of an idea that maybe they'd let you sleep in a
4 little longer?

5 A It's a common practice, but it might or might not
6 occur. I wasn't aware what amount of sleep Mr. Cousins had
7 had.

8 Q Now on the 23d, at any time during that day, did
9 you ever say anything to Mr. Cousins regarding Mr. Kagan?

10 A Not that I recall.

11 Q After the grounding, itself, I think you said you
12 woke up because of the sound or is that what it was that
13 woke you up?

14 A No, it was a feeling of the --

15 Q Vibrations?

16 A -- vibration and the chief mate came to my room
17 and said that we had a problem.

18 Q And did you go immediately out to the bridge?

19 A Yes, I did.

20 Q Who was there when you got there?

21 A Captain Hazelwood and Kagan and Mr. Cousins.

22 Q And what was happening?

23 A They were doing something to the engines, that's
24 the only thing I know.

25 Q What anything told to you about what the captain's

1 intentions were at that time?

2 A No.

3 Q Did he give you any orders?

4 A No, he didn't.

5 Q What did you do then?

6 A As I said, the first thing I did was check the
7 chart. I went out and saw them out there.

8 Q When you say check the chart, what does that mean?

9 A When I first got on the bridge, I checked the
10 charts for the position of the ship.

11 Q Was it marked on there?

12 A It was a position -- I believe so now. I can't
13 recall. But I could see where the last fixes were; I could
14 see where the ship was. I then went out on the bridge. I
15 saw the three of them standing there. I asked Mr. Cousins
16 what happened and he said, "I was maneuvering around ice
17 and I slid up on the rocks." And I then said to Captain
18 Hazelwood, "I'm going to go down and help the chief mate,"
19 and he said, "Go ahead," and I went down and helped the
20 chief mate.

21 Q Oh, he said it was all right.

22 A Right.

23 Q Did you have a chance to observe Captain Hazelwood
24 at this point?

25 A Yes, I did.

1 Q Did he seem to be in command of the vessel?

2 A Yes, sir.

3 Q He was issuing orders?

4 A Yes.

5 Q Did he appear to be under the influence or
6 impaired in any way that you could see?

7 A No, he did not.

8 MR. MADSON: I don't have any other questions.

9 REDIRECT EXAMINATION

10 BY MR. COLE: (Resuming)

11 Q Would you explain the difference to the jury of
12 steering a laden versus an unladen tanker? Why is there a
13 difference?

14 A Well, if the ship is heavy, like laden, she --
15 it's harder to steady her up. With the rudder on -- the
16 vessel's heavy, so it wants to keep moving, so you have to
17 apply the rudder earlier and more rudder to bring it back,
18 to come to a new course. So she has a tendency to run.
19 With a light vessel, you have to use less rudder to steady
20 her up, to start her moving.

21 Q Now on the steering console on the Exxon Valdez,
22 there was a monitor there.

23 A Yes.

24 Q That monitor would tell you the turn of the wheel
25 and the turn of the rudder.

1 A Correct.

2 Q Do you know whether Mr. Kagan had that turned up
3 or down at night?

4 A I really don't know.

5 Q He never talked to you about that?

6 A No.

7 Q When Mr. Kunkel told you to watch Mr. Kagan, what
8 did he mean?

9 A Well, he --

10 MR. MADSON: Your Honor, I object to that. It
11 calls for speculation as to what's in someone else's mind,
12 what he meant.

13 BY MR. COLE: (Resuming)

14 Q What did you understand him to mean?

15 MR. MADSON: Well, I still object.

16 JUDGE JOHNSTONE: Overruled.

17 THE WITNESS: The chief officer is the senior deck
18 officer, okay? We had a little conference before we got
19 into port and he was just pointing out to us that Mr. Kagan
20 had a reputation of having trouble steering and that we
21 should keep a good eye on him when we were going in and out
22 of Prince William Sound, that's all.

23 BY MR. COLE: (Resuming)

24 Q When you talked with -- what did you take it to
25 mean that you were supposed to do physically?

1 A Just keep my eye on that rudder indicator whenever
2 Kagan was given a command, make sure he went the right
3 direction, and to check, if he's given a course, make sure
4 he's on that course.

5 Q When did you tell Captain Hazelwood about Mr.
6 Kagan's problem?

7 A On the way north.

8 Q Did he acknowledge that he heard you, he
9 understood that?

10 A He said he heard it and he said that, you know,
11 "We've got what we have and we just have to keep an eye on
12 him. It's your job to watch the quartermaster," and that
13 was it, which it is. I'd like to say also, if I could,
14 that --

15 MR. MADSON: I'll object that he volunteers
16 statements, no question asked.

17 JUDGE JOHNSTONE: Don't make any spontaneous
18 answers. Just respond to the questions, please.

19 MR. COLE: Your Honor, I don't have any further
20 questions.

21 RE CROSS EXAMINATION

22 BY MR. MADSON: (Resuming)

23 Q Mr. LeCain, whether a vessel is light or laden, if
24 the command is given to turn ten degrees right rudder, the
25 person does exactly the same thing --

1 A That's correct, sir.

2 Q -- does he not?

3 A Yes.

4 Q It doesn't make a bit of difference, he still
5 turns until the rudder indicator says ten degrees.

6 A Yes.

7 Q On the other hand, if someone were steadying up on
8 a compass heading, that's different, isn't it? You're
9 trying to read the compass heading and keep the vessel
10 controlled on a particular heading?

11 A Right.

12 Q And would you agree that that is perhaps a little
13 more difficult to do than a simple turn ten degrees?

14 A Yes, it is, it takes a little skill.

15 Q And perhaps Mr. Kagan was a little weak in that
16 area in keeping it on a particular course, right?

17 A Well, I don't know. I wasn't up there coming
18 out. I've never been with him in a laden condition, okay.

19 Q Well, were you ever with him when he was trying to
20 keep it on a particular course?

21 A Coming out of San Francisco in a light condition.

22 Q How many watches was he on when you were on when
23 he was the helmsman?

24 A I think one or two. I can't recall now.

25 Q Assuming it was two, on any occasion, did he

1 deviate from the course that you told him to set and you
2 had to correct it --

3 A No.

4 Q -- and the wheel command that you gave him,
5 whether it was ten degrees, 20 degrees or whatever, you had
6 to correct because he did not do it properly?

7 A That never occurred with me.

8 Q The time you said when Mr. Kunkel mentioned this,
9 was this the time with you and Kunkel and Cousins when this
10 was discussed?

11 A Yes.

12 Q The captain wasn't there?

13 A No.

14 Q Was anybody else present when you said you told
15 Captain Hazelwood about Mr. Kagan?

16 A No, it was on the bridge, talking.

17 Q Just the two of you?

18 A Yes.

19 Q Was there a helmsman there?

20 A No, it was during the daytime.

21 Q Who was on the helm?

22 A Well, automatic pilot.

23 Q What?

24 A Auto pilot.

25 Q Don't you normally have somebody on the helm?

1 A Not in the daytime.

2 Q Not in the daytime.

3 A We can get a man up there. Usually, they're down,
4 working.

5 Q Mr. LeCain, are you sure your recollection of
6 these events is not influenced by anything else?

7 MR. COLE: Objection, Your Honor, it's been asked
8 and answered.

9 JUDGE JOHNSTONE: I'll let him answer that
10 question. You can ask him.

11 THE WITNESS: No, it's not. It was just -- it was
12 the answer I expected from the captain, they gave us
13 certain ABs and we have them on the ship and we had to work
14 with them and that was our job, supervising them.

15 BY MR. MADSON: (Resuming)

16 Q During this period of time, were you suffering
17 from any let's say any mental disturbances at all?

18 A No.

19 Q Did you tell anybody else on the vessel, Captain
20 Hazelwood and Mr. Kagan, that you were a pilot on an F-14
21 that crashed into a carrier?

22 MR. COLE: Objection, Your Honor.

23 JUDGE JOHNSTONE: Excuse me. Counsel approach the
24 bench, please.

25 (The following was said at the bench.)

1 JUDGE JOHNSTONE: That's the kind of thing you
2 apply to the Court for before spouting it out for the
3 jury. Now you say "this period of time," I'm not sure what
4 you're talking about. Are you talking about when he told
5 Captain Hazelwood?

6 MR. MADSON: During this period, before this
7 voyage, during this voyage. (Inaudible) extremely
8 relevant. There's bias, prejudice, mental capacity.

9 JUDGE JOHNSTONE: Okay, we'll excuse the jury and
10 you can make an offer of proof about this, okay?

11 (The following was said in open Court.)

12 JUDGE JOHNSTONE: Ladies and gentlemen, we're
13 going to excuse you. I think I'm going to let you go home
14 early today. I looked out and it looks like it's pretty
15 clear sailing out there down to Eagle River, so you're
16 probably not going to have any problems. It looks like
17 it's pretty good weather and I'll give you an early start
18 today. Don't discuss this case among yourselves or with
19 any other persons and don't form or express any opinions.
20 Be safe and I'll see you back at 8:30 tomorrow morning.

21 (Whereupon, the jury and the witness leave the
22 courtroom.)

23 MR. MADSON: Your Honor, maybe I'll make a
24 suggestion. I realize we're in a touchy area and there may
25 even be some conflict among Counsel as to the best way of

1 approaching this, if we should even do it. I can make an
2 offer of proof, but whether it's necessary or not remains
3 to be seen. I would suggest that -- could we adjourn early
4 today and perhaps let the Court know at 8:30 tomorrow
5 morning or at least have maybe five minutes? That would do
6 it.

7 JUDGE JOHNSTONE: Well, why don't we go ahead and
8 give you a few minutes to see if you can resolve -- now
9 you're talking about conflict between you and Mr. Chalos,
10 is that what you're talking about?

11 MR. MADSON: Yes, I'd like to talk to, obviously,
12 Captain Hazelwood here.

13 JUDGE JOHNSTONE: Okay, well, why don't we give
14 you a few minutes? We'll come back in. Since the jury is
15 not here, we might as well use this time productively and
16 we can resolve these questions.

17 I call your attention to Evidence Rule 404(B).
18 Before you bring up the kind of matter you brought up in
19 front of the jury, you should apply to the Court first.

20 So we'll take a break for about ten or 15 minutes.

21 THE CLERK: Please rise. This Court stands at
22 recess.

23 (Whereupon,, at 3:32 p.m., a recess was taken.)

24 JUDGE JOHNSTONE: You may be seated. Mr. Madson,
25 now is the time for you to set forth what you intend on

1 doing and what rules you're following at this time.

2 MR. MADSON: Well, Your Honor, the purpose of
3 this, of course, is to impeach credibility and I don't
4 believe it belongs with 404. We're not trying to show any
5 prior bad acts or anything of that nature. But I think
6 we're certainly entitled to show that the witness, number
7 one, may not be competent, mentally, to recall and remember
8 events that occurred. And it certainly goes to -- just
9 impeach credibility is the basis for it.

10 By way of offer of proof, until either now or
11 until very recently, Mr. LeCain has been on medical leave
12 with Exxon because of mental problems, emotional problems,
13 and that he has in the very recent past, prior to the --
14 let's say prior to the incident, made statements to the
15 effect that he was a Trident submarine commander in the
16 Falklands War, that he was a Green Beret in Vietnam, that
17 he was involved in the Iran Contra affair and, maybe more
18 to the point, after the grounding and when Captain
19 Hazelwood was leaving the vessel, Mr. LeCain offered him --
20 he said he had two cyanide pills and he was queried as to
21 why he needed two and he said that he keeps them in case he
22 has to commit suicide and he needs two because he's Ninja
23 trained and one won't do it. That's pretty much the extent
24 of it. And I think it goes to the basis of the man's
25 mental stability, Your Honor, and ability to recall,

1 remember or basically just state what the truth is as he
2 remembers it. Because I think he has a problem with
3 fantasy.

4 JUDGE JOHNSTONE: Mr. Cole? So that's your
5 offer. I want to make sure we get it all now because, at
6 the sidebar, you said you had lots of evidence of bias or
7 other interest and I haven't heard any bias --

8 MR. MADSON: Well, yes, I don't --

9 JUDGE JOHNSTONE: Excuse me, I'm still talking.

10 MR. MADSON: Oh, sorry.

11 JUDGE JOHNSTONE: All I've heard so far is
12 evidence of a mental instability, apparently, according to
13 your analysis, but I haven't heard evidence of bias so
14 far. Was there something else you were going to bring up
15 showing evidence of bias?

16 MR. MADSON: Well, Your Honor, I have nothing
17 particular about bias. I mean could I say that he has made
18 statements against Captain Hazelwood and we have witnesses
19 to prove that? No, we don't. I don't know, frankly, if he
20 has any bias, but I think these kinds of questions can go
21 into, be gone into in a general sense because the witness
22 can be shown to be not competent and certainly not to have
23 proper recall, memory, and distinguish between what really
24 happened and what he believes happened and I think this
25 bears directly on that point.

1 JUDGE JOHNSTONE: But what you said at side bench
2 is you have lots of evidence of bias and there is no
3 evidence of bias I've heard so far. You just now want to
4 attack his credibility by some alleged instability.

5 MR. MADSON: That's correct.

6 JUDGE JOHNSTONE: Okay. And, Mr. Cole?

7 MR. COLE: Your Honor, my interpretation of what
8 now Mr. Madson is saying is that this is not a competent
9 witness. The rule is found in 601, the evidence rule. It
10 says, "A person is competent to be a witness, unless the
11 Court finds, one, the proposed witness is incapable of
12 expressing himself concerning the matters supposed to be
13 understood by the Court and the jury, either directly or
14 through interpretation or one who can't understand and,
15 two, the proposed witness is incapable of understanding the
16 duty of a witness to tell the truth." Now that burden is
17 on the Defendant. They are supposed to object at the time
18 the oath is administered. They failed to do that.

19 Now, apparently, they wish to impeach him. I
20 assume that there are other means of impeachment as to
21 evidence of character and conduct of the witness. The
22 credibility of a witness may be attacked or -- this is Rule
23 608. I haven't heard anything as to their offering
24 evidence of his character for truthfulness or
25 untruthfulness. This is purely 404(B). It goes to

1 collateral issues. And we would ask the Court to inquire
2 as to who is going to testify to all this evidence of --
3 apparently made by Mr. LeCain.

4 JUDGE JOHNSTONE: Anything further?

5 MR. COLE: No.

6 MR. MADSON: Well, for one, we have Mr. Kunkel,
7 Your Honor, who's aware of much of this. We could feel
8 confident he's one witness that could support what we're
9 saying.

10 By the way, it isn't a question of competency
11 now. We're not saying that he doesn't understand the oath
12 he just took, he's not too young or mentally unstable at
13 the moment. He very well understands the oath, said, "I
14 promise to tell the truth." The problem is he may not know
15 what it is, Your Honor. That's where I think we certainly
16 have a right to go into his understanding. For instance,
17 at the time, if we could show that the witness was under
18 the influence of drugs or alcohol, that's perfectly
19 acceptable cross examination to show that his memory, his
20 recall could be affected. I think the same goes for a
21 person's mental stability at the time, may he be able to
22 remember what happened and can he distinguish between the
23 truth of what happened and what he simply believes to be
24 the truth.

25 JUDGE JOHNSTONE: Okay, Mr. Madson, I don't find

1 that your offer has any substantive value. Assuming that
2 you do have people who could say those things about the
3 witness, that probative value is far outweighed by its
4 confusion of the issues. There's no expert testimony
5 you've offered that would show that this man is unable to
6 remember or his recollection isn't correct or he has some
7 instability that affects his ability to testify
8 truthfully. It's evidence of character witness which is
9 pretty evident under Evidence Rule 608, which generally
10 allows you to impeach a witness with opinions concerning
11 his veracity.

12 So I'm not going to let you get into this area
13 with this witness. I can appreciate your surprise. You
14 reached into what you thought to be an innocuous bag and
15 got yourself alligator. And I can understand what you're
16 doing, but you can't do it this way, Mr. Madson.

17 So we'll call the witness back tomorrow morning
18 and you can resume your cross examination at that time or
19 let him go and Mr. Cole can resume his redirect. Is there
20 anything further we can do now?

21 MR. MADSON: I have nothing else.

22 JUDGE JOHNSTONE: Mr. Cole?

23 MR. COLE: The only thing I would ask, Judge, is
24 that a protective order be issued that Mr. Madson not -- or
25 whoever questions Mr. Kunkel not be able to go into this if

1 they think that he would say that.

2 JUDGE JOHNSTONE: You know, before evidence of
3 character that goes beyond our rules would be offered,
4 would you just let me know and we'll take it up outside the
5 presence of the jury?

6 MR. MADSON: I certainly will, Your Honor,
7 although I don't think it was evidence of character. I may
8 have misinterpreted. But I will be ultracareful from now
9 on.

10 JUDGE JOHNSTONE: Okay, thank you. If there's
11 nothing else, we'll stand at recess.

12 THE CLERK: Please rise. This Court stands at
13 recess.

14 (Whereupon, at 3:53 p.m., proceedings adjourned.)

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SUPERIOR COURT)
STATE OF ALASKA) Case No. 3ANS89-7217
Case No. 3ANS89-7218

I do hereby certify that the foregoing transcript was typed by me and that said transcript is a true record of the recorded proceedings to the best of my ability.

Doris A. Cutler

DORIS A. CUTLER