

1 HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE HOLDS A
2 HEARING ON THE COAST GUARD DEEPWATER PROGRAM

3

4 APRIL 18, 2007

5

6 SPEAKERS:

7 REP. JAMES L. OBERSTAR, D-MINN. CHAIRMAN

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9 REP. PETER A. DEFAZIO, D-ORE.

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- 35 REP. ZACK SPACE, D-OHIO
- 36 REP. MAZIE K. HIRONO, D-HAWAII
- 37 REP. BRUCE BRALEY, D-IOWA
- 38 REP. JASON ALTMIRE, D-PA.
- 39 REP. TIM WALZ, D-MINN.
- 40 REP. HEATH SHULER, D-N.C.
- 41 REP. MICHAEL ARCURI, D-N.Y.
- 42 REP. HARRY E. MITCHELL, D-ARIZ.
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- 45 REP. STEVEN L. KAGEN, D-WIS.
- 46 REP. STEVEN I. COHEN, D-TENN.

47 REP. JERRY MCNERNEY, D-CALIF.
48
49 REP. JOHN L. MICA, R-FLA. RANKING MEMBER
50 REP. DON YOUNG, R-ALASKA
51 REP. TOM PETRI, R-WIS.
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53 REP. JOHN J. "JIMMY" DUNCAN JR., R-TENN.
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56 REP. STEVEN C. LATOURETTE, R-OHIO
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79 REP. CANDICE S. MILLER, R-MICH.
80 REP. THELMA DRAKE, R-VA.
81 REP. MARY FALLIN, R-OKLA.
82 REP. VERN BUCHANAN, R-FLA.
83
84 WITNESSES:
85 MICHAEL DE KORT,
86 FORMER PROJECT MANAGEMENT SPECIALIST FOR 123 SYSTEMS,
87 LOCKHEED MARTIN
88
89 ROBERT BRADEN,
90 SENIOR TECHNICAL STAFF,
91 PROCESSOR AND SYSTEMS DESIGN,
92 LOCKHEED MARTIN

93

94 SCOTT SAMPSON,

95 SECTION CHIEF,

96 DEVELOPMENT SECTION OF THE U.S. COAST GUARD MAINTENANCE AND

97 LOGISTICS COMMAND ATLANTIC VESSEL SPECIFICATIONS BRANCH

98

99 JAMES ATKINSON,

100 PRESIDENT AND SENIOR ENGINEER,

101 GRANITE ISLAND GROUP

102

103 THOMAS RODGERS,

104 VICE PRESIDENT,

105 TECHNICAL OPERATIONS,

106 LOCKHEED MARTIN MARITIME SYSTEMS & SENSORS

107

108 BRUCE WINTERSTINE,

109 PRINCIPAL PROJECT ANALYST,

110 LOCKHEED MARTIN MARITIME SYSTEMS & SENSORS

111

112 MARYANNE LAVAN,

113 VICE PRESIDENT,

114 ETHICS AND BUSINESS CONDUCT,

115 LOCKHEED MARTIN

116

117 LEO MACKAY,
118 VICE PRESIDENT AND GENERAL MANAGER,
119 COAST GUARD SYSTEMS;

120

121 JAMES ANTON,
122 EXECUTIVE VICE PRESIDENT OF ICGS

123

124 T.R. HAMBLIN,
125 VICE PRESIDENT,
126 GOVERNMENT AFFAIRS,
127 BOLLINGER SHIPYARDS

128

129 MARC STANLEY,
130 EXECUTIVE VICE PRESIDENT,
131 GOVERNMENT AFFAIRS,
132 BOLLINGER SHIPYARDS

133

134 DEBU GHOSH,
135 NAVAL ARCHITECT AND BRANCH CHIEF,
136 COAST GUARD BOAT ENGINEERING BRANCH

137

138 JOE MICHEL,

139 ASSISTANT DEPUTY,
140 SYSTEMS IMPLEMENTATION,
141 COAST GUARD NATIONWIDE AUTOMATIC IDENTIFICATION SYSTEM
142 PROJECT
143
144 LIEUTENANT COMMANDER CHAD JACOBY,
145 PROGRAM MANAGER,
146 SCALEABLE COMPOSITE VESSEL PROTOTYPE PROGRAM IN THE SCIENCE
147 & TECHNOLOGY DIRECTORATE,
148 DEPARTMENT OF HOMELAND SECURITY
149
150 CATHY MARTINDALE,
151 CONTRACTING OFFICE CHIEF,
152 COAST GUARD ENGINEERING AND LOGISTICS CENTER
153
154 REAR ADMIRAL GARY BLORE,
155 PROGRAM EXECUTIVE OFFICER,
156 COAST GUARD INTEGRATED DEEPWATER SYSTEM
157
158 VICE ADMIRAL PAUL SULLIVAN,
159 COMMANDER,
160 U.S. NAVAL SEA SYSTEMS COMMAND
161

162 [*]

163 OBERSTAR: We meet today in full committee to inquire into compliance of

164 the Coast Guard with the requirements of the Deepwater contract.

165

166 When I was elected to the chairmanship of the committee, I said at the

167 very outset that we would have a strong emphasis on oversight and

168 investigations into the programs within the jurisdiction of our

169 committee.

170

171 It has long been a role of this committee, going back to 1959, when the

172 special investigating committee in the Federal-Aid Highway Program was

173 established by then Speaker Rayburn, and my predecessor, John Blotnik,

174 whose portrait is over there in the corner, was designated chair of that

175 committee.

176

177 It was the very first deep investigative work of the House in the

178 post-World War II era that resulted in conversion of all state federal

179 highway programs from no internal audit and review procedures to every

180 state having internal audit, review and accountability for their federal

181 highway funds.

182

183 It also resulted in 36 people going to federal and state prison for

184 their illegal activities in misuse and abuse of public funds in the

185 Federal-Aid Highway Program.

186

187 The committee continued its work into other areas of jurisdiction of the
188 full committee doing enormous good service to the public. We continue
189 that work in the spirit of inquiring into the wise, best and most
190 effective use of public funds and ensuring that there is not a failure
191 on the part of federal agencies in carrying out their public trust.

192

193 Of all the issues that have come before our committee -- we've had a lot
194 since the beginning of this session of Congress -- the failures of the
195 Coast Guard Deepwater acquisition program are the most disturbing.

196

197 The Investigations and Oversight bipartisan staff has been conducting
198 in-depth investigations over the last three months on the conversion of
199 110-foot patrol boats to 123-foot boats, which is a 12 percent
200 extension, and to modernize their electronics in the new era of
201 security, and the new or the additional mission of the Coast Guard in
202 homeland security.

203

204 OBERSTAR: The investigation uncovered factors far more disturbing than
205 we anticipated at the outset or than other committees that have looked
206 into this have uncovered. Major problems in the program -- some of the
207 major problems -- have already been disclosed in hearings of other

208 committees and by news reports.

209

210 But four years after the Coast Guard began the Deepwater program to
211 replace or upgrade all of its ships, fixed-wing aircraft and
212 helicopters, we know that eight of the 110-foot patrol boats have been
213 found unseaworthy and rendered essentially useless by poorly designed
214 hull extension.

215

216 It's already on public record that plans to produce a new class of
217 140-foot ships have been shelved after a new hull design was found to be
218 flawed. It's already been published that serious questions have been
219 raised about the structural integrity of the new National Security
220 Cutter, and whether it can be expected to meet its projected lifetime in
221 service.

222

223 There are problems that have increased the cost of the fleet renewal
224 program from \$17 billion to more than \$24 billion. We know that the
225 Coast Guard's ability to fulfill its mission has been compromised, that
226 critically needed assets are not going to be available, or certainly not
227 available in the timeframe within which the Coast Guard needs them.

228

229 The Coast Guard constantly has been forced to cut back on patrols. At
230 times, it's had to ignore tips from other federal agencies about drug

231 smugglers. We are concerned these difficulties will only grow and become
232 more acute in the years ahead as older vessels fail and replacements are
233 not available.

234

235 What we have learned in our investigation, though, is even more
236 disturbing: serious management failings, which are serious, internal to
237 the Coast Guard.

238

239 OBERSTAR: We're not going to pass final judgment on those charges or
240 allegations until we have had the response to the Coast Guard and its
241 contractors.

242

243 I should point out that the testimony we will hear today raises serious
244 problems that were known early in the program by the Coast Guard, and
245 that warnings delivered by very courageous persons involved in the
246 program in the earliest days were delivered, and many of the warnings
247 consciously rejected by various levels of Coast Guard management.

248

249 I commend those whom are witnesses here before us today, who have helped
250 us understanding what happened, and who have put their jobs, their
251 careers on the line in order to do the right thing and assure that the
252 truth is out, in particular Michael De Kort, Robert Braden, Scott
253 Sampson.

254

255 And Mr. Atkinson is not a Coast Guard employee, but he is a similarly
256 public spirited person who has prepared an extensive analysis of the
257 internal problems.

258

259 The Coast Guard has taken a lessons learned approach to the tragedies,
260 the failures that have occurred in the conversion programs, and we hope
261 that today's hearing will make a major contribution to improving,
262 changing, not only the way the Coast Guard does this, but the culture --
263 the very culture -- within the Coast Guard. Time will tell, but one
264 thing is certain: We're going to stay on top of it.

265

266 OBERSTAR: The chair recognizes the gentleman from Florida, the ranking
267 member, Mr. Mica.

268

269 MICA: Thank you, Mr. Chairman.

270

271 And I have some comments. I'm a little bit concerned.

272

273 This is the first of our investigative hearings. And going forward
274 today, with some terms, or under some terms that I thought were a little
275 bit different than what I had anticipated.

276

277 I do have some issues that I do want to raise. The committee is
278 continuing today in what I was led to believe was oversight of the Coast
279 Guard's very important Deepwater program.

280

281 Unfortunately, after reviewing the materials for this hearing, most of
282 what we're going to hear, or go through, in a series of panels, appears
283 to be matters that we have already reviewed. I guess some of it may be
284 redundant, because I've not only participated in at least two hearings
285 on this committee, but also Government Reform Committee on which I
286 serve, which has also looked into this. This is, I believe, the sixth
287 hearing -- this is the sixth hearing held this year. And number seven is
288 next week in the Senate.

289

290 I do want to say that I've been impressed with the conduct of the
291 chairman of the subcommittee, Mr. Cummings and the ranking member, Mr.
292 LaTourette. They stated that they would continue to pursue this matter
293 and have subsequent testimony from the DHS I.G. and the General
294 Accountability Office just last month.

295

296 In the January hearing Mr. Cummings, chair of the subcommittee, and the
297 Commandant Allen agreed that there would be a hearing 120 days later in
298 which the Coast Guard would report also on changes in the program and
299 progress that has been made. And I think that's very important that we

300 review that.

301

302 MICA: I come from the state of Florida. We have these eight cutters that

303 are now, I'm told they've been brought up here to the northeast from

304 Florida. They're not usable. These cutters are critical to safety, to

305 national security, to questions of the problems we face on illegal

306 immigration.

307

308 Last week, we had I believe over 100 Haitians just come in in one batch.

309 And the warm weather hasn't started.

310

311 The Coast Guard has a mission dealing with the illegal narcotics, which

312 is critical. And I don't have those assets there, whether there are 40

313 of these cutters. These are eight. A large percentage of these cutters

314 are out of service.

315

316 And I know there are some plans in place. And it's critical that we have

317 -- that we deal with these issues I've mentioned, not to mention the

318 possibility of some change in the regime with Castro and critical needs

319 without the vessels in place.

320

321 So no one is more deeply troubled than I am about the problems

322 associated with the 110-foot cutters to 123-foot cutters, which was the

323 effort under way.

324

325 However, I'm afraid, again, that this hearing merely rehashes some of
326 the issues the I.G. has gone through and reviewed and testified about at
327 our Coast Guard budget hearing last week.

328

329 And I do have the questions that were raised -- I'd like to submit for
330 the record, and then the responses, which are some of the same questions
331 again today. I'd like to...

332

333 OBERSTAR: Without objection, they'll be included.

334

335 MICA: ... have that included. In addition, I must point out, again, this
336 is our first -- this is very important, that this is the first of our
337 investigative hearings.

338

339 And both Mr. Oberstar and I are committed to strong investigations and
340 oversight. We think that's an important part of our responsibility.

341

342 However, the minority was not included in the selection or the
343 interviewing of these witnesses. And given the traditional bipartisan
344 nature of the work on Coast Guard and maritime transportation, this
345 causes me great concern.

346 In government reform, for example, we don't interview a witness or
347 depose a witness without notification and the opportunity to have a
348 bipartisan participation.

349

350 That does concern me. And I hope that's not the way we proceed in the
351 future.

352

353 I also understand that one of today's witnesses, as staff has told me,
354 is being paid by the committee, the taxpayers, as a consultant. And I
355 think that's Mr. Atkinson. Is that correct?

356

357 OBERSTAR: Only his travel and expenses were covered...

358

359 MICA: So he is being paid...

360

361 OBERSTAR: ... as in the tradition of the committee.

362

363 MICA: Again, I am concerned about the selection of witnesses and,
364 particularly, those -- well, we're going to hear from a whistleblower,
365 and I think he has some important information to share with the
366 committee.

367

368 I'm not certain because, again, our staff was not permitted to interview

369 him at the same time that he was actually in position to be able to
370 comment on some of the issues related to certification, et cetera, that
371 he may be testifying on. So that raises questions.

372

373 Secondly, with Mr. Atkinson, I'm just totally at a loss of why he was
374 permitted to be a witness. Now, I did not see this until yesterday, and
375 staff provided me with this yesterday, but anyone can go on to
376 www.TSCM.com. That's his Web site.

377

378 In 15 years of having witnesses before numerous subcommittees, some of
379 which I chaired or participating on different committees, I never had a
380 witness who set forth a mission statement or qualifications as some --
381 let me read from his -- and you all pull this up and see it.

382

383 "I will not have anything to do" -- these are quotes from his Web site.
384 "I will not have anything to do with someone I know to be a criminal,
385 and if I seen the slightest reason to believe that they have a criminal
386 history, I will back away from them the second I find out about it. In
387 fact, not only will I start backing away from them, but they will hear
388 me reloading the shotgun as I do it."

389

390 Second paragraph: "If someone chooses to be an eavesdropper, I'll hunt
391 them to the ends of the earth. If they're a felon or a crook using

392 electronics in their work, I will relentlessly stalk them until they are
393 rendered impotent."

394

395 Third paragraph: "When the eavesdropper lies on his deathbed and the
396 Angel of Death comes to take him away, I want Death to be holding a scan
397 lock instead of a scythe. I want them constantly looking over their
398 shoulder and expecting TSCM specialists to pounce on them and start
399 beating them with a MLJD, let them fear black boxes and weird- looking
400 antennas. Let them eat Xanax by the handful and spend their days in
401 pain."

402 Four paragraph: "Let them be afraid, let them be very afraid, for I am
403 hunting them. I'm not hunting -- them, then -- someone who I trained
404 will be afraid of -- I perform bug sweeps like a contact sport. I don't
405 play fair."

406

407 I've never heard a witness give those kind of qualifications.

408

409 MICA: Again, the rest of it is troubling to me. The staff pointed this
410 out. So I do have concerns about the witnesses, and particularly that
411 witness.

412

413 The Deepwater program, as I said, is critically important, and we need
414 to have the best witnesses and access to the best information and

415 resources to make certain that we have enhanced vessels and aircraft in
416 place as quickly as possible, at the lowest cost to the taxpayer.

417

418 In January, Admiral Allen appeared before the committee and committed
419 himself and the Coast Guard to improving the oversight, which is very
420 important.

421

422 Finally, I do have concerns about two things.

423

424 One, it's also the custom that we investigate and then we make a
425 determination, and I'm prepared to do that and work with the chairman
426 and the ranking member for calling the Department of Justice to look, if
427 we find in this hearing or subsequent hearings criminal and civil
428 misconduct that warrants an investigation, not to announce that to the
429 media before we hold the hearing.

430

431 And then the second concern that I have is that the Coast Guard has now
432 made an announcement, prompted by some of these inquiries -- and I'm not
433 sure that it's the wisest announcement -- to go forward with in-house
434 actually control and management of these contracts, which I don't know
435 they have the capability of doing and which testimony we've heard
436 previously and in other committees indicated that their inability to
437 pay, their inability to retain personnel, attract personnel or put a

438 program like this into place for oversight, they don't have -- they may
439 not have that oversight capability or ability even to maintain that
440 capability.

441

442 So in the meantime I pledge to continue to work with the majority. This
443 is a very important issue. And I'm sorry that we did get off with some
444 unacceptable terms in both procedures and witnesses for this first
445 hearing.

446

447 Yield back.

448

449 OBERSTAR: I read the same comments on the Web site, and I took them in a
450 different vein.

451

452 But, Mr. Atkinson, after he's sworn in, will have an opportunity to
453 respond to the ranking member's comments.

454

455 OBERSTAR: As to witnesses, I directed the majority staff to share with
456 minority the names of witnesses. And they're free to call and inquire
457 and interrogate them as they wish. And they had all the names.

458

459 As for redundancy, I can't control what other committees do, I say to my
460 good friend. If they want to have hearings, that's their business. But

461 we're conducting our business.

462

463 We did have a preliminary hearing earlier this year on Deepwater. It set
464 the stage for what I felt was a necessary -- and what you and I both
465 discussed was a necessary, more intensive discussion and inquiry into
466 these matters.

467

468 As for the Justice Department, we make no judgment. Justice is
469 conducting its own inquiry into this matter. And after the conclusion of
470 our hearings, and in consultation with the ranking member, we will
471 decide what next steps to take.

472

473 The gentleman from Maryland, chairman of the subcommittee, Mr. Cummings
474 -- at the outset I want to say has conducted a very thorough inquiry and
475 has given an enormous amount of his personal time and been actually on
476 board the defective vessels -- I recognize the gentleman for his
477 statement.

478

479 CUMMINGS: I want to thank the gentleman for moving.

480

481 And I want to thank you, Mr. Oberstar, for your dedication and effective
482 oversight and for convening this hearing today to continue requiring
483 accountability. And I emphasize accountability on the part of the Coast

484 Guard as well as its contractor, partner for implementation of the
485 Deepwater acquisition program.

486

487 I must say that as I listened to Mr. Mica, I think we have to very
488 careful that we don't assassinate witnesses before they even testify.

489 These witnesses come to us, some of them I'm sure with some fear. But
490 they have stepped forward bravely, and I am very, very familiar with
491 their testimony.

492

493 CUMMINGS: And I know that they have the concerns of the American people
494 and the Coast Guard and Coast Guard personnel, by the way, in mind.

495

496 Deepwater is a \$24 billion -- and I emphasize "billion-dollar" --

497 procurement effort, through which the Coast Guard is acquiring 91

498 cutters, more than 100 small surface craft, and 244 new or converted

499 aircraft, including helicopters and fixed-wing airplanes.

500

501 Americans trust the Coast Guard to protect them from emerging threats

502 approaching our homeland from the sea, to rescue them when they are in

503 danger and to protect the natural resources of our marine environments.

504

505 That trust is well placed. However, Americans also need to know that

506 they can trust the Coast Guard's leaders to manage the taxpayers'

507 hard-earned dollars effectively and efficiently, and to provide the
508 tools that the men and women of the Coast Guard need to succeed.

509

510 Further, Americans need to know that, when a multibillion-dollar
511 contract is signed, the parties to that contract will accomplish its
512 objectives to the best of their abilities.

513

514 Our expectations for the Deepwater program are not unreasonable. We
515 expect it to produce boats that float, planes that fly, and information
516 technology systems that work, meaning that they allow us for
517 identification of threats in the maritime domain, while protecting
518 sensitive and classified communications and allowing effective control
519 of deployed assets.

520

521 What is remarkable and completely unacceptable is that a program costing
522 on the order \$100 million, intended to upgrade 110-foot legacy cutters,
523 lengthen them to 123 feet, and extend their service lives, has produced
524 eight cracking hulks that are now tied up within a few miles of my house
525 in Baltimore, unable to return to service and waiting for the scrap
526 heap.

527

528 And guess who paid for them? The American people.

529

530 What is unconscionable is that the simple and straightforward
531 expectations of Congress, and more importantly, the American taxpayers,
532 have not been met because of a combination of poor oversight by the
533 United States Coast Guard and poor performance by two of the world's
534 largest defense contractors, Lockheed Martin and Northrop Grumman.
535 I applaud the action taken yesterday by Admiral Thad Allen, the
536 commandant of the United States Coast Guard, to begin to right what has
537 become a floundering acquisitions effort, veering far, far off course.

538

539 I believe that this decisive leadership will put this program on a path
540 to success.

541

542 However, though the commandant has taken bold steps to bring the systems
543 integration functions back in-house, to rebid parts of the Deepwater
544 contract, and to ensure that assets are independently certified against
545 the highest industry standards, it is essential that we learn the
546 lessons of the past five years of Deepwater implementation, so that past
547 errors are never repeated.

548

549 I've said it before, and I'll say it again. This is the country that's
550 able to send folks to the moon. We ought to be able to build ships that
551 float.

552

553 Today, therefore, we examine the 123 program. We will take a close look
554 at all of the actions of the Coast Guard and its partner, the integrated
555 Coast Guard systems team, that contributed to the colossal failure of
556 the program.

557

558 We want to know why the Coast Guard and its partners went ahead with the
559 design to lengthen the 110-foot cutters, despite warnings from the
560 United States Navy that the hulls should have been strengthened before
561 they were lengthened, warnings based on the Navy's own experience
562 lengthening the 170-foot Cyclone-class ships to 179 feet.

563

564 CUMMINGS: We will also closely examine whether the equipment installed
565 inside the converted 123-foot boats met all contractual requirements and
566 was designed to ensure safety of the crews -- and I emphasize that,
567 safety of the crews.

568

569 We want to make sure that Coast Guard personnel are safe.

570

571 And so, further, we want to examine whether the C4ISR command-
572 and-control system was properly certified to ensure the protection of
573 national security data.

574

575 I applaud the willingness of the dedicated individuals who worked in

576 various capacities in the Deepwater program to come forward today to
577 share their concerns about what they experienced on that program and
578 about the actions taken by managers leaving the program.

579

580 The committee's investigation also received critical assistance from an
581 outside expert on TEMPEST process, who has dedicated countless hours of
582 his own personal time to analyzing TEMPEST certification process on the
583 123s.

584

585 I thank Michael DeKort, Robert Braden, Scott Sampson and James Atkinson
586 for their dedication to excellence. Our committee shares their
587 dedication.

588

589 Therefore, while we examine what must be done to ensure the success of
590 Deepwater, we also will be examining what must be done to build
591 acquisition systems and develop experienced management personnel within
592 the Coast Guard who can ensure that a single dollar is never, ever
593 wasted in the procurement of a ship or plane for the Coast Guard fleet.

594

595 And with that, Mr. Chairman, I yield back.

596

597 OBERSTAR: I thank the gentleman for his very strong statement and again
598 for his very diligent work.

599

600 And I recognize -- I yield now to the gentleman from Ohio, the ranking
601 member of the subcommittee, Mr. LaTourette.

602

603 LATOURETTE: Thank you very much, Mr. Chairman. I'll try and move along
604 expeditiously.

605

606 I want to thank you and Chairman Cummings for holding this hearing. And
607 I have to say that I come to this hearing with a deep concern over the
608 future success of the Deepwater program. As I indicated at the
609 subcommittee hearing in January, there is no more important issue facing
610 the Coast Guard now than the delays and setbacks that are jeopardizing
611 this program.

612

613 This hearing today is going to focus on the conversion of the 110-foot
614 patrol boat fleet. And I believe that we will examine and use this
615 hearing to examine the roots of the problems that resulted in this
616 failure and how the Coast Guard, I hope, will look -- how the Coast
617 Guard can apply the lessons learned to future acquisition projects.

618

619 The original Deepwater contract, which has now run a number of years,
620 established performance requirements for each asset and component
621 system. It appears that in too many cases the responsibilities to

622 oversee, test and certify construction and performance of these assets
623 and systems has been vested in the contractors and not the Coast Guard.

624

625 The Coast Guard has addressed these issues under Commandant Allen's
626 direction, it was announced just yesterday. And I have confidence that
627 the Coast Guard will take a much more active role in reviewing and
628 ultimately approving or disapproving asset designs, performance, testing
629 and compliance with contract requirements.

630

631 While I appreciate the commandant's new directives and willingness to
632 address past problems, I remain concerned by the number and nature of
633 problems that seem to come to light every time this committee holds a
634 hearing.

635

636 LATOURETTE: It appears that there were several opportunities to make
637 significant changes to the design and the structure of the 123- foot
638 patrol boat hull, and that Coast Guard chose not to take those
639 corrective actions.

640

641 As a result, the Coast Guard took possession of eight vessels that can't
642 be used for any mission by the Coast Guard, and are now scheduled to be
643 scrapped.

644

645 The loss of these eight vessels and the impending delay in requiring
646 more capable vessels hurts the Coast Guard's ability to safeguard and
647 secure our nation's waters, and jeopardizes the safety of Coast
648 Guardsmen that serve aboard increasingly aged and deteriorating vessels.

649

650 I'm further concerned by the apparent lack of control procedures that
651 allow a contractor to install self-certified component systems that have
652 not been tested against industry or military standards.

653

654 The Coast Guard is responsible for ensuring that the assets and systems
655 that it accepts meet all terms and conditions of the contract and all
656 relevant performance specifications. Under the commandant's new
657 directions, the Coast Guard will take on additional responsibilities to
658 verify compliance.

659

660 I can't emphasize enough how critical these new responsibilities are for
661 the future of the service. The Deepwater program and the assets that
662 will be acquired under Deepwater are critical to the Coast Guard's
663 future mission success.

664

665 The men and the women of the Coast Guard carry out brave and selfless
666 service to our nation each and every day. And we need to make sure that
667 the Deepwater program is carried out in a way that the best, most

668 capable equipment is acquired to allow these Coast Guardsmen to carry
669 out their important missions.

670

671 I want to thank the witnesses for appearing today.

672

673 And, Mr. Chairman, on the way over from my last series of votes, I
674 mentioned some matters to subcommittee Chairman Cummings, and I'm not
675 going to bring those up at this moment. But they do relate to issues
676 that Mr. Mica was addressing, and I hope that we -- maybe the four of us
677 could have a conversation in the future about some of those things.

678

679 I thank you for your courtesy and yield back the balance of my time.

680

681 OBERSTAR: I thank the gentleman for his statement, for his ever
682 public-spirited concern about the work of this committee.

683

684 We have had some difficulties in proceeding with this hearing because we
685 requested on March 20 documents from the Coast Guard, did not get what
686 we were requesting until March -- not until April 6.

687

688 And not until subcommittee Chairman Cummings met with the commandant did
689 we get at 5 p.m. Friday, April 13 the full set of documents that we
690 requested much earlier.

691

692 That hampered and made difficult the task of saying -- structuring this
693 hearing and getting the information we needed. So there have been some
694 difficulties along the way. And we made our best effort to include the
695 Republican side in this process and gave to staff the names of witnesses
696 right at the outset, and how to contact them and invited the minority
697 staff to conduct their own individual inquiry.

698

699 (UNKNOWN): Will the chairman just yield for...

700

701 OBERSTAR: Yes.

702

703 (UNKNOWN): I think the chairman and the full committee knows that I --
704 there's no member of Congress that I have greater respect for, and even
705 affection for, than the chairman.

706

707 My invitation was that maybe, as we move forward, we can do a little bit
708 better in talking to each other.

709

710 OBERSTAR: We always can do better. And we will.

711

712 (UNKNOWN): Thank you.

713

714 OBERSTAR: Now I call -- I ask all witnesses to rise. Raise your right
715 hand.

716

717 Do you solemnly swear the testimony you'll give before the Committee on
718 Transportation and Infrastructure is the truth, the whole truth and
719 nothing but the truth, so help you God?

720

721 OBERSTAR: Thank you.

722

723 Mr. De Kort, we'll begin with you, and welcome your statement. And,
724 again, I say that you have provided an enormous service to the public
725 and to the committee, and I think, in the long run, to the Coast Guard
726 by the work that you've done, so please proceed.

727

728 DE KORT: Thank you, Mr. Chairman, for those comments.

729

730 Good afternoon, Mr. Chairman, and the members of the committee. I deeply
731 appreciate your taking the time to hear testimony on the C4ISR problems
732 relating to the Deepwater effort.

733

734 While I will be highlighting the C4ISR issues, I'm sure you realize that
735 they are only examples of the systemic engineering and management
736 problems associated with this effort. The problems I will be describing

737 are not simply mistakes; they were informed, deliberate acts. As I will
738 show, I have been trying to resolve these problems for almost four
739 years.

740

741 After not being able to convince every level of management of every
742 relevant organization in Lockheed Martin through to the CEO and Board of
743 Directors -- and I believe there's a timeline up that shows some of that
744 information -- as well as working with Integrated Coast Guard Systems, I
745 turned to the appropriate government agencies, public officials,
746 whistleblower organizations, and when all else failed, the Internet and
747 the press for help.

748

749 What needs to be understood here is that every one of these problems was
750 easily resolved with off-the-shelf products well before any of the
751 assets were delivered.

752

753 Additionally, as the contract mandates system commonality, every one of
754 these problems is a candidate for inclusion on every other maritime
755 asset that ICGS delivers for the lifetime of the contract. This plan, if
756 allowed to come to fruition, will literally cripple the entire maritime
757 fleet of the U.S. Coast Guard for decades.

758

759 Before delving into the issues, I would like to tell you a little bit

760 about my background. I was an electronics technician in the U.S. Navy
761 for six years. I specialized in communications systems. After my
762 enlistment ended, I spent a brief time in the private sector before I
763 joined the U.S. State Department as a communications engineer for
764 embassy and consular duties, as well as for the counterterrorism group.
765 After leaving that organization, I became a systems engineer in Lockheed
766 Martin. Through the years, I was promoted to project, program, and
767 engineering manager. During my last five years, I was a software project
768 manager for Aegis Baseline 6.3, the lead systems engineer of C4ISR for
769 the Deepwater effort and the software engineering manager for the NORAD
770 effort.

771

772 It is the period where I held the C4ISR lead systems engineer position
773 that is the focus of this testimony. At the point I joined the effort in
774 the summer of 2003, the final design review had been completed and most
775 of the equipment had been purchased for the first several boats.

776

777 In addition to creating a master schedule, I was tasked with identifying
778 the final, deliverable requirements and planning the integration of the
779 first boats. It was during this period that several critical safety and
780 security issues came to my attention.

781

782 The first problem was that we had purchased nonweatherproof radios for

783 the Short Range Prosecutors, or SRPs. The boats are small, open aircraft
784 that are constantly exposed to the environment. Upon first hearing about
785 this issue, I have to admit I found it too incredible to believe.

786

787 Who would put a nonweatherproof radio, the primary means of
788 communication for the crew, on a boat with no protection from the
789 elements? The individual who brought this to my attention strongly
790 suggesting that I look into it, no matter how incredible it sounded.

791

792 DE KORT: I called the supplier of the radio who informed me it was true.
793 We had purchased four radios for the first four SRPs and they were not
794 weather-proof.

795

796 As a matter of fact, the vendor asked me to not use the radios on any of
797 the SRPs, which would eventually total 91 in all.

798

799 Upon informing Lockheed management that the radios needed to be
800 replaced, I was told that there was a design of record. This meant the
801 customer had accepted our designs at the conclusion of the critical
802 design review and that we would make no changes that would cause cost or
803 schedule impacts.

804

805 As a matter of fact, we ordered five more radios after I went to

806 management about the problem in order to prepare for the next set of
807 boats we were contracted to modify.

808

809 I tried for several months to get the radios replaced. Just before
810 delivery of the first 123 and its associated SRP, the customer asked to
811 test the system. Coincidentally, it rained on test day. During the
812 testing, several radios shorted out.

813

814 It should be noted that had we not tested the boats in the rain on that
815 day we would have delivered that system and it would have failed the
816 very first time it was used.

817

818 After this, I was told we would go back to the radio that originally
819 came with the SRPs. I believe that this example, more than any other,
820 demonstrates the lengths the ICGS parties were willing to go to hold to
821 schedule and budget while sacrificing the safety and security of the
822 crew.

823

824 The next problem uncovered involved the video surveillance system. The
825 Coast Guard wanted a system that would permit watching the boats when in
826 a Coast Guard port without someone having to be physically on the boat.

827

828 Our solution was to provide a video surveillance system that had

829 significant blind spots, leaving the bridge -- or pilot house --

830 vulnerable to penetration.

831

832 The most frustrating part about this issue is that the simple purchase

833 and installation of a fifth camera would have resolved the problem. Bear

834 in mind, we knew about the need for the extra camera several months

835 before the first 123 was delivered.

836 Another problem we discovered involved low-smoke cables. There was a

837 requirement to install low-smoke cables so that in case of a fire flames

838 do not spread quickly, equipment is not overly exposed to corrosive

839 smoke, and the crew is not exposed to a large amount of toxic fumes.

840

841 In a recent report, the inspector general for Department of Homeland

842 Security confirmed that over 80 of these cables are the wrong type and

843 that waiver the Coast Guard gave to the contractor said it could avoid

844 having to provide these cables was invalid.

845

846 DE KORT: The next issue involved communications security and the

847 standards necessary to ensure those communications are safeguarded from

848 eavesdropping or inadvertent transmission of crosstalk.

849

850 These standards are known as TEMPESTs. We installed non-shielded cables,

851 101 in all, on all of the 123s, cables that did not meet standard

852 TEMPEST and safety and security requirements, as borne out by their
853 failing of the visual inspection which was carried out by the
854 appropriate test authority.

855

856 This situation could lead to serious compromise of secure communications
857 not only for the Coast Guard, but for the government or other government
858 organizations such as DOD, FBI and DEA.

859

860 I was informed that we had not included these cables in the design
861 because we had not bid the TEMPEST requirements. And as such, we decided
862 we did not have the money to include them.

863

864 The final significant problem was that of the survivability of the
865 external mounted equipment. I saved this one for last because of how
866 serious the repercussions are for the Coast Guard and nation.

867

868 The fact that the DHS I.G. agreed completely with my allegations
869 relative to this issue, the incredible position Lockheed Martin has
870 taken on this issue and the fact that the Coast Guard seems unwilling to
871 allow them to get away with it -- surely before the first 123 was
872 delivered, we finally received the environmental requirements.

873

874 During the late review of the requirements -- of the equipment for

875 compliance, well after the design, review and purchase of the equipment,
876 we found the very first item we looked into would not meet environmental
877 requirements. Given this failure, we feared the rest of the equipment
878 may not meet environmental requirements.

879

880 Let me state this in simple terms: This meant the Coast Guard ships that
881 utilized this equipment would not operate in conditions that could
882 include heavy rain, heavy seas, high winds and extreme temperatures.

883

884 When I brought this information to Lockheed management, they directed me
885 and my team to stop looking into whether or not the rest of the
886 equipment met requirements. This meant that all of the externally
887 mounted equipment being used for the critical communication, command and
888 control, and navigation systems might fail in harsh environments.

889 Since that time, we have learned through DHS I.G. report on the 123s
890 that 30 items on the 123s, and at least a dozen items installed on the
891 SRPs did not meet environmental requirements.

892

893 In addition to their technical and contractual findings, the I.G. also
894 made some of Lockheed Martin's responses on this issue known in that
895 report.

896

897 Incredibly, the I.G. states that Lockheed Martin incorrectly stated in

898 their self-certification documents that there were no applicable
899 requirements stipulating what the environmental requirements were in
900 regard to weather. And they actually stated that they viewed the
901 certification of those requirements as, and I'm quoting, "not really
902 beneficial."

903

904 In addition, the I.G. states that the Coast Guard did not know the boats
905 were noncompliant until July of 2005, one and a half years after the
906 first 123 was delivered. The report also states that none of these
907 problems were fixed, not on any of the delivered boats.

908

909 That, along with this issue, not being called out in the DD-250
910 acceptance documents, supports my supposition that Lockheed Martin
911 purposely withheld this information from the Coast Guard.

912

913 DE KORT: Finally, the I.G. states that Lockheed's position on them
914 passing the self-certification without testing these items was the right
915 thing to do because they thought the tests would be -- and I'm quoting
916 again -- "time consuming, expensive and of limited value."

917

918 Bear in mind that the contractors have stated time and time again in
919 front of this and other oversight committees that they do not practice
920 self-certification.

921

922 Where does the situation leave us?

923

924 Had the hulls not cracked or the cracks not appeared for some time, ICGS

925 would have delivered 49 123s and 91 SRPs with the problems I described.

926

927 In addition to that, the Deepwater project is a system of systems

928 effort. What this means is that the contractor is directed to deliver

929 solutions that would provide common equipment sets for all C4ISR

930 systems.

931

932 Said differently, all the equipment for like systems need to match

933 unless there's an overwhelming reason not to. This means that every

934 faulty system I've described here will be installed on every other

935 maritime asset delivered over the lifetime of the effort. This includes

936 the FRCs, the OPCs and the NSCs. If we don't stop this from happening, I

937 suggest we'll deliver assets with these and other problems.

938

939 I believe this could cripple the effectiveness of the Coast Guard and

940 their ability to perform their missions for decades to come.

941

942 How have the ICGS parties reacted to the totality of the allegations?

943

944 At first, Lockheed and the U.S. Coast Guard stated, as stated by the
945 ICGS organization responded to my allegations by saying they were
946 baseless, had no merit or that all of the issues were handled
947 contractually.

948

949 That evolved, after the I.G. report came out, to then stating that the
950 requirements had gray areas. And later, by actually deciding, after the
951 systems were accepted and the problems were found, that in some cases
952 the Coast Guard exaggerated their needs and it was their -- as was their
953 comment regarding the environmental survivability problems.

954 Up until the announcement yesterday, I have heard a lot of discussion
955 about the changing of the ICGS contract structure, the fixing of the
956 requirements, reorganizing the Coast Guard and adding more oversight.

957

958 While all of those things are beneficial, they in no way solve the root
959 problem. Had the ICGS organization listened to the Engineering Logistics
960 Center, or ELC, and my recommendations, there would be no problems on
961 these boats.

962

963 We wouldn't be talking about more oversight or making sweeping changes.
964 Instead, we would be discussing what a model program Deepwater is.

965

966 I guarantee you that had the changes that were made up until yesterday's

967 announcement been made four or five years ago, it wouldn't have
968 mattered. Even with the incestuous ICGS arrangement, the less-
969 than-perfect requirements and minimal oversight, there was plenty of
970 structure in place and information available to do the right thing.

971

972 It is not practical to think that one can provide an ironclad set of
973 requirements and associated contract that will avoid all problems. All
974 that was needed were leaders who were competent and ethical in any one
975 of the key contractor or Coast Guard positions. Any one of dozens of
976 people could have simply done the right thing in this effort and changed
977 the course of events that have followed.

978

979 It is because of that that I strongly suggest you shift -- suggest your
980 focus shift to one of accountability in an effort to provide a
981 deterrent.

982

983 DE KORT: No matter what structure these parties put in place, no matter
984 what spin they come up with, promises they make, no matter how many
985 people you spend taxpayer dollars to employ to provide more oversight,
986 it still comes down to people.

987

988 We wouldn't need more oversight if the ICGS parties would have done as
989 they promised when they bid the effort.

990

991 They told the Coast Guard, we know you have a lack of personnel with the
992 right skills; let us help you; let us be your trusted agent; let us help
993 write the requirements so we can provide you cutting-edge solutions; let
994 us write the test procedures and self-certify so we can meet the
995 challenges we all face in the post-9/11 world.

996

997 In the end, people have to do the right thing, and know that, when they
998 don't, the consequences will be swift and appropriate. I strongly
999 believe that, especially in a time of war, the conduct of these
1000 organizations has been appalling.

1001

1002 As such, I would hope that this committee and other relevant agencies
1003 with jurisdiction will do the right thing and hold people in these
1004 organizations accountable.

1005

1006 All defense contractors and employees of the government need to know
1007 that high ethical standards are not matters of convenience.

1008

1009 If you do not hold these people and organizations accountable, you will
1010 simply be repackaging the same problems and have no way of ensuring the
1011 problems don't happen again on this or any other effort.

1012

1013 In closing, I am offering to help, in any way I can, to remedy these
1014 issues. As I told Commandant Allen's staff and Lockheed Martin, before
1015 my employment was terminated, I want to be part of the fix.

1016

1017 With the right people in place and the right positions, this project can
1018 be put back on track rapidly.

1019

1020 I would like to thank you again for the opportunity to testify, and look
1021 forward to answering your questions.

1022

1023 OBERSTAR: Thank you very much for a very thorough, thoughtful and
1024 well-structured statement.

1025

1026 Mr. Braden, would you identify yourself and then proceed with your
1027 statement?

1028 BRADEN: Yes, thank you, Mr. Chairman and members of the committee. My
1029 name is Robert Braden, and I have over 40 years of engineering
1030 experience, including nearly 30 years of service with Lockheed Martin
1031 Corporation.

1032

1033 I'm currently employed by Lockheed as a senior technical staff at
1034 Morristown, New Jersey. In this position, I'm often expected to provide
1035 program and project leadership for a variety of programs.

1036

1037 In early 2003, I was requested to join the U.S. Coast Guard Deepwater
1038 program as a lead system engineer for the communication area master
1039 stations, or CAMS, and legacy cutter program.

1040

1041 That program was to do upgrades of three different classes of cutters
1042 that were -- did not include the 123s.

1043

1044 Program objectives were to provide enhanced satellite communications and
1045 modern C4ISR systems for these existing legacy assets.

1046

1047 This included installations, upgrades, and new capabilities for 39
1048 existing legacy cutters. We provided significantly improved satellite
1049 bandwidth, improved shipboard networks, new (inaudible) radios, new
1050 automatic identification systems, and expanded secret Internet protocol
1051 router networks, or SIPRNet communications capabilities.

1052

1053 These improved SIPRNet capabilities provide the legacy fleet with the
1054 ability to significantly improve coordination of law enforcement and
1055 homeland security actions with the U.S. Navy and within the Coast Guard.

1056

1057 After completing the total re-plan of the program, we submitted an
1058 aggressive fixed-price proposal to the Coast Guard. Unfortunately, the

1059 Coast Guard contracting office continued to extend negotiations all the
1060 way to the end of the fiscal year.

1061

1062 This required Lockheed Martin to either stop work or independently fund
1063 the continued engineering and procurement of our long-lead material.

1064

1065 Lockheed elected to support the aggressive Deepwater deployment
1066 objectives of Admiral Stillman, and provided several million dollars of
1067 internal risk funding to allow my team to obtain the material, integrate
1068 the system and prepare for the first installations.

1069

1070 BRADEN: During this same period of development and design, I was engaged
1071 in intensive dialogue with my Coast Guard contracts technical
1072 representative, with the Coast Guard ships integration personnel, and
1073 with the Coast Guard's Telecommunication Security Organization, known as
1074 TISCOM.

1075

1076 The purpose was to determine and negotiate all requirements for the cams
1077 (ph) legacy installations. Our key objective was to provide a
1078 communication installation that would immediately achieve a SIPRNet
1079 interim authority to operate, followed shortly thereafter by a full
1080 authority to operate. And the reason that was important is these ships
1081 were in port for a limited period of time. When those ships left port,

1082 our installation needed to allow the crew to immediately use the new
1083 secure capabilities.

1084

1085 I was also fully engaged in weekly program integration meetings
1086 involving all Morristown management of the Deepwater program. These pit
1087 meetings were mandatory every week and covered all aspects of the
1088 program and included at every meeting U.S. Coast Guard representatives;
1089 generally included representatives from the ICGS or Integrated Coast
1090 Guard Systems organizations.

1091

1092 The purpose of the meetings were to ensure coordination among the
1093 various programs and maintain commonality among all the assets. Topics
1094 included status of the system-of-systems activities, the cams (ph)
1095 legacy cutter upgrades, the 123 foot cutter conversion program, and the
1096 other various assets.

1097

1098 Approximately once each month, the PIT meetings, Program Integration
1099 Team meetings, would expand to a full Deepwater program review with all
1100 management present, and that usually included the ICGS, the different
1101 subcontractors, as well as the Coast Guard officers.

1102

1103 On numerous occasions I presented the design, installation and security
1104 briefings appropriate to my cutter class to ensure coordination of our

1105 cams (ph) and legacy plans.

1106

1107 During these PIT meetings, the various LSEs, or lead system engineers,
1108 would become aware of the problems and issues faced by their
1109 counterparts. So part of the purpose of the meeting was to make sure we
1110 compared notes and made sure that we all met a common design.

1111

1112 We would occasionally compare notes to see if a common resolution to our
1113 problems were possible. Often, the aggressive pace of my own project and
1114 the structure of the Deepwater program required that my team maintain
1115 focus on our own design issues.

1116

1117 However, whenever I found an issue that concerned me and I was unable to
1118 influence a change, I would advise upper management of the problem.

1119

1120 In August 2003, my team began upgrades of the cams (ph) (inaudible) or
1121 the Master Station Atlantic facility, an installation of the first
1122 Deepwater sea-based asset, the U.S. Coast Guard Northland. We completed
1123 these installations within one month, thereby establishing the milestone
1124 of the first successful asset delivery to the Coast Guard Deepwater
1125 program.

1126

1127 BRADEN: And by year end, we followed this achievement with the

1128 successful installation of the Deepwater C4ISR suite aboard the Cutter
1129 Tampa. The subsequent string of successful installations has been a
1130 continuing source of personal satisfaction for my design and
1131 installation team. I personally take great pride in expeditiously and
1132 cost-effectively completing the first successful and compliant Deepwater
1133 installations in the history of the program.

1134

1135 I continue to manage and guide the installation of the first nine
1136 270-foot legacy cutters, and develop the design and installation
1137 procedures for the remaining 210- and 378-foot cutters. In March 2004, I
1138 was removed from the Deepwater program and transferred to another
1139 program.

1140

1141 This concludes my testimony. I'd be please to answer any questions the
1142 committee may have.

1143

1144 OBERSTAR: Thank you, Mr. Braden.

1145

1146 Mr. Sampson, please identify yourself and proceed to your testimony.

1147

1148 SAMPSON: Good afternoon, Congressman Oberstar, Congressman Cummings and
1149 distinguished committee and subcommittee members. My name is Scott
1150 Sampson. I have been requested to come before you today to discuss my

1151 involvement with the 123 Program as associated with the Deepwater
1152 program.

1153

1154 I have a unique perspective of this program in that I work for the DOD
1155 agency which expressed grave concern about a potential extension of a
1156 110-foot patrol boat to 123 feet, and then changed jobs to work for a
1157 Coast Guard office which supports these modified cutters.

1158

1159 Today, I will tell you about the people I communicated my concerns to
1160 that were, unfortunately, realized.

1161

1162 If I may request, Mr. Chairman, I would like my written statement
1163 entered into the record.

1164

1165 OBERSTAR: Without objection, so ordered. Your statement will be included
1166 in the record.

1167

1168 SAMPSON: Thank you, sir.

1169

1170 The DOD agency I worked for was the Combatant Craft Division, a
1171 detachment of the Naval Surface Warfare Center Carderock Division,
1172 otherwise known as CCD. CCD had designed a similar extension on a
1173 similar platform and felt, based on lessons learned, that the proposed

1174 method of modification of the 110 was at a high risk for failure.

1175

1176 While I was with CCD, three key contacts were made to express concerns
1177 over the proposed design modification. The first was Debu Ghosh of the
1178 Coast Guard's Engineering Logistics Center. Mr. Ghosh was the branch
1179 chief of the Boat Engineering Branch. Second, was Diane Burton of the
1180 Coast Guard's Deepwater program office. Ms. Burton is the Deepwater
1181 surface technical director. The third person that was contacted was
1182 Dennis Fanguy of Bollinger Shipyard. Mr. Fanguy was the head of their
1183 engineering department.

1184

1185 These conversations were conducted in the August to September 2002
1186 timeframe, with the exception of Mr. Fanguy who was contacted shortly
1187 thereafter.

1188

1189 It was explained to each of these individuals not only concerns
1190 associated with a proposed modification of the 110, but where those
1191 concerns stemmed from as they pertained to a similar experience with a
1192 Navy craft. These concerns centered around several items, but
1193 specifically included longitudinal strength, running trim and
1194 engineering experience.

1195

1196 Mr. Ghosh appeared to share our concerns and attempted to hire combatant

1197 craft to assist with oversight. Specifically, Mr. Ghosh requested, and I
1198 provided, a statement of work and an estimate to provide 14 days on
1199 onsite support at Bollinger Shipyards consisting of two naval
1200 architects, and also to provide an seakeeping analysis comparing the 110
1201 to the 123.

1202

1203 SAMPSON: The estimate for this level of support was \$42,000.

1204

1205 Mr. Ghosh told me shortly thereafter that the Deepwater program office
1206 would not supply the funding. Conversations with the other two contacts,
1207 Ms. Burton and Mr. Fungeye (ph), were short with little discussion.

1208

1209 Matagorda was inducted into Bollinger shipyard on the 2nd of February,
1210 2003. On the 5th of March, 2004, the Matagorda was delivered back to the
1211 Coast Guard, and on 10th of May, 2004, entered a post-delivery
1212 maintenance availability.

1213

1214 Within days of leaving this availability, in early part of September
1215 2004, Matagorda suffered damage in the middle of the cutter, buckling
1216 the side shell and deck.

1217

1218 This is the type of longitudinal failure that the combatant craft
1219 division anticipated seeing, and had warned the Coast Guard and

1220 Bollinger shipyard about.

1221

1222 This predicted failure occurred not as a result of fatigue or corrosion,

1223 but rather from one short period of operation in a sea reported to be

1224 four to six feet in height.

1225

1226 This longitudinal (inaudible) failure was acknowledged in a report

1227 issued by ELC entitled, "Matagorda Buckling Incident Analysis," dated 24

1228 September, 2004, and verified our concerns expressed in August of 2002.

1229

1230 After two attempts to make the 123s usable for service, the Coast Guard

1231 made the decision to lay the vessels up until a final decision could be

1232 made as to whether or not they could be repaired.

1233

1234 The Coast Guard made this decision after extensive inspection of the

1235 cutters. All eight cutters are currently located at the Coast Guard

1236 yard.

1237

1238 Mr. Chairman, this concludes my own statement. I'll be more than happy

1239 to answer any questions you may have.

1240

1241 OBERSTAR: Thank you very much, Mr. Sampson. That's very critical

1242 testimony for the inquiry of the committee.

1243

1244 I've heard a couple of cell phones or other devices going off. Under the
1245 committee rules, all communication devices must be inaudible. Turn them
1246 off, or put them on vibrate.

1247 Mr. Atkinson -- and you may feel free in your remarks to respond to the
1248 issues raised by Mr. Mica earlier.

1249

1250 ATKINSON: Thank you, sir.

1251

1252 My name is James Atkinson. I'm the president and senior engineer of
1253 Granite Island Group, located in Gloucester, Massachusetts.

1254

1255 We specialize in electronics engineering. We perform bug sweeps. We
1256 perform wiretap detection. We stop technical espionage. We plug leaks,
1257 both in classified and in unclassified communication systems.

1258 Essentially, we hunt spies.

1259

1260 I am considered to be one of the top international experts on the
1261 subject matter of TSCM TEMPEST, and technical security.

1262

1263 I have attended private and government-sponsored TSCM TEMPEST,
1264 cryptographic technical intelligence, electronics and security training
1265 both in the United States and abroad. I have been involved in many

1266 hundreds of TSCM TEMPEST inspections over the last 25 years of
1267 government service and private sector assignments.

1268

1269 My clients include the major -- heads of the major corporations, heads
1270 of state, diplomats, government agencies, defense contractors,
1271 hospitals, courthouses, political leaders, ministers, small businesses,
1272 large ministers and virtually every walk of our country.

1273

1274 Due to the nature of my -- of the services I render to my clients, it
1275 would not be prudent to disclose precisely who they are. However, I've
1276 been to Washington, D.C. many times on business to render such services.

1277

1278 I am one of the few people who can clearly explain the highly technical
1279 and highly classified subject matters such as TEMPEST and TSCM to this
1280 committee in an unclassified way, so that a non-technical layman can
1281 understand it. And I can provide a voice of reason.

1282

1283 ATKINSON: The documents in this matter are highly technical, and it
1284 takes a TEMPEST and TSCM expert to fully understand what is really in
1285 those documents, what it really represents, and what they really mean,
1286 and to bring forth the gravity of what is really going on.

1287

1288 The core message here is that TEMPEST is a rigorous series of government

1289 standards which have been developed by the National Security Agency. The
1290 purpose is to protect classified equipment, signals and information from
1291 eavesdropping.

1292

1293 TEMPEST focuses on securing classified equipment and systems in order to
1294 keep electronics from leaking secrets. Our foreign adversaries know
1295 about TEMPEST and a related field and know how to steal our electronic
1296 secrets from equipment that does not comply with these rigorous
1297 standards.

1298

1299 For example, the nations of Cuba, Iran, India, China, Colombia, France,
1300 North Korea and many other countries have become quite adept in
1301 eavesdropping on our improperly protected classified equipment.

1302

1303 While most countries are our allies, the United States has designated
1304 over 30 nations to be openly hostile to the United States. And there is
1305 strong evidence that these countries not only do have the equipment to
1306 eavesdrop on our leaking equipment, but do so on a regular basis.

1307

1308 Gentlemen, it's my unpleasant duty to inform you that the Coast Guard,
1309 ICGS and Lockheed Martin have been highly negligent in their oversight
1310 of the Deepwater program, that many millions of dollars has been wasted
1311 on ships that don't float and classified electronics which leak national

1312 security secrets.

1313

1314 During my review of the technical documents in this matter, I discovered

1315 that the United States Coast Guard was not being forthcoming with

1316 information to this committee and that the Department of Homeland

1317 Security Office of Inspector General had previously requested in regard

1318 to C4ISR and TEMPEST issues.

1319

1320 I found that instead they were hiding malfeasance within these documents

1321 and a deeply flawed procurement process.

1322

1323 Further review determined that there was significant lack of oversight

1324 on the part of the United States Coast Guard and that they were using

1325 doublespeak in their answers to this committee and evading politically

1326 uncomfortable questions put before them.

1327 Based on the analysis of the numerous documents, to include detailed

1328 TEMPEST reports, which the Coast Guard eventually, albeit begrudgingly,

1329 provided to the committee, I was able to determine the following: From

1330 the very beginning, the very first day of the program, the Coast Guard

1331 did not clearly define the technical specifications and standards that

1332 these ships had to comply with in order to protect classified

1333 information.

1334

1335 The contractor, in turn, delivered substandard and highly defective
1336 assets, as there was little or no Coast Guard oversight on the project,
1337 even though the government was paying the contractor to provide
1338 oversight as the integrator.

1339

1340 The Coast Guard accepted delivery of these defective ships, and instead
1341 of correcting many of defects, merely covered them up with waivers or
1342 used substandard parts to create the illusion of a repair.

1343

1344 ATKINSON: An example is unclassified and classified local area network
1345 connection boxes were supposed to be separated from each other. The
1346 Coast Guard chose to resolve this problem merely by putting stickers on
1347 the equipment, as opposed to fixing it. So they patched the leak with a
1348 Post-it note.

1349

1350 Not only has the contractor responsible for this waste butchered eight
1351 valuable ships and rendered them worthless, they have then endangered
1352 national security in delivering ships that leak secrets, contain
1353 significant vulnerabilities and which provide a clear and present danger
1354 to our national security.

1355

1356 The Coast Guard was, and still is, spending money like a drunken sailor
1357 on shore leave with minimal oversight. The Coast Guard lacks the core

1358 competencies and resources to protect this classified information
1359 through their TEMPEST program. ICGS has taken advantage of the United
1360 States after 9/11, and has taken advantage of the Coast Guard in
1361 particular. The Coast Guard put more priority on its public relations
1362 program than it did with her TEMPEST program.

1363

1364 My recommendations is that the -- this committee pull the plug on the
1365 Coast Guard's access to classified information, that it revoke SIPRNet
1366 access and essentially revoke the Coast Guard's security clearance. This
1367 should be done by the end of business today.

1368

1369 Also, I recommend that you initiate an exhaustive, top-down study of all
1370 COMSEC -- Coast Guard COMSEC, TEMPEST, non-stop, TSCM, emissions
1371 security and related technical security and engineering disciplines, and
1372 focus on all assets of the Coast Guard, not just the Deepwater ships.

1373

1374 I recommend that this committee assume that every Coast Guard asset is
1375 suspect until it can be scientifically proven secure through actual
1376 instrumented analysis, and not just waived as has been the case of
1377 late.

1378

1379 I recommend that all eight cutters be stripped of anything of value, and
1380 that they be sold off as scrap metal.

1381

1382 Cancel or suspend all current and upcoming contracts with ICGS and
1383 Lockheed Martin until this matter can be fully resolved. And consider
1384 issuing an interim debarment against Lockheed Martin and ICGS until
1385 their full management has been forthcoming with appropriate answers.

1386

1387 Also, refuse to allow the Coast Guard to possess, access, obtain
1388 materials or gain access to any classified networks until each asset has
1389 been subjected to a rigorous and independent, highly detailed technical
1390 inspection by somebody outside of the Coast Guard.

1391

1392 Refuse to allow the Coast Guard to purchase any further tactical or
1393 deepwater assets unless other elements of United States government
1394 provide very close oversight of the specifications, designs and
1395 procurement of such systems.

1396

1397 The natural agency to assist the Coast Guard with this would be the U.S.
1398 Navy, who should handle the procurement and oversight of the Coast Guard
1399 assets until such time the Coast Guard is competent and can be trusted
1400 to do this themselves, which they have not been able to of late.

1401

1402 Identify the top command-level officers within the Coast Guard who had
1403 the ultimate responsibility for the oversight of this program, and then

1404 remove them from any further government service.

1405

1406 Finally, we have to assume that Department of Homeland Security is not

1407 competent in these matters, and that their lack of oversight is

1408 widespread and institutionalized.

1409

1410 Patrick Henry stated years ago that we are apt to shut our eyes against

1411 a painful truth. But from my part, I am willing to know the whole truth,

1412 to know the worst of it and to provide for it.

1413

1414 Gentlemen, the project was doomed to fail at the very beginning. When

1415 modern electronics operate, they generate electromagnetic fields.

1416 Digital computers, radios, typewriters and so on generate tremendous

1417 amounts of electromagnetic energy.

1418

1419 Compromising the emanations is that electromagnetic energy. This can be

1420 conducted through the airwaves, over the power lines, over the phone

1421 lines, cable TV. The TEMPEST standards are very rigid as to how these

1422 emanations are controlled.

1423

1424 The Coast Guard completely disregarded all of the specifications except

1425 one, and the one which they chose to pay attention to, they evaded on it

1426 significantly.

1427

1428 Most consumer market equipment leaks significantly. However, if
1429 somebody's computer leaked a little bit of information, they may have
1430 personal embarrassment. If a national security cutter, or a Coast Guard
1431 cutter, or a B-2 bomber or other tactical equipment leaks, national
1432 security is at risk.

1433

1434 This project was doomed to failure. It boils down to two core issues: a
1435 lack of oversight and malfeasance.

1436

1437 On the issue of my mission statement -- my mission statement was
1438 actually published many years ago. It says that I hunt spies and I hunt
1439 bad people. That's what it says.

1440

1441 Lockheed Martin has a real problem with this because that issue was
1442 brought up repeatedly by Lockheed Martin previously after their security
1443 people were caught dealing with convicted felons to purchase illegal
1444 bugging equipment and to do moonlighting.

1445

1446 ATKINSON: This issue was brought up my Lockheed Martin and provided to
1447 the Coast Guard. I have a full audit trail from my Web site logs of them
1448 doing this. That concludes my...

1449

1450 OBERSTAR: Thank you very much, Mr. Atkinson.

1451

1452 Mr. Atkinson has used -- and throughout the testimony, we hear -- the

1453 acronym TEMPEST, which stands for telecommunications electronics

1454 material protected from emanating spurious transmissions. A layman's

1455 definition might be unclassified signals that leak from improperly

1456 shielded cables.

1457

1458 You can go to RadioShack and buy a device that can tap into a modem that

1459 is not properly shielded and get fax information and get computer

1460 information from your neighbor's home, if you wish to do that.

1461

1462 The NATO electronic spies in Germany in the 1950s discovered that they

1463 could break into classified information by using unclassified signals

1464 that allowed them to trace back and into the heart of the technology in

1465 use, and that is why the issue of TEMPEST is so critically important

1466 here.

1467

1468 And we'll come to that later. We have a series of four votes on the

1469 floor. We have eight minutes remaining on the first vote. We will recess

1470 for the four votes, resume immediately thereafter with Mr. Cummings and

1471 the chair. The Committee stands in recess.

1472

1473 (RECESS)

1474

1475 CUMMINGS: Ladies and gentlemen, we're going to resume the hearing. We
1476 left off with Mr. Atkinson to finish his testimony. And I want to thank
1477 our panelists for your remarks.

1478

1479 CUMMINGS: I'm going to start off with a few questions.

1480

1481 Mr. De Kort, you mention in your testimony that you brought a number of
1482 matters to the attention of senior Lockheed management. How high did you
1483 take these issues and what responses did you receive?

1484

1485 DE KORT: I took the matters to the CEO, Robert Stevens, on at least two
1486 occasions, and the board of directors. And the response I received was
1487 that the allegations were baseless or had no merit, and I believe that
1488 was based on Lockheed's contention that they had disclosed all the
1489 issues to the Coast Guard or resolved them, and they were handled
1490 contractually.

1491

1492 CUMMINGS: Now, did you ever contact the Coast Guard directly?

1493

1494 DE KORT: Yes.

1495

1496 CUMMINGS: And since you did that, who did you contact?

1497

1498 DE KORT: I contacted a Commander Ciampaglio and Mr. Jacoby, who's here.

1499 I contacted Lieutenant Commander Derr (ph), who was, I believe, on the

1500 commandant's staff at the time. I contacted the group commander of the

1501 boats in Key West. And I think that's it.

1502

1503 CUMMINGS: And what kind of responses did you receive?

1504

1505 DE KORT: Well, "Thank you," was the response I got.

1506

1507 CUMMINGS: "Thank you"?

1508

1509 DE KORT: Yes. "We're look into it."

1510

1511 CUMMINGS: "But no thank you"?

1512

1513 DE KORT: They didn't say the, "No, thank you," part, but I understand

1514 your point.

1515

1516 CUMMINGS: As a Lockheed employee, had you ever been involved in another

1517 Lockheed project in which the company failed to meet contractual

1518 requirements in the way that you describe on the Deepwater program?

1519

1520 Had you worked on any other contracts?

1521

1522 DE KORT: Not of the same type or scale, no, sir.

1523

1524 CUMMINGS: OK.

1525

1526 What was your role in the installation of the TEMPEST hardware in the

1527 123s?

1528

1529 DE KORT: I was the lead system engineer for the 123s for C4SR, which

1530 meant that the final design, the installation, was my responsibility,

1531 and basically the final design.

1532

1533 Like I'd explained in my statement, I came on board after the final

1534 design review, so everything was pretty much locked in concrete at that

1535 point. And they had ordered all the materials.

1536

1537 The reason why the requirements were brought back up is because, as I

1538 understand it, after the RAND study the Coast Guard asserted a more

1539 aggressive posture in rolling out the programs, because the RAND study

1540 had said, you know, if you want 100 percent mission satisfaction, you

1541 have to pull back your schedule five or 10 years -- and they had

1542 actually recommended 10.

1543

1544 DE KORT: And I believe that was what precipitated us rolling out the

1545 123s differently than was originally proposed.

1546

1547 Originally, there was something called an increment 1. Increment 1 was

1548 their first set of requirements. When I took over the system engineer

1549 role, they decided to deliver an increment 0, which was a subset of

1550 increment 1.

1551

1552 So we were trying to decide: What would that subset be and what were the

1553 requirements associated with it? Did we deliver them entirely, not at

1554 all, partially? So we -- part of my job was to figure out what increment

1555 0 was.

1556

1557 And then, as I was figuring out what increment 0 was, I was asking,

1558 well, then, what is our implementation? What is it we're doing to

1559 resolve that requirement? And where are we in going down that road?

1560

1561 CUMMINGS: Did you all ever come to any conclusions as to what would be

1562 the standard?

1563

1564 You just talked about the conversations that you may have had. And I'm

1565 trying to determine whether or not there was clarity at some point with
1566 regard to what those standards would be.

1567

1568 DE KORT: Well, there was basically, from the very beginning, sir, a
1569 difference of opinion. When these issues were brought forward, the
1570 response was -- and it occurred over and over again -- we have a design
1571 of record.

1572

1573 And what that meant is we don't want to hear it. If what you're bringing
1574 to me is that -- an issue that's going to cause any schedule or
1575 financial problems or cost problems, we're not going to change it; we're
1576 not going to do anything.

1577

1578 CUMMINGS: And I take it you had some concerns about the way things were
1579 proceeding. Is that correct?

1580

1581 DE KORT: Oh, yes, sir.

1582

1583 CUMMINGS: And what were your major concerns or fears?

1584

1585 DE KORT: Well, individually, I think the issues are pretty severe. I
1586 mean, it's the Coast Guard. So if you're putting equipment on Coast
1587 Guard vessels -- and I'm talking about every Coast Guard vessel for the

1588 next 20 years, everything that Deepwater does -- that won't survive the
1589 elements,

1590

1591 OK, that's bad enough.

1592

1593 That you can't use their classified systems without compromising and
1594 have somebody eavesdropping.

1595

1596 You have low smoke cables that if, you know, if they catch on fire, you
1597 know, could cause someone to be overcome with smoke or make the fire
1598 spread faster.

1599

1600 The blind spots on their surveillance system. I mean, the blind spots
1601 were very, very large, and they led right up to the bridge.

1602

1603 So, individually, some of those issues are pretty significant.

1604

1605 In total, I don't think it's an overstatement to say that if they
1606 continued, it would have crippled the Coast Guard.

1607

1608 Had these boats not cracked or had they not cracked for some period of
1609 time, all 49 boats would have been delivered with these issues.

1610

1611 CUMMINGS: The ICGS team produced a document called "Evaluation of
1612 TEMPEST Requirements to be followed aboard the Deepwater 123 (inaudible)
1613 Class patrol boat." And it was authored by a Joe Agat (ph). Are you
1614 familiar with that document?

1615

1616 DE KORT: Yes, sir.

1617

1618 CUMMINGS: And it was dated February 20th, 2003. Is that correct?

1619

1620 DE KORT: Yes, sir.

1621

1622 CUMMINGS: To your knowledge, were the procedures for installing the
1623 TEMPEST hardware spelled out in this guide followed during the
1624 installation of the C4ISR hardware on the 123s?

1625

1626 DE KORT: No, sir, the majority were not followed.

1627

1628 CUMMINGS: And was that book, this document -- I guess this was like the
1629 Bible as far as the guide that's concerned, is that right, as to what
1630 you're supposed to be doing?

1631

1632 DE KORT: Yes, sir, if I could, a little bit of history. As I understand
1633 it, going back to the beginning, there was some disagreement or a lack

1634 of understanding on Lockheed's part of what it meant to do TEMPEST and
1635 to have TEMPEST. And, as such, as it was explained to me, it wasn't bid,
1636 or at least not entirely.

1637

1638 Well, at some point, Lockheed realized that they had classified
1639 circuits. As soon as you put these classified circuits on a boat, you
1640 assume TEMPEST. It's part of the deal. It's what happens. So they asked
1641 an internal engineer to go tell them what they needed to do in order to
1642 satisfy those requirements. And keep in mind, this is after the bid had
1643 been accepted and they had already started.

1644

1645 CUMMINGS: So what you're saying is, is that the bid had been accepted.

1646

1647 DE KORT: Yes.

1648

1649 CUMMINGS: The requirements were not online to be met with regard to
1650 TEMPEST?

1651

1652 DE KORT: They literally didn't know what needed to be done.

1653

1654 CUMMINGS: The Coast Guard did not know?

1655

1656 DE KORT: No, no, no, Lockheed.

1657

1658 CUMMINGS: Lockheed.

1659

1660 DE KORT: Lockheed did not know, at the time they asked for that report

1661 internally, exactly what they needed to do to satisfy the TEMPEST

1662 requirements.

1663

1664 CUMMINGS: Now, you just made a very -- that's a very strong statement

1665 you just made. You understand you're talking about Lockheed Martin, do

1666 you not?

1667

1668 DE KORT: Yes, sir, you don't -- I'm sorry.

1669

1670 CUMMINGS: Let me finish. Now, you're talking about an organization that

1671 is known worldwide for producing all kinds of systems in this realm. You

1672 understand that?

1673

1674 DE KORT: Yes, sir. I'm saying they weren't competent.

1675

1676 CUMMINGS: I'm sorry?

1677

1678 DE KORT: I'm saying they weren't competent, and I can explain how they

1679 got to that position.

1680

1681 CUMMINGS: Well, tell me.

1682

1683 DE KORT: And this was explained to me by Mr. Bruce Winterstine who is on

1684 one of the panels. I was actually on the proposal team for three days.

1685

1686 DE KORT: During that period, when I came in, I had asked Mr. Winterstine

1687 how the bid was going to be structured. And he -- they explained to me

1688 that the Morristown group that primarily does Aegis was going to be the

1689 lead group, and that previously to that there had been another group

1690 that was going to be involved or lead out of Egan, Minnesota, where the

1691 C4ISR engineers were.

1692

1693 And they said, well, we'll going to bid it out of Morristown so we can

1694 leverage Aegis, which strategically is a great idea. Aegis is a

1695 fantastic system. I understand why you want to leverage it.

1696

1697 But I told them, I said, "Look, you people are Aegis engineers, OK, and

1698 you have a software background. You need to go back to Egan, Minnesota,

1699 get the C4ISR experts and have them as part of your team."

1700

1701 And I was told, "No, we don't need to do that." And I asked why. And

1702 they said, "Because Aegis is difficult. We've been doing it for 30

1703 years. We know what we're doing. The C4ISR area is easy. We'll figure it
1704 out, no problem. We don't need that other group." OK.

1705

1706 That's literally how it happened. It's a perfect storm, sir.

1707

1708 So when you get into an aggressive bidding situation where you have to

1709 move out fast, you may have underbid and your staff -- and not in all

1710 cases. Let me say here that there are some very dedicated people,

1711 lower-level engineers who worked extremely hard and some who did have

1712 the background required. But there weren't nearly enough of them. OK.

1713

1714 So they literally shut out the C4ISR experts that they had in the

1715 company. Of course, sir, Lockheed Martin is the world's largest defense

1716 contractor. They have over 100,000 employees. They have plenty of

1717 people, sir, who know how to do this well. And I recommended to them

1718 that they go back to Minnesota and get those people, and they said no. I

1719 fought the issue for three days and they removed me from the proposal

1720 team.

1721

1722 CUMMINGS: So basically what you're saying is that the contractor

1723 personnel and the Coast Guard personnel working on the C4ISR system --

1724 you're saying they weren't qualified to understand TEMPEST, TEMPEST

1725 requirements?

1726

1727 DE KORT: I'm saying, sir, that the people who were involved at time,

1728 that were working on the proposal at the time I was there, were not.

1729 What they were doing is, since Aegis is a very large command and control

1730 system, very complicated, large command and system, I believe they were

1731 trying to leverage that expertise.

1732

1733 DE KORT: And the ironic part is, is C4SR in these areas, since it's all

1734 off the shelf, compared to Aegis, is actually much easier to figure out.

1735 There's not a lot of complicated engineering.

1736

1737 However, you still need to know what you're doing.

1738

1739 CUMMINGS: Overall, why do you think the 123s had so much difficulty

1740 achieving TEMPEST certification?

1741

1742 DE KORT: Because when you have 100 cables that are not the right type, I

1743 mean, you run into problems. I mean, TEMPEST can be moderately difficult

1744 on a very small craft because of very tight space constraints. So a lot

1745 of engineering and thought has to be put into how do you co-locate

1746 systems that are red and black. **And Mr. Atkinson can explain later.**

1747

1748 But basically red and black were classifications for the part of the

1749 system that is clear and unencrypted and the part of the system that is
1750 encrypted and not clear.

1751

1752 Well, it's very difficult to do on a small ship. But to go the extra
1753 degree to not actually purchase the equipment that is very, very basic
1754 to TEMPEST requirements just starts you off at a very bad place.

1755

1756 In DOD and the State Department, sir, everybody used the proper shielded
1757 cable. It was the backbone -- or one of the backbone items that you
1758 always do.

1759

1760 And they didn't do it because of cost.

1761

1762 CUMMINGS: The Department of Homeland Security I.G. indicates that the
1763 contract on the 123, Mr. De Kort, used aluminum mylar shielded cable as
1764 part of the cutter upgrade. The I.G. indicates that these cables met
1765 minimum Deepwater contract requirements for the shielded cable but do
1766 not have the mechanical durability of the braided metallic shielded
1767 cable.

1768

1769 Do you know which type of cable the ICGS TEMPEST requirements document
1770 required?

1771

1772 DE KORT: Again, sir, this is going to get into an area where even -- I
1773 have a TEMPEST background relative to working on cryptographic equipment
1774 and systems, but you're getting into some particulars that are better
1775 left to Mr. Atkinson. But I can say that.

1776

1777 CUMMINGS: Well, let me ask you this. What type of cabling was installed
1778 on the 110s prior to their conversion?

1779

1780 DE KORT: I've been unable to determine that, sir. I was told that they
1781 had the braided, shielded cable. Not only that, but Mr. Braden can tell
1782 you that the braided, shielded cable was used on his effort, not on mine
1783 -- or on the 123s, I should say.

1784

1785 CUMMINGS: Now, you know Mr. Braden?

1786

1787 DE KORT: Yes, sir.

1788

1789 CUMMINGS: And how did you come to know him.

1790

1791 DE KORT: We were both system engineering leads of our respective parts
1792 in the project.

1793

1794 CUMMINGS: So you have worked with him.

1795

1796 DE KORT: There were occasions, sir, that we did. Mostly it was in
1797 program management meetings. We actually didn't work side by side all
1798 the time.

1799

1800 CUMMINGS: OK. Now did you raise the issue of noncompliance of the
1801 topside equipment on the 123s with senior Lockheed management?

1802

1803 DE KORT: All the way to the CEO and the board of directors, sir.

1804

1805 CUMMINGS: All the way up to who?

1806

1807 DE KORT: The board of directors and the CEO of Lockheed Martin. I went
1808 up through my functional chain, the program management chain, the
1809 engineering chains and the ethics chains, all the way up to the CEO and
1810 board of directors.

1811

1812 CUMMINGS: And when you say you went up to the CEO, board of directors,
1813 what do you mean by that? How did you do that?

1814

1815 DE KORT: I sent e-mails to Robert Stevens, at least two of them, and the
1816 board of directors I sent a letter.

1817

1818 CUMMINGS: To the entire board?

1819

1820 DE KORT: Yes. Well, I sent it to a specific individual who I believe was
1821 the ethics officer on the board.

1822

1823 CUMMINGS: Now did you discuss with anyone at Lockheed the need for
1824 noncompliance of the topside equipment with the Deepwater contract
1825 requirements to be noted on the DD250s? If so, what was the outcome of
1826 those discussions?

1827

1828 DE KORT: I was told before the 123s, the first one delivered, the
1829 Matagorda, that every item that I had brought forth would either be
1830 repaired or clearly called out in the DD250s as being a problem. The
1831 first time I actually saw the DD250s or was told what they contained was
1832 recently. And, as I understand, the DD250 for the Matagorda, that item
1833 does not show.

1834

1835 CUMMINGS: Now, why was topside equipment so crucial?

1836

1837 DE KORT: The topside equipment is all the externally-mounted equipment
1838 that supports the C4ISR system. So for the communications systems, it's
1839 everything on the outside on the boat that you would need for the
1840 systems, usually antennas.

1841

1842 But for sensors, like radar, it's the radar antenna, and there's other
1843 equipment up there like amplifiers. And then for other vessels like the
1844 NSC and the FRC, there would be many, many more systems.

1845

1846 Basically, the 123s had communication systems.

1847

1848 DE KORT: They had sensor systems. And they had navigation systems.

1849

1850 So for those systems, if there was anything that those systems required
1851 to operate, that was attached to the outside of the boat.

1852

1853 CUMMINGS: Let me ask you something.

1854

1855 You mentioned a moment ago the word "ethics." You said you -- something
1856 about an ethics complaint or complaints.

1857

1858 Did you file complaints?

1859

1860 DE KORT: There were three separate ethics investigations internal to
1861 Lockheed Martin conducted.

1862

1863 CUMMINGS: And were those with regard to the issues that you just

1864 mentioned here?

1865

1866 DE KORT: Yes, sir, all of them.

1867

1868 CUMMINGS: Could you just tell us in a sentence or two what those were

1869 now?

1870

1871 DE KORT: The external equipment being able to survive the environment,

1872 the blind spots for the cameras, the (inaudible) cables and TEMPEST.

1873

1874 The reason why the non-waterproof radio was not included is because,

1875 like I explained in my statement, they'd actually swapped it out right

1876 before they delivered the Matagorda. So I did not include that in my

1877 ethics statement other than to say, "Look, you know, any group who is

1878 willing to put a non-weatherproof radio on an exposed boat like that --

1879 something's wrong and something needs to be looked into." And especially

1880 when they order more radios after you tell them it's a mistake.

1881

1882 So it was an incidental item.

1883

1884 CUMMINGS: And what happened with regard to those investigations?

1885

1886 DE KORT: The answer for the first one was, literally, "The allegations

1887 all have no merit. They are all baseless and we're not going to tell you
1888 why."

1889

1890 CUMMINGS: And that was the response from the ethics officer?

1891 DE KORT: It was from a John Shelton, who was the ethics investigator for
1892 the Lockheed Martin organization out of Morristown.

1893

1894 And then after that there were two more investigations. Every time they
1895 came back to me and said that my allegations were baseless, I asked who
1896 their boss was.

1897

1898 CUMMINGS: And then you instead tried to go a step higher?

1899

1900 DE KORT: Yes, sir.

1901

1902 CUMMINGS: Now, would Mr. Braden or anybody else here have known of those
1903 -- because you said you work with Mr. Braden. Would he have known about
1904 that? We'll get to them a little later, but...

1905

1906 DE KORT: Would he have known that I necessarily filed an ethics...

1907

1908 CUMMINGS: Right.

1909

1910 DE KORT: Not that I was aware of. No, sir.

1911

1912 CUMMINGS: All right.

1913

1914 Did you see any evidence of Lockheed -- you mentioned a little earlier
1915 something about underbidding.

1916

1917 Is that -- is this a conclusion you came to, or...

1918

1919 DE KORT: Yes, sir. That's subjective on my part.

1920

1921 CUMMINGS: All right.

1922

1923 DE KORT: It's an observation of being in DOD. It's -- it's aggressively
1924 bid. Projects are basically priced to win. And more often than not, they
1925 turn out to be extremely aggressive, which is usually a politically
1926 correct term for underbid.

1927

1928 CUMMINGS: Did anybody at Lockheed ever tell you to just get on with it?

1929

1930 DE KORT: Yes, sir.

1931

1932 CUMMINGS: Is that right?

1933

1934 DE KORT: Well, everybody I talked to. I mean, my manager -- my
1935 functional manager actually told me -- and so did some other people, but
1936 they said, "You know, you're doing the right thing here, but it's going
1937 to come back to bite you."

1938

1939 CUMMINGS: Say that again? I'm sorry.

1940

1941 DE KORT: Several people, including my manager at the time, told me that
1942 I was doing the right thing, but it was going to come back to bite me.

1943

1944 CUMMINGS: So your immediate supervisor?

1945

1946 DE KORT: Yes, sir.

1947

1948 CUMMINGS: He knew you were doing the right thing, he told you.

1949

1950 DE KORT: That's what he told me, sir. Several engineers and program
1951 managers on the effort said the same thing.

1952

1953 CUMMINGS: Now, you said that you left the 123 program. Is that right?

1954

1955 DE KORT: I was removed from the program, yes.

1956

1957 CUMMINGS: And how'd that come about?

1958

1959 DE KORT: Well...

1960

1961 CUMMINGS: And when? And when?

1962

1963 DE KORT: Roughly January or February. I had sent an e-mail or letter,

1964 embedded an e-mail to at the time the acting technical director for the

1965 engineering group saying that I wanted to be removed from the project

1966 because they were going down a road that I just found intolerable.

1967

1968 However, later on I met with the V.P. of the organization, a man named

1969 Carl Banner (ph), and he told me everything would be resolved. And I

1970 said at that point, "Well, then, I would like to recall my letter to be

1971 removed. If you're going to do the right thing, then I want to be part

1972 of the right thing. I want to see this project to conclusion." But after

1973 that they removed me anyway.

1974

1975 CUMMINGS: My last question, Mr. De Kort. You understand that today

1976 you're under oath, do you not?

1977

1978 DE KORT: Yes, sir, I'm completely aware of that.

1979

1980 CUMMINGS: And you know what that means?

1981

1982 DE KORT: It means I should tell you the truth.

1983

1984 CUMMINGS: And that you are telling the truth.

1985

1986 DE KORT: Yes, sir.

1987

1988 CUMMINGS: And you understand that all kinds of agencies will probably

1989 review this transcript. Some are probably looking at this right now.

1990

1991 DE KORT: I would hope that they do.

1992

1993 CUMMINGS: And would you tell us why you've come forward? They term you a

1994 whistleblower, I guess you know that.

1995

1996 DE KORT: Well, at its essence I did not want a crew to come into harm's

1997 way down the road and to know that I could have done something about it.

1998 It's just that simple.

1999

2000 My background is Navy, State Department, counterterrorism for a while.

2001 I've been in DOD programs since I was 18 years in one capacity or

2002 another. OK? It's just real simple: I couldn't have that on my
2003 conscience.

2004

2005 CUMMINGS: Thank you very much.

2006

2007 Mr. LaTourette?

2008

2009 LATOURETTE: Thank you, Mr. Chairman.

2010

2011 And thank you all for your testimony.

2012

2013 Mr. De Kort, I made a note during the latter part of your responses to
2014 the chairman that it's your allegation that Lockheed Martin didn't do
2015 the braided, shielded cables, the low-smoke cables, the proper
2016 environmental work on the topside and 360 degree camera radius because
2017 of cost.

2018

2019 LATOURETTE: Is that your observation?

2020

2021 DE KORT: I was told we didn't do the TEMPEST cables, the shielded cables
2022 because of cost. The rest to some degree is an inference. Their response
2023 consistently was, "We're not going to slip the schedule, we're not going
2024 to have more budget issues."

2025

2026 And, to some degree, because there was a relationship with Northrop
2027 Grumman that was extremely contentious at the time -- I now refer to it
2028 as playing chicken -- they didn't want to fix the issues for any one or
2029 all of those reasons.

2030

2031 LATOURETTE: But I guess my question is this: My understanding -- and we
2032 can quibble about the exact value of the contract, but this about a \$90
2033 million contract to convert these eight boats from 110s to 123s. And not
2034 being in the boat business, I would think that the big chunk of change
2035 was probably in extended the hulls by -- that's not where the big money
2036 is?

2037

2038 DE KORT: I've been told that the C4ISR proportionally was a larger part
2039 of the budget. I could be wrong, but...

2040

2041 LATOURETTE: And so let me get to that. Is it your understanding that low
2042 smoke cables were called for in the Deepwater contract that Lockheed
2043 Martin bid for?

2044

2045 DE KORT: Yes, sir.

2046

2047 LATOURETTE: But they were not installed.

2048

2049 DE KORT: Yes, sir.

2050

2051 LATOURETTE: And is it your understanding that they weren't installed

2052 because low smoke cables cost more than the cables that were installed?

2053

2054 DE KORT: Yes, sir.

2055

2056 LATOURETTE: And that the same with the braided, shielded cables?

2057

2058 DE KORT: Yes, sir.

2059

2060 LATOURETTE: And the weatherization or making sure that the antenna on

2061 the topside is the same as that?

2062

2063 DE KORT: It's more supposition because there wasn't -- I don't know

2064 which one of those four issues was the overbearing reason for the

2065 environmental issue. What I'm saying is, is in the others, somebody told

2066 me specifically cost. In that one, it was any one of the four or all

2067 four reasons.

2068

2069 LATOURETTE: OK, so just so I'm clear, it's your testimony and allegation

2070 that the reason that Lockheed Martin didn't comply with the

2071 specifications that were in the Deepwater contract is because they
2072 wanted to install cheaper stuff?

2073

2074 DE KORT: Yes, sir. That is part of it, yes.

2075

2076 LATOURETTE: OK, and you understand that they say that's not so, right?

2077 And so we're going to be stuck with a problem here sooner or later.

2078

2079 DE KORT: Well, objectively, sir...

2080

2081 LATOURETTE: Yes.

2082

2083 DE KORT: ... if you look at the equipment that they wound up delivering

2084 and the equipment that I wanted them to delivery, the equipment that I

2085 wanted them to deliver, in every case, is more expensive.

2086

2087 LATOURETTE: OK.

2088

2089 DE KORT: So I don't think it's a leap.

2090

2091 LATOURETTE: OK. But I guess I'm trying to get expensive -- they put some

2092 cables in, and you're saying that the cables that the contract called

2093 for were more expensive. Are we talking on the scale of millions of

2094 dollars?

2095

2096 DE KORT: For the external equipment, over -- understand, sir, because

2097 it's system to systems, they were leveraging designs.

2098

2099 LATOURETTE: Right.

2100

2101 DE KORT: So if very well could be millions of dollars if the -- you

2102 know, the 123 was establishing the pattern so all the rest of the

2103 systems, they were contractually directed to make them common.

2104

2105 DE KORT: So, while it appears like a small issue for the 123s,

2106 understand that it was 49 123s and every other boat that they delivered.

2107

2108 So it is millions of dollars spread out, yes, sir.

2109

2110 LATOURETTE: OK.

2111

2112 Mr. Atkinson, to you, one I want to thank you for your testimony and

2113 your charts because you truly did make the TEMPEST system understandable

2114 by people as dumb as I am. And I appreciate that. I now have an

2115 understanding. And I thought that your explanation was a good one.

2116

2117 But to you, how did you get involved in this project to the point where
2118 you wrote us 128 or 138 pages of stuff?

2119

2120 ATKINSON: Sir, I was contacted by the committee and asked to provide
2121 expert guidance as to how to query properly the Coast Guard and Lockheed
2122 Martin, because the documents which had been produced to date -- this is
2123 dating a month ago -- were not answering the questions that the
2124 committee needed answers.

2125

2126 And I was asked to assist the committee in demanding from the Coast
2127 Guard the relevant documents which the Department of Homeland Security
2128 OIG had failed to pick up on. TEMPEST is a very tricky matter. It's very
2129 easy for a defense contractor to ignore it. It's also very easy for them
2130 to conceal their ignorance of it, or their ignoring of it.

2131

2132 And I was engaged by this committee. I've donated my time to this
2133 committee to assist this committee in finding the truth and by helping
2134 the committee identify the documents that the committee needed to
2135 conduct its business.

2136

2137 LATOURETTE: Good. And I appreciate that. And I think everybody on the
2138 committee appreciates your willingness to donate and volunteer your
2139 time.

2140

2141 And I found the questions in your amendments to be -- I assume those are
2142 the questions you're talking about that people need to ask to get the
2143 answers that you think need to be answered?

2144

2145 ATKINSON: Yes, sir.

2146

2147 This committee needs to ask all of those questions on the responsible
2148 players.

2149

2150 LATOURETTE: OK.

2151

2152 Which brings me to the next part of my question, and that is the
2153 observations that you make in the first 36 or odd pages of your
2154 testimony relative to the TEMPEST tests that were performed and how they
2155 were performed, how they weren't performed properly and things of that
2156 nature.

2157

2158 But that comes about as not from an inspection of the systems on the
2159 123. That comes about as a result of your examination of the documents
2160 that were obtained from the Coast Guard?

2161

2162 ATKINSON: Yes, sir.

2163

2164 I advised the committee on what documents to demand from the Coast
2165 Guard. The Coast Guard provided some of the documents, albeit
2166 reluctantly, to this committee. I examined those documents. I found
2167 significant inconsistencies in those documents, which I brought to this
2168 committee's attention in the form of my written report.

2169

2170 LATOURETTE: Right. And I saw that.

2171

2172 But I guess my question to you is -- and I don't know what people on the
2173 next panels are going to testify, but we have three more panels of
2174 people including the Coast Guard and people from the Navy and so forth
2175 and so on.

2176

2177 Is there -- based upon your field of study, your expertise, what you do
2178 for a living -- if people come forward and testify under oath that in
2179 fact the TEMPEST tests were performed properly, and that this system
2180 passed, is there any way in your opinion that they could give such an
2181 answer?

2182

2183 ATKINSON: Could I get you to repeat the question, sir?

2184

2185 LATOURETTE: No, I don't remember the question.

2186

2187 (LAUGHTER)

2188

2189 The question is that, as I read your testimony, you came to a conclusion

2190 that there's no -- not no way -- but that this system wasn't properly

2191 tested.

2192

2193 LATOURETTE: And you go to great lengths to tell us that. I don't know

2194 who's coming next -- I know who's coming next. I don't know what they're

2195 going to say until they say it, but based upon the documents that you

2196 reviewed, is there any way that you believe someone could sit before

2197 this committee and say that this system -- these systems that were

2198 installed in the eight 123s -- could pass the TEMPEST testing system?

2199

2200 ATKINSON: I will make the answer very straightforward. If anybody comes

2201 before this committee and indicates that these ships protect national

2202 defense information, they are committing perjury.

2203

2204 LATOURETTE: OK, and that is a very straightforward answer, but let me --

2205 not to be lawyerly with you, but since I don't know the TEMPEST tests

2206 the way that you do -- and you went to great lengths to talk about how

2207 it's appropriate or proper to make the tests of the TEMPEST system.

2208

2209 I'm saying is that there -- if we have somebody that comes and says,
2210 "You know what? I tested this TEMPEST system and it meets the standard
2211 in the industry, the standard in the military," whatever the standard
2212 is, can a person make such a claim based upon the knowledge that you
2213 have today?

2214

2215 ATKINSON: No, sir. All of the documents that were provided to the
2216 committee stated, in the Coast Guard's own documents, that they failed
2217 the TEMPEST inspections and instead of correcting the deficiencies, they
2218 either ignored the deficiencies or they issued waivers to cover the
2219 deficiencies up.

2220

2221 LATOURETTE: Right.

2222

2223 And, Mr. Braden, to you, based upon -- you've installed TEMPEST systems
2224 in other programs, have you?

2225

2226 BRADEN: Yes. On the 270-foot cutters, the legacy cutters and also the
2227 design for the 210s and the 383s.

2228

2229 LATOURETTE: OK, and to Mr. De Kort's observation, did you, in the
2230 installation of those systems, have a specification that called for
2231 these braided and shielded cables?

2232

2233 BRADEN: The specification is actually a standard -- a TEMPEST standard.

2234 And as was mentioned before, I initially relied on a report from a Ms.

2235 Joe Agat (ph), who was asked to put together a list of criteria, if you

2236 will, for how a TEMPEST installation was to be done.

2237 The reason that I met with her to go over that document, although it was

2238 listed as a document for the 123s, is that some years ago, I was product

2239 manager for a line of TEMPEST terminals sold to several national

2240 security agencies.

2241

2242 And, as a result, I was familiar with TEMPEST requirements in a very

2243 detailed fashion at that time. A number of years went by and I wanted to

2244 make sure that the requirements had not changed.

2245

2246 LATOURETTE: And the requirement is braided, shielded cables?

2247

2248 BRADEN: The requirement consists of recommendations. In some cases,

2249 those recommendations give alternatives. Braided, shielded cable is the

2250 preferred alternative for ensuring security with the cabling?

2251

2252 LATOURETTE: Are you familiar with the cables that were installed on the

2253 123 conversions?

2254

2255 BRADEN: No.

2256

2257 LATOURETTE: OK.

2258

2259 Do you know what they're called, Mr. De Kort? Is it like a...

2260

2261 DE KORT: The aluminum mylar cables.

2262

2263 LATOURETTE: Aluminum mylar?

2264

2265 DE KORT: Yes, sir.

2266

2267 Mr. Braden, is an aluminum mylar cable one of the alternatives that you

2268 had? Do you know?

2269

2270 BRADEN: It could be an alternative as long as it was confirmed that the

2271 aluminum mylar was properly shielded and that it gave a full coverage

2272 under all conditions. And, as was already mentioned, aluminum mylar is

2273 not recommended because of durability issues, so it would be more

2274 appropriate in internal compartments or places where movement isn't

2275 used.

2276

2277 LATOURETTE: And let me ask you this and do you know anything about what

2278 the different is, and how much 100 feet of braided, shielded cable costs
2279 as opposed to how much the mylar aluminum cable costs?

2280

2281 BRADEN: No, I couldn't say what the price difference is. It certainly is
2282 more expensive, but I think the key issue is that it's much harder to
2283 get schedule-wise.

2284

2285 LATOURETTE: It's harder to get because of the manufacturer?

2286

2287 BRADEN: From a schedule standpoint, it is no the common, ordinary cable
2288 that you can buy at CompUSA.

2289

2290 LATOURETTE: Right. But you could buy mylar aluminum cables?

2291

2292 BRADEN: Oh, absolutely, at almost any outlet.

2293

2294 LATOURETTE: You worked for Lockheed Martin for 30 years?

2295

2296 BRADEN: Yes.

2297

2298 LATOURETTE: Have you experienced a situation where the company has made
2299 a determination on cable that has the ability to be detrimental to
2300 national security just based on how much it costs?

2301

2302 BRADEN: I've never seen that before.

2303

2304 LATOURETTE: And what about scheduling?

2305

2306 BRADEN: I've seen a lot of pressure on schedule on many programs.

2307

2308 LATOURETTE: Well, I'm sure you've seen pressures, but where a decision

2309 was made -- I mean, the allegation that Mr. De Kort I think is making,

2310 his testimony is that part of it was cost and part of it was not wanting

2311 to get behind schedule. They were going to get behind schedule on this

2312 stuff. Have you experienced the same experiences that Mr. De Kort has

2313 testified to in any of the work that you've done for the Coast Guard?

2314

2315 BRADEN: On the Deepwater program, I did experience intense pressure on

2316 both schedule and cost. As I stated in my opening statement, my project

2317 was a fixed-price contract and so there was a fair amount of scrutiny on

2318 every issue associated with cost.

2319

2320 LATOURETTE: And, last question, not to be lawyerly with you, but did

2321 that pressure on cost and schedule cause you or others that you work

2322 with to do something that you knew violated either the specs or created

2323 a situation on the TEMPEST system that was likely, as Mr. Atkinson has

2324 testified, to be vulnerable to leaking national secrets?

2325

2326 BRADEN: I didn't allow that to happen. I had a bit more oversight of my
2327 program than Mr. De Kort did, a little more independence in
2328 decision-making. And, as a result, we implemented our system totally
2329 correctly.

2330

2331 LATOURETTE: Were you ever asked to do what Mr. De Kort says he was asked
2332 to do?

2333

2334 BRADEN: No.

2335

2336 LATOURETTE: OK, thank you very much, Mr. Chairman.

2337

2338 CUMMINGS: Thank you very much.

2339

2340 As we go to Mr. Oberstar, let me just -- in fairness to Lockheed Martin

2341 and to the contract team, Mr. Atkinson, you said in the answer to a

2342 question about if someone were to say that TEMPEST certification was

2343 done here, with these votes, that they would be committing perjury. Is

2344 that what you said?

2345

2346 ATKINSON: Yes, sir.

2347

2348 CUMMINGS: Could it be that maybe they just didn't know?

2349

2350 I just want to be fair.

2351

2352 ATKINSON: Well, let me be very precise on this. In the delivery task

2353 order that the Coast Guard issued to purchase these ships, they listed

2354 only one TEMPEST specification -- one. There's a book roughly that

2355 thick.

2356

2357 It is called "Mil Handbook 232A, Red/Black Engineering." I have a copy

2358 in front of me. That was the only document that the United States Coast

2359 Guard provided to Lockheed Martin as part of the delivery order.

2360

2361 The United States Coast Guard did not ask for TEMPEST ships. They did

2362 not ask for these ships to pass classified information. I have it right

2363 in front of me, documents which this committee has in their possession,

2364 that irrefutably show these ships would not have complied with TEMPEST

2365 when they were delivered from the contract the Coast Guard gave Lockheed

2366 Martin.

2367

2368 CUMMINGS: All right, thank you.

2369

2370 Mr. Oberstar?

2371

2372 OBERSTAR: Mr. Braden, you knew Mr. De Kort during the Deepwater program?

2373

2374 BRADEN: Yes, I did.

2375

2376 OBERSTAR: Were you aware of the problems Mr. De Kort raised with 123s?

2377 And how did you come to know about those problems?

2378

2379 BRADEN: Well, I was aware of them because of the weekly integration team

2380 meetings that we had. Many of the issues on all the assets were

2381 discussed openly and presentations were given by the various lead

2382 members, and we would hear issues that were trying to be resolved across

2383 the entire program.

2384

2385 OBERSTAR: Did you discuss at length the issue of non-low smoke cabling,

2386 cameras that did not provide 360-degree coverage, problems with TEMPEST

2387 hardware?

2388

2389 And for the record, Mr. Chairman, we've been using this term, but it's

2390 telecom electronics material protected from emanating spurious

2391 transmissions.

2392

2393 We may have said that earlier, but I think we need to get that on the
2394 record, because it's a term frequently used and it has a very ominous
2395 sound to it.

2396

2397 And non-weatherproof topside equipment, did you discuss those matters?

2398

2399 BRADEN: I had occasion to speak on a couple of those matters with Mr. De
2400 Kort and that was as a result of an integration team meeting we had
2401 where I had presented the approach that we were using for the legacy
2402 cutters for our certification and accreditation.

2403

2404 I was approached after that meeting by Mr. De Kort, who quizzed me on
2405 what we were doing on those issues. We did not talk about the radios or
2406 environmental issues. We primarily talked about cabling. And TEMPEST
2407 issues was the nature of the conversation, and I related to him what we
2408 were doing on my cutters.

2409

2410 OBERSTAR: Are you aware of the cabling issue on aircraft in the 1980s
2411 and '90s where chaffing occurred in the bundles of cables on aircraft?

2412

2413 BRADEN: Yes, I've read about it.

2414

2415 OBERSTAR: Commercial, I'm talking about the commercial aircraft.

2416

2417 BRADEN: Yes.

2418

2419 OBERSTAR: You're aware of that.

2420

2421 BRADEN: Yes.

2422

2423 OBERSTAR: And it was similar, mylar aluminum, non-shielded cable.

2424 Chaffing that occurred inside aircraft resulted in wearing away of the

2425 shield, the protective mylar covering, that then resulted in sparking,

2426 with surge of very low voltage through those wires that then caused fire

2427 and caused aircraft damage and failure.

2428

2429 Are you aware of all that?

2430

2431 BRADEN: Yes. Yes, I am.

2432

2433 OBERSTAR: So you understand what the Coast Guard is doing or was doing

2434 in this case when they did not install the proper cabling, right?

2435

2436 BRADEN: I believe that the analogy you gave is appropriate in a

2437 hazardous situation. In the implementation of network cabling, in, at

2438 least for the assets that I was responsible for, all that cabling was

2439 routed through the nine areas where no hazard would occur if the cable
2440 had been chaffed. But I do understand your point.

2441

2442 OBERSTAR: But making a leap from the hazard to a different kind of
2443 hazard of leakage of signal, that's the real issue here.

2444

2445 BRADEN: Yes, I believe so.

2446

2447 OBERSTAR: And you knew about Mr. De Kort raising his concerns to
2448 Lockheed.

2449

2450 BRADEN: Well, I learned about them through his "You Tube" video, which
2451 was widely viewed by many employees, and that's where I first learned of
2452 his allegations.

2453

2454 OBERSTAR: So you said that your program, the upgrade of the 270- foot
2455 cutters, was successful.

2456

2457 BRADEN: Yes.

2458

2459 OBERSTAR: What cabling did you install there?

2460

2461 BRADEN: We installed shielded, braided cable. In some instances, we

2462 installed fiber optic cable, in instances where we went from secure
2463 compartments to compartments, and we armor jacketed that cable to
2464 prevent intrusion in non-secured locations on the ship. And we also
2465 specified low smoke, zero-allergen jackets on all the cabling.

2466

2467 OBERSTAR: And why were you able to install the more TEMPEST standard
2468 cabling on the 270 legacy cutters?

2469

2470 BRADEN: I can't say explicitly why that was, but I can say that the
2471 attention of most of the program and the management staff was attending
2472 to the 123 in terms of its schedule difficulties and, more or less, I
2473 guess I was left alone to do it right.

2474

2475 OBERSTAR: Well, why would the more secure cabling go into one class of
2476 vessel and not on the other?

2477

2478 BRADEN: I really can't answer that question. I don't know why that would
2479 be.

2480

2481 OBERSTAR: But you knew it was happening, and you saw the dangers.

2482

2483 BRADEN: Well, I had heard that it had -- it was one of the items that
2484 had been raised, but I think, as Mr. De Kort has stated, during the

2485 course of any project, there are problems. These problems are usually
2486 mitigated or removed as the course of the program goes on.

2487

2488 And my team was very, very busy meeting our aggressive schedule. I did
2489 not have time to go investigate personally whether anyone had taken
2490 action on these or not.

2491

2492 OBERSTAR: Were you asked to use aluminum mylar cable? And if you had
2493 been, would you have used it on the 270s?

2494

2495 BRADEN: Where appropriate, I would have used it, yes.

2496

2497 OBERSTAR: Now, I want to come to the testing. There are visual tests and
2498 instrument tests. And did the 270 cutters pass the visual and then
2499 subsequently the instrument test?

2500

2501 BRADEN: We passed the visual on the second cutter. The first cutter we
2502 retrofit. And the reason for that is that the cabling that we had
2503 ordered for the fiber optic connections and some of the other
2504 connections was a custom cable that was being manufactured for us by a
2505 firm in Virginia.

2506

2507 There was a hurricane that hit and pulled the roof off of that factory.

2508 That caused delays in that cable.

2509

2510 With the total agreement of the Coast Guard, we went ahead with the

2511 first installation and planned to retrofit it with the higher quality

2512 cable at a later date, which was subsequently done.

2513

2514 The visual inspection noted those discrepancies. They accepted them on

2515 the interim authority to operate. And we did replace that cable.

2516

2517 On the second cutter, we fully passed all visual inspections and then

2518 all subsequent...

2519

2520 OBERSTAR: And then subsequent, should be the instrument...

2521

2522 BRADEN: Yes.

2523 OBERSTAR: ... inspection and testing.

2524

2525 BRADEN: Yes. And I left the program before that instrumented test had

2526 been performed on the first cutter.

2527

2528 OBERSTAR: Now, the I.G. at the Department of Homeland Security has

2529 confirmed that the contractor failed to install non-low smoke cabling

2530 and failed to install topside equipment that would function in all

2531 weather conditions.

2532

2533 How could that have happened?

2534

2535 BRADEN: I really can't explain how that would have taken place.

2536

2537 OBERSTAR: Did you raise your concerns about the cable installation with

2538 Lockheed management?

2539

2540 BRADEN: I had discussed with our technical director some of the issues

2541 that had come up in the reviews regarding the 123 and I discussed them

2542 with them only in the sense that I was expressing my concern that they

2543 really needed to deal with them so that we wouldn't keep talking about

2544 them.

2545

2546 OBERSTAR: Did you feel that this rose to the level of an ethics question

2547 and did you file an ethics investigation?

2548

2549 BRADEN: I didn't feel it did at that time, no. I subsequently did file

2550 an ethics investigation concern at a later date.

2551

2552 OBERSTAR: And to whom or to which level did you file that?

2553

2554 BRADEN: The ethics office at Lockheed Martin Morristown.

2555

2556 OBERSTAR: And what action was taken subsequent to the filing of that?

2557

2558 BRADEN: I received no response.

2559

2560 OBERSTAR: Nothing.

2561

2562 BRADEN: Nothing.

2563

2564 OBERSTAR: Do you know any outcome or any action taken later?

2565

2566 BRADEN: Only supposition on my part. One of the concerns I had had to do

2567 with an employee morale program that had not been followed through with

2568 and I suggested that the ethics officer might want to contact our H.R.

2569 department to reinstate the employee award program. And about one month

2570 after that, the award program was reinstated.

2571

2572 Now, I don't know whether that was as a result of my conversation or

2573 just a normal course of...

2574

2575 OBERSTAR: To the best of your knowledge, that's the only follow- up that

2576 occurred?

2577

2578 BRADEN: That's the best guess I have, and that's it.

2579

2580 OBERSTAR: I'll have further questions later. Thank you very much.

2581

2582 CUMMINGS: Mr. LoBiondo?

2583

2584 LOBIONDO: Thank you, Mr. Chairman, very much.

2585

2586 I want to commend you for holding this hearing. I think it's absolutely

2587 imperative that we try to get to the bottom of the situation.

2588

2589 I'm hoping that we're going to hear something about the buckling hulls,

2590 and I may ask that in a couple of minutes, but I wanted to say that

2591 while I think this hearing today is very important, I think it's equally

2592 important that we not lose sight of the fact that the Coast Guard

2593 currently operates the second oldest fleet of vessels and aircraft in

2594 the world, and that was the purpose of Operation Deepwater.

2595

2596 Some of these assets are over 60 years old. They're rapidly failing.

2597 Operations tempo continues to increase. Service-wide readiness is down.

2598 Hundreds of patrol days are being lost annually.

2599

2600 And probably most importantly, the safety of the men and women of the
2601 Coast Guard who operate these assets are more in danger, I think, every
2602 day.

2603

2604 The success of the Coast Guard's many vital missions I think are in
2605 serious jeopardy.

2606

2607 As we move through this, I just hope that we can keep in sight that it
2608 is critically important that the service get these aging assets replaced
2609 with fully functioning and capable assets, and as soon as possible.

2610

2611 I would hope that we remember the videos of the Gulf hurricanes of
2612 Katrina and Rita, and the job that the Coast Guard did. And however
2613 miserably the federal government failed, no one faulted the Coast Guard.

2614

2615 And part of the ability of the Coast Guard to perform so admirably at
2616 that time was the result of the Deepwater program and the upgrade of
2617 some of the helicopters that had incredible lift capability and
2618 thousands upon thousands of lives were saved in that whole process.

2619

2620 I'm very pleased with Admiral Allen's decision yesterday. I think it was
2621 very proactive. I think it will help rein in control of this program.

2622 And it's a serious situation that needs to be fixed.

2623

2624 I have a lot of confidence in Admiral Allen. I have a very serious
2625 regret that Admiral Allen did not get his hands on the helm sooner than
2626 when he did. I'll leave it at that.

2627

2628 I would say to my colleagues that I know this situation makes it pretty
2629 easy for us to throw our hands up and to walk away from Deepwater and
2630 say that it's fatally flawed and it's got to be scrapped, but I plead
2631 with you not to turn your back on the men and women of the Coast Guard,
2632 those young men and women who are heroes every day, who are putting
2633 their lives on the line for us in so many different ways and are
2634 depending on us to come up with a solution that meets the challenges or
2635 the problems we're hearing about today, but still finds a way to give
2636 them the replacement of the assets.

2637

2638 The safety and success of their missions depend on the replacement of
2639 these assets. And it's our job to make sure that we do the best
2640 possible.

2641

2642 So, Mr. Chairman, I once again commend you and Mr. Oberstar for really
2643 getting at the heart of this problem and I hope we can get to a point
2644 where we can move forward.

2645

2646 I thank you very much. And I will later on try to ask some questions
2647 about the buckling of the hulls, when that's an appropriate time.

2648

2649 CUMMINGS: That will be good when we have the Coast Guard up.

2650

2651 Let me just say, Mr. LoBiondo, there's not one syllable, not one
2652 syllable, that you just stated that I disagree with. We all are trying
2653 to get -- make sure that the Coast Guard has equipment so that they can
2654 do the great job like they did down at Katrina and the things that they
2655 do every day, the largest seizure that they've ever had in their history
2656 just recently taking place.

2657

2658 And so this is all a part of making sure -- and I agree with you that we
2659 want them to have that equipment, but we want that equipment to be safe,
2660 and we want it to be safe for our personnel.

2661

2662 And, again, as I said a little earlier, we just want ships that float,
2663 planes that fly, just want what we contracted for.

2664

2665 Before we get to Mr. DeFazio, I just have one quick question.

2666

2667 Mr. Braden, just in follow-up to Chairman Oberstar's question, you said
2668 that -- he asked you about whether you had been asked to use -- he asked

2669 you whether you would use aluminum mylar shielded cable, and you said in
2670 certain instances.

2671

2672 Is that correct?

2673

2674 BRADEN: Yes.

2675

2676 CUMMINGS: Let me ask you these. Would you have used them in secure
2677 situations where we were trying to make sure that there was no
2678 eavesdropping, the very thing that Mr. De Kort complained about? I think
2679 that's the question.

2680

2681 If you had been asked to use that kind of cabling under the
2682 circumstances that Mr. De Kort complained about, would you have used it?

2683

2684 BRADEN: That's a difficult question to answer because the application of
2685 the cabling is also dependent on the type of compartment that you
2686 install it in and whether it's a totally shielded and contained and
2687 properly grounded compartment.

2688

2689 And what I mean by that, and I'm sure Mr. Atkinson can lend more detail
2690 to this, if I have a piece of equipment that is totally contained within
2691 a shielded enclosure and it's sharing that enclosure with other

2692 equipment of its same classification level and the same network
2693 connection, connectivity, then if that cable is properly grounded,
2694 shielded, then, yes, the mylar cable would be acceptable in that
2695 instance.

2696

2697 CUMMINGS: I see you shaking your head, Mr. Atkinson.

2698

2699 ATKINSON: Yes, sir. If you build a cabinet that contains classified
2700 equipment and the cabinet itself is TEMPEST certified, you can take an
2701 uncertified piece of equipment, put it inside this cabinet and it will
2702 provide some level of protection.

2703

2704 A very common thing is to take a printer or a plotter or a certain type
2705 of computer that there is no TEMPEST equivalent of and to encapsulate it
2706 inside of a TEMPEST box or a TEMPEST shield, which now renders it
2707 protected.

2708

2709 We can do the same thing with cables, where we can use a non- TEMPEST
2710 involved cable to hook up something that is put into a box which is
2711 itself protected.

2712

2713 And we had to be very careful what we put into this box, because some
2714 things we put in this box will cause TEMPEST hazards to occur.

2715

2716 CUMMINGS: From all the records that you've read, would you agree with

2717 Mr. De Kort?

2718

2719 ATKINSON: In what regard?

2720

2721 CUMMINGS: With regard to his complaints about the aluminum mylar

2722 shielded cable and that it should not have been used?

2723

2724 ATKINSON: Yes, sir. I have actually researched the cable that he's

2725 referring to and have found Coast Guard records in regards to them and

2726 have identified that we're talking a difference of about \$20 for the

2727 cable.

2728

2729 CUMMINGS: Mr. DeFazio?

2730

2731 OBERSTAR: Would the gentleman yield before...

2732

2733 DEFAZIO: I would certainly yield.

2734

2735 OBERSTAR: I just want to reassure the gentleman from New Jersey, who has

2736 served us for a long time as the chair of the Coast Guard Subcommittee,

2737 that our purpose here is not a public hanging.

2738

2739 We're here to try to fix the underlying problems of the Coast Guard's
2740 management, of its contractual responsibilities to deliver on the
2741 program that the gentleman played a large part in authorizing for the
2742 Coast Guard, just as we have done over many years, and when I chaired
2743 the Aviation Subcommittee and the Investigations and Oversight
2744 Subcommittee, to get FAA on the right track, learn how to manage
2745 multi-billion dollar contracts and then fund those programs.

2746

2747 I assure the gentleman that is the purpose of this hearing, is to go to
2748 the core of the problems uncovered here, fix them and then report out a
2749 robust Coast Guard authorization program so they can fix those old ships
2750 and have the equipment they need to carry out the many responsibilities
2751 we've loaded upon them.

2752

2753 I yield.

2754

2755 LOBIONDO: Through the chairman, would the gentleman yield for
2756 reauthorization minute?

2757

2758 Mr. Oberstar, I applaud your efforts. I in no way meant to intimate that
2759 that was the case.

2760

2761 But my concern was from some other colleagues who were not on the
2762 committee who have just, in casual conversation, said to me, "We ought
2763 to just scrap the program." And I don't think they understand what
2764 scrapping the program would mean.

2765

2766 OBERSTAR: I just want to reassure the gentleman we are on the same...

2767

2768 LOBIONDO: OK. We're in synchronization. Thank you, Mr. Oberstar.

2769

2770 DEFAZIO: And I would certainly second those comments. Ten years ago, as
2771 the ranking member on the Coast Guard subcommittee, I became very well
2772 aware of and was a strong advocate for increased funding and new
2773 equipment for the Coast Guard. I had one of the antique ships in the
2774 Coast Guard serving my district for a while, and I'm well aware of that
2775 problem.

2776

2777 But it was only after 9/11 that Congress and this administration began
2778 to recognize the need.

2779

2780 And Katrina certainly highlighted the efficiency and valor of the Coast
2781 Guard. And none of that's in question here today. But there are
2782 extraordinary questions about how we got to this point.

2783

2784 And I guess I'm going to direct most of my questions to Mr. Sampson. And
2785 I will be questioning the buckling and the design on the 123s, which the
2786 former chairman hoped we'd get to. I've been waiting to get to it, too.
2787 I'm not much of an electronics guy, but I am and have been a lifelong
2788 sailor and boat owner.

2789

2790 Mr. Sampson, these will be directed to you, but just keep this in mind
2791 as I ask you the questions. This is a statement that will come after you
2792 have left and I want to give you an opportunity to sort of respond to it
2793 in your responses to me.

2794 Mr. James Anton, vice president, Deepwater Program, Northrop Grumman
2795 Ship Systems, and if you look at page two of his testimony, he says,
2796 "HBJV added a 13-foot extension to the 110, which was similar to the
2797 9-foot extension they had successfully added to the Cyclone patrol boats
2798 starting in 2000." Note, no mention there of the early problems with
2799 those extensions, but he does say they were successful.

2800

2801 He goes on further on that page to talk about hull deterioration. He
2802 goes on, page three, to talk about the ships being operated in seas
2803 beyond their design capacity.

2804

2805 He goes on, on page four, to say that an outside engineering forum,
2806 designers and planners engaged by the Coast Guard, analysis showed the

2807 overall hull structure design was adequate under all expected operating
2808 conditions up to the worst operating condition modeled.

2809

2810 And then, in summary, he says, "It's premature to speculate on the final
2811 cost and final way forward."

2812

2813 I assume you probably don't agree too much with that analysis or those
2814 remarks.

2815

2816 SAMPSON: No, sir, I don't. There's several different perspectives that
2817 I'd like to address. I haven't had the opportunity to read the comment
2818 that you're discussing.

2819

2820 I wrote down some quick notes. So if there's something there that I
2821 missed, please remind me and I'll feel free to discuss.

2822

2823 In regards to the Navy's experience with the PCs, I want to make sure
2824 it's very clear. CCD Combatant Craft emphasized to the Coast Guard, as
2825 well as Bollinger Shipyard, because this was kind of a misconception
2826 among many, that Bollinger Shipyard built the 110, they built the 170,
2827 they did the extension.

2828

2829 What never appears to come to the surface is the fact that Combatant

2830 Craft Division was the one that did the entire design work for the
2831 extension. The failures that occurred were actually prior to when the
2832 170s were first built. When the PCs were first delivered, they started
2833 failing immediately.

2834

2835 That was a function of -- after extensive investigation, Combatant Craft
2836 came to the position that the 1997 ABS rules, high- speed craft rules
2837 which the PCs were built to, had under-predicted what they call a
2838 dynamic loading condition.

2839

2840 The ABS later, in their high-speed naval craft code, did correct this
2841 based on that experience. It was a known issue to ABS, to Combatant
2842 Craft, and we made that very clear to Bollinger Shipyard.

2843

2844 DEFAZIO: Is that what you discussed with Mr. Debu Ghosh on 9/3/02?

2845

2846 SAMPSON: That was one of the topics, yes, sir.

2847

2848 DEFAZIO: OK, go ahead.

2849

2850 SAMPSON: The Combatant Craft, when they did the design work, Bollinger
2851 is a great fabricator. However, they did not facilitate the engineering,
2852 production detail, things of that nature, but the actual first extension

2853 was not performed by Bollinger, to my understanding. It was actually by
2854 another shipyard.

2855

2856 So they did not perform the engineering. That expertise resided with
2857 CCD. During that 9/3 meeting with Mr. Ghosh, we emphasized to him that
2858 this was not a simple evolution, that the design was very complex. The
2859 PC went from a 5 percent length increase of nine feet as compared to the
2860 123 or the 110, which added 13 feet, to 12 percent increase. This is a
2861 substantial, substantial increase in length.

2862

2863 As a result of that, the rules that were being used or we were told were
2864 being used for the 110 and 123 conversion were these what CCD felt were
2865 flawed rules of ABS, the 1997 high-speed craft code.

2866

2867 DEFAZIO: So that was probably the point at which -- that you, the Navy,
2868 CCD offered to provide some design and engineering support to Bollinger,
2869 Northrop Grumman or the Coast Guard on the conversion.

2870

2871 SAMPSON: Yes, sir. Let me make it clear. CCD did not go out and
2872 necessarily try -- Combatant Craft is a capital funded program. So in
2873 essence, we're like a contractor. We have to go out and sell our
2874 services.

2875

2876 DEFAZIO: Right.

2877

2878 SAMPSON: So I can't voluntarily.

2879

2880 DEFAZIO: But you made an offer that...

2881

2882 SAMPSON: We informed the parties involved, yes, sir.

2883

2884 DEFAZIO: And I believe it was not particularly spendy in terms of how

2885 much money's been wasted here. What would the cost have been?

2886

2887 SAMPSON: Just for oversight to determine if a problem existed would have

2888 been \$42,000.

2889

2890 DEFAZIO: \$42,000.

2891

2892 SAMPSON: Yes, sir.

2893

2894 DEFAZIO: And how much did we spend per ship conversion?

2895

2896 SAMPSON: A lot more than that, sir. I'm not aware of the exact number.

2897

2898 DEFAZIO: OK. But that offer was declined.

2899

2900 SAMPSON: Yes, sir.

2901

2902 DEFAZIO: OK. And was there any particular reason given for declining

2903 that offer?

2904 SAMPSON: No, sir.

2905

2906 DEFAZIO: OK. Then you went to the Coast Guard.

2907

2908 SAMPSON: The order that we talked, we had talked with Mr. Ghosh first.

2909

2910 DEFAZIO: Right.

2911

2912 SAMPSON: Then I had talked to the Deepwater program office up in

2913 Washington, D.C., talked to Ms. Diane Burton and another gentleman that,

2914 for the life of me, I can't remember his name, but I remember him as a

2915 program manager. I don't recall if he was specific to the 123 or in

2916 total.

2917

2918 Explained the situation to them. Ms. Burton, being a former NAVSEA

2919 employee, I think understood some of our concerns. However, the

2920 discussion was very short and thank you very much, and we never heard

2921 anything further from them.

2922

2923 Northrop Grumman, Combatant Craft did not contact directly. However,
2924 Bill Moss, who is our point of contact for the Cardarock division, did
2925 provide a capabilities brief to Northrop Grumman to explain what the
2926 Navy had to offer them specific to the 123. Nothing was mentioned.

2927

2928 DEFAZIO: So do you think that there's any possibility that Mr. Anton,
2929 who raises the other issues, was aware of these concerns as a Northrop
2930 Grumman executive?

2931

2932 SAMPSON: I have no idea, sir.

2933

2934 DEFAZIO: Perhaps he'll be asked that on the next panel under oath and
2935 why action wasn't taken.

2936

2937 I've got to jump ahead here because the time is valuable and we've been
2938 holding people a long time.

2939

2940 This is, I think, a critical question because there was some concern
2941 raised earlier by Mr. Mica that we're just plowing old ground and that,
2942 in fact, this has all come out before.

2943

2944 But did Mr. Carl Cassamassina (ph) of Navy CCD warn the Coast Guard that

2945 it was in danger of losing a ship if the hull cracking problem was not
2946 corrected?

2947

2948 SAMPSON: I don't have firsthand knowledge of that specific conversation
2949 where those words were used. I do, however, know that Mr. Cassamassina
2950 (ph) and myself talked at length to the Coast Guard and Bollinger and
2951 explained the severity of the situation, and we felt confident that they
2952 understood that.

2953

2954 DEFAZIO: That apparently was -- the Navy did give us that statement,
2955 that they afforded that warning, but I thought you had knowledge of it.

2956

2957 You had conversations...

2958

2959 SAMPSON: Not that particular phone call.

2960

2961 DEFAZIO: ... similar to that with Mr. Cassamassina (ph).

2962

2963 SAMPSON: Yes, sir.

2964

2965 DEFAZIO: So the risk here was catastrophic failure, hull failure, loss
2966 of the ship, potentially loss of life.

2967

2968 SAMPSON: Potentially, yes, sir.

2969

2970 DEFAZIO: And then, finally, it's our understanding the Coast Guard made
2971 two efforts to fix the 123s after the problems with the deck -- that the
2972 decks appeared. Did the Coast Guard consult with CCD on these proposed
2973 fixes, that you're aware of?

2974

2975 SAMPSON: I, as employed by the Coast Guard, did consult with CCD, but
2976 purely on a professional peer level.

2977

2978 DEFAZIO: Right.

2979

2980 SAMPSON: Having worked with them, I consulted them and asked them their
2981 thoughts or to confirm what I was suspecting or believing, which they
2982 provided to me as a personal interest that, yes, these fixes were not
2983 going to work.

2984

2985 SAMPSON: However, there was no direct involvement, to my knowledge,
2986 between CCD and...

2987

2988 DEFAZIO: Did you report that up the chain that these proposed fixes were
2989 not likely to work, according to your consultation with CCD?

2990

2991 SAMPSON: Absolutely. My command, the Maintenance and Logistics Command
2992 Atlantic, voiced those concerns repeatedly.

2993

2994 DEFAZIO: But they went ahead anyway.

2995

2996 SAMPSON: Yes, sir.

2997

2998 DEFAZIO: And they didn't work.

2999

3000 SAMPSON: Correct.

3001

3002 DEFAZIO: Well, so none of the efforts to fix the 123s succeeded. And
3003 would you then think that -- you would disagree with Mr. Anton's
3004 statement that it's premature to speculate on the final cause and the
3005 way forward -- of the failure.

3006

3007 You think we know the cause.

3008

3009 SAMPSON: I think there's a strong case to be made that the cause is due
3010 to the hull strength of the hull girder issue.

3011

3012 The localized failures that have occurred on deck and some other places
3013 were, in my opinion, a result of the modifications, where they just

3014 moved stress from one location to another.

3015

3016 The actual initial failure of the Matagorda was a clear classical

3017 failure due to bending.

3018

3019 DEFAZIO: Mr. Chairman, I want to thank you for the generous grant of

3020 time and for your leadership on this issue.

3021

3022 I do want to say, in closing, that Mr. De Kort, in his testimony, said

3023 that -- and he was referring to a number of things here -- that these

3024 were actually informed and deliberate acts.

3025

3026 And I hope if, through our investigation, we find that any of these acts

3027 were informed and deliberate, that both defrauded the taxpayers and

3028 jeopardized national security and potentially jeopardized health and

3029 safety of our Coast Guard crews, that we will be providing all of that

3030 to the Justice Department in the hope that maybe some of those

3031 responsible could enjoy federal hospitality.

3032

3033 CUMMINGS: Thank you very much.

3034

3035 I take it, Mr. Sampson, that you did not believe -- I've seen the ships.

3036 I saw them last Thursday and I can tell you they're a mess.

3037

3038 SAMPSON: Yes, sir.

3039

3040 CUMMINGS: Have you seen them?

3041

3042 SAMPSON: Yes, sir. I've done extensive investigations and inspections on

3043 those craft.

3044

3045 CUMMINGS: And the amazing thing is that I thought we were talking about

3046 a big ship. Some of these boats are not as big as some yachts.

3047

3048 SAMPSON: Yes, sir.

3049

3050 CUMMINGS: I mean, it's incredible. And it so happened to be in

3051 Baltimore, where I live, it so happened to be there, and I wanted to go

3052 see them. But anyway.

3053

3054 Mr. Gilchrest?

3055

3056 GILCHREST: Thank you very much, Mr. Chairman.

3057

3058 I, too, want to make sure that that Coasty who is today similar to Gene

3059 Taylor 30 years ago, whether they're breaking ice to McMurdo -- maybe 10

3060 years, I don't know when Gene Taylor was in the Coast Guard.

3061

3062 When those Coastys are breaking ice to McMurdo Station in the Antarctic,

3063 on that ship, when they're at Cape Disappointment rescuing people, when

3064 they're in the Gulf of Alaska because a crab boat is in trouble, or the

3065 Chesapeake Bay, or these guys are out there determining international

3066 standards at the IMO in London, it's an extraordinary service.

3067

3068 But I do remember a time 40 years ago when I was using an M-14 in

3069 Vietnam, worked every time we pulled the trigger. Sadly, we had to pull

3070 the trigger occasionally. Rain, monsoons, heat, mud, dust, you name it.

3071

3072 We were given an M-16 about February of 1967, and it didn't work. Who

3073 was responsible for that? In 1967, these young men, like we have now in

3074 Iraq and Afghanistan, assume the chain of command is competent.

3075

3076 Well, we're here to praise the stunning abilities of the Coast Guard

3077 people. And we also want to find out the chain of command, that whoever

3078 and wherever it is, that changed the basic physics, they changed the

3079 physics of the boat when they wanted to put in some add- ons which would

3080 have made it more serviceable under certain conditions, but they changed

3081 the physics of the boat.

3082

3083 So who was responsible for approving that change up the chain of
3084 command, including everybody and the contractors?

3085

3086 So I guess -- and we're not here -- I'm glad the chairman is holding
3087 this hearing. We're not here to unfairly reprimand anybody, but we'd
3088 like to know how this came about, that we have eight boats now that
3089 don't work.

3090

3091 Mr. Sampson, did the Coast Guard consult with the Navy engineers when
3092 reviewing the proposed design of the 110-foot patrol boat conversion?

3093

3094 SAMPSON: No, sir, they didn't necessarily consult us. We, as CCD, did
3095 notify them of our experience with the PC and the lessons learned, and
3096 we shared that with the Coast Guard voluntarily.

3097

3098 GILCHREST: So there was a basic consultation that took place.

3099

3100 SAMPSON: Yes, sir, on that 3rd of September with Mr. Ghosh, in addition
3101 to the Deepwater program office, we shared that we had extensive
3102 knowledge and experience with this type of design and modification and
3103 that they were at very high risk of failure if they were to proceed.

3104

3105 GILCHREST: So what were the specific concerns that would cause the high

3106 rates of failure if they proceeded?

3107

3108 SAMPSON: As I stated earlier, sir, that ABS 1997 high-speed craft rules,

3109 it uses two methods of prediction for the strength of the boat. One is a

3110 static loading and one is a dynamic loading.

3111

3112 That 1997 rules under-predicted the dynamic loading. As a result, the

3113 static was the driving factor, according to that rule set. Combatant

3114 Craft, through investigation, realized that that was actually not the

3115 case and they used another classification society's rules in conjunction

3116 with some additional calculations to determine the actual correct

3117 strength that the vessel had to be.

3118

3119 Because of that, we cautioned the Coast Guard extensively, because we

3120 knew they were going to use the old set of ABS rules.

3121

3122 GILCHREST: Did they take your caution seriously?

3123

3124 SAMPSON: We felt that they understood our concerns. I do not know what

3125 they did with our information.

3126

3127 Mr. Ghosh certainly tried to -- I think understood and he tried to hire

3128 us to provide...

3129

3130 GILCHREST: So you don't know if those recommendations were followed
3131 through by anybody in the Coast Guard.

3132

3133 SAMPSON: Eventually, they weren't, sir, because the boats were built as
3134 proposed. We also shared, real quick, sir, that when you lengthen a
3135 boat, those bending moments, that static bending and dynamic loading,
3136 those are affected primarily by the length of the vessel and the dynamic
3137 also has a speed component. But the length of the vessel is a
3138 significant contributor to that bending force.

3139 So when you lengthen a boat by 12 percent, that's a tremendous length
3140 increase for that size craft and so you have to add strength to the
3141 vessel.

3142

3143 Vessels that are high-speed craft, such as the 110...

3144

3145 GILCHREST: So strength was not added to the vessel.

3146

3147 SAMPSON: No, sir, not at all.

3148

3149 GILCHREST: Can you just tell us -- I know my time is up -- why wasn't
3150 strength added to the vessel if those recommendations were made?

3151

3152 SAMPSON: The only thing that I can speculate, sir, is that the static
3153 condition was a driving factor and they felt they complied with that
3154 static condition. Other than that, I have no idea, sir.

3155

3156 GILCHREST: I see. Well, thank you very much.

3157

3158 Thank you, Mr. Chairman.

3159

3160 CUMMINGS: Thank you.

3161

3162 Mr. Taylor?

3163

3164 TAYLOR: Thank you, Mr. Chairman.

3165

3166 Mr. Sampson, I want to follow-up on what you were just touching on,
3167 because I've heard now three different explanations for the 110
3168 problems.

3169

3170 First, I was told they never did hogging and sagging calculations. Then
3171 I was told, "Yeah, we did them, but we didn't figure in fatigue." "Yeah,
3172 we figured in fatigue, but we misjudged the steel."

3173

3174 Apparently, the initial hull had some high tensile steel, apparently got

3175 a "Made in USA" waiver. I'm told it was from England, but I'm told no
3176 one ever tested it on the initial building of the hull and that, like
3177 you said, when the hull's only 110 feet and you're stretched between two
3178 waves, you didn't have the hogging and sagging problem, you make it 123
3179 feet, get between two waves, you have substantial problems.

3180

3181 My question to you is, since I'm getting so many different stories from
3182 people who ought to hopefully be telling me the truth and since we've
3183 now got eight ruined ships, \$40 million down the drain, to my knowledge,
3184 no one's been fired. To my knowledge, no one has claimed responsibility.

3185

3186 I can assure you if this had happened in the private sector, a bunch of
3187 people would have been fired by now.

3188

3189 So what do you think happened?

3190

3191 SAMPSON: Sir, you bring up some good points.

3192

3193 TAYLOR: And I also want to say, Mr. Cummings, if you owned a crew boat,
3194 a boat that takes people out to an offshore oil rig, and you wanted to
3195 stretch that crew boat and still have it certified to carry passengers,
3196 the Coast Guard would have run the test before they ever recertified
3197 that vessel again.

3198

3199 So it's absolutely crazy that something they do every day in judging the
3200 private sector, they apparently didn't do for themselves. And no one's
3201 ever answered that question.

3202

3203 SAMPSON: Sir, I think to clarify, I think there are some issues there
3204 that may have been crossed over. The metal fatigue and the material
3205 properties were things that were subsequently looked at, well after the
3206 Matagorda failed.

3207

3208 Those were things that were addressed after the fixes did not work in
3209 the hopes to try to figure out exactly what transpired.

3210

3211 TAYLOR: To the point, I was told they never looked at metal fatigue in
3212 the beginning when they were running the hogging and sagging
3213 calculations. Is that true?

3214

3215 SAMPSON: That I'm not aware of, but I would suspect that's the case.

3216

3217 TAYLOR: Did they run hogging and sagging calculations up front, just
3218 like they would have if a crew boat operator had gone to them wanting to
3219 stretch their vessel?

3220

3221 SAMPSON: Mr. Ghosh would probably be the best one to answer that, sir.

3222 My understanding is they did and there were some errors in those
3223 calculations, but he would give you a definitive answer on that, sir.

3224

3225 TAYLOR: Did anyone ever test the steel that I'm told came from England,
3226 which probably would have required a "Made in USA" waiver, and that if
3227 we did that, we undoubtedly paid a premium for it in the first place, to
3228 see whether or not it was up to the spec that we probably paid the
3229 premium for?

3230

3231 SAMPSON: To my understanding, no steel was imported from England. The
3232 initial design, both the 110s and the 170s, all those craft were
3233 designed by a British company called Vosper Thornycroft.

3234

3235 They had a material requirement in their design of what they called
3236 British steel 4360. It's a British standard saying this is the material
3237 properties.

3238

3239 It's my understanding, and Bollinger may be able to correct this, but
3240 it's my understanding that they had specifically mill runs performed by
3241 U.S. steel mills and all that material made to that British standard and
3242 delivered to Bollinger Shipyard for construction of the 110.

3243

3244 Whether or not they had any material testing done at that time, I'm not
3245 aware of.

3246

3247 TAYLOR: So to the point, what do you think happened? Since I'm game now
3248 for the fourth opinion of why these ships failed, and yet no one's
3249 responsible.

3250

3251 SAMPSON: Sir, I think there's a combination of things, but I believe
3252 that the longitudinal bending, the -- in real simple terms, and I'll try
3253 to make this brief, when you take a hull and you put it in the water, it
3254 has to be designed to handle, to go through waves and over waves.

3255

3256 TAYLOR: Mr. Sampson, I have stretched these boats. So I'm familiar with
3257 all that.

3258

3259 SAMPSON: You have to design for both of those loading conditions. The
3260 loading conditions that were initially assessed by the 1997 ABS rules
3261 under-predicted those loads that the boat would have to meet.

3262

3263 It may have been, I do not know, Mr. Ghosh may be able to provide the
3264 information, but we understood, as Combatant Craft, that those rules
3265 were faulty.

3266

3267 We did our own simplified investigation to determine that the loadings
3268 would have been much more significant to require to provide strength of
3269 that hull sufficient enough to withstand the operations.

3270

3271 There were other issues later on where the specification, the
3272 performance specification came into question. I've read the performance
3273 specification that was issued. To me, it's very clear that the intent
3274 was to have a platform that was as capable as the 110 WPB at the end of
3275 the conversion.

3276

3277 That did not happen, obviously. At all the times of the failures of the
3278 123s, we had 110s out and operating that suffered no hull damage
3279 whatsoever.

3280

3281 TAYLOR: So for the record, who did you notify?

3282

3283 SAMPSON: I notified ELC, Mr. Debu Ghosh. I notified the Deepwater
3284 program office, Ms. Diane Burton and another gentleman who I cannot
3285 remember his name. Notified Bollinger Shipyard, Dennis Funge (ph), and
3286 anybody else who would listen.

3287

3288 But those were the three primary contacts that we notified.

3289

3290 TAYLOR: And for the record, did any of them change their plans in any
3291 way or did any of them recalculate the test to see if -- to address your
3292 concerns?

3293

3294 SAMPSON: At the time, sir, I was with CCD. The Coast Guard -- I was not
3295 intimate with the Coast Guard. I do not know what they did. Mr. Ghosh
3296 took the matter very seriously. I'm not sure what he did.

3297

3298 TAYLOR: Thank you, Mr. Chairman.

3299

3300 CUMMINGS: Before we get to Mr. Diaz-Balart, let me just ask you one
3301 question. I'd direct this to Mr. Braden and to Mr. Sampson.

3302

3303 Yesterday, the Coast Guard announced its intention to bring the systems
3304 integration function back in-house. How do you think this changed
3305 process will help?

3306

3307 Do you think it'll help at all? Do you think we'll still be in the same
3308 -- still have the same kind of problems?

3309

3310 And I'm following-up on what Mr. Taylor just talked about. It seems like
3311 we've -- nobody's been fired, to my knowledge either. And it seems like
3312 this is a situation that all parties involved have some responsibility

3313 in some issues. But I'm just wondering, he's made this announcement
3314 apparently in an effort to try to cure the situation and make it better
3315 for the future.

3316

3317 And I was just wondering what your -- are you familiar with that?

3318

3319 BRADEN: Yes, I am.

3320

3321 CUMMINGS: Mr. Braden, do you have an opinion on that?

3322

3323 BRADEN: Well, I feel, and I think this was mentioned previously, that
3324 the Coast Guard is ill prepared at this time to provide quality system
3325 engineering and integration oversight.

3326

3327 I have heard from the members that there are efforts to beef up their
3328 staff, to hire the necessary people. I think that's going to be a major
3329 challenge for them to do that.

3330

3331 I think they will still need to rely heavily on industry to provide that
3332 guidance. I believe personally that oversight, meaning an independent
3333 assessment of what the requirements have been agreed to, is the biggest
3334 key to success on the program.

3335

3336 In the past, as a performance-based requirement, there was a good bit of
3337 subjectivity as to how you achieve the final performance goal. And that
3338 subjectivity was, I would say, a major point of contention between the
3339 Coast Guard and, in my direct experience on the 270s, and ourselves in
3340 terms of debating, probably needlessly and sometimes seemingly
3341 endlessly, as to someone's interpretation.

3342

3343 And I think by getting clear requirements and then having oversight of
3344 those requirements, that would go a long way towards making sure that
3345 things got done exactly right the first time.

3346

3347 CUMMINGS: It sounds like, Mr. Braden, that you were very strong with
3348 regard to your standards and you were not going to bend, no pun
3349 intended. But you were not going to bend. And it sounds like, to me, you
3350 -- basically, they kind of let you alone and you did what you had to do
3351 and apparently, as we see now, it worked out fine.

3352

3353 That's what it sounds like now.

3354

3355 BRADEN: Well, I'll echo what I have heard previously, too, and that is
3356 that I have the utmost respect for the people who put their lives on the
3357 line daily in the Coast Guard. And it was my intention to be certain
3358 that we delivered the best quality systems we possibly could.

3359

3360 And I found that in some instances, I saw, in other areas of the
3361 program, sort of an adversarial relationship between the Coast Guard and
3362 the contractors. I tried to nurture a friendly, cooperative, open
3363 discussion and that is how we did finally nail down some of the tough
3364 issues we had to contend with in terms of interpretation.

3365

3366 CUMMINGS: Mr. De Kort, same question.

3367

3368 DE KORT: We had a different experience, Mr. Braden and I. If I'd have
3369 had the ability to be that independent and to have that relative
3370 authority, we would not be talking right now.

3371

3372 CUMMINGS: Mr. Sampson?

3373

3374 SAMPSON: Sir, I guess my...

3375

3376 CUMMINGS: You have a unique perspective, Mr. Sampson. You had the Navy
3377 and the Coast Guard experience.

3378

3379 SAMPSON: Yes, sir.

3380

3381 CUMMINGS: And what we've been hearing is that the Navy is well equipped

3382 to do a lot of these things and maybe the Coast Guard isn't there yet.

3383

3384 But you go ahead. I'm listening.

3385

3386 SAMPSON: I love the Coast Guard, sir, through and through.

3387

3388 CUMMINGS: We do, too.

3389

3390 SAMPSON: It's the best organization out there. I think the Coast Guard's

3391 -- one of the more trying aspects that the Coast Guard has is resources.

3392

3393 If you look at the Navy, it's a huge organization, lots of money, lots

3394 of human capital to take care of many of the challenges that are put

3395 before them.

3396

3397 With the Coast Guard, this is Scott Sampson's personal opinion, but the

3398 Coast Guard, we are asked to do more and more and more. I had to give up

3399 billets out of the section that I supervised to provide people for

3400 (inaudible), the 110s that we have overseas supporting our men and women

3401 over there. I had to give up a lieutenant JG for an admiral's billet

3402 that doesn't get replaced.

3403

3404 We're continually asked to do more and more. I have a friend of mine

3405 who's in the acquisition office that puts in routinely 12 to 14 hour
3406 days, including weekends, and he doesn't get to see his wife much,
3407 because we ask more and more of our folks and we're never provided or
3408 very rarely are we provided the resources to try to get those tasks
3409 accomplished.

3410

3411 And while I have the utmost in confidence in the commandant's direction
3412 and leadership, I think this is going to be a significant challenge for
3413 the Coast Guard to provide that additional oversight that's going to be
3414 placed upon us.

3415

3416 CUMMINGS: Thank you very much.

3417

3418 Mr. Diaz-Balart?

3419

3420 DIAZ-BALART: Thank you, Mr. Chairman. I actually really don't have a
3421 question, but more just a couple of comments.

3422

3423 First, I want to thank you, Mr. Chairman, for what I think has been a
3424 very important hearing. And I want to thank, also, those of you who have
3425 come forward for spending all this time with us and I think it's been
3426 very helpful to allow us to understand a little bit what the issue is.

3427

3428 Secondly, when I was listening to Mr. Taylor, I shared his concern and
3429 his frustration. The fact that what he said, and I'm paraphrasing, Mr.
3430 Taylor, but about the fact that nobody's been fired. I've obviously been
3431 surprised, Mr. Taylor and I, that in the public sector, it's very hard
3432 to fire people anyways, which is one of the problems with creating
3433 larger bureaucracies is that you never can get rid of them.

3434

3435 But it's clearly frustrating for him and for me, and I don't think it
3436 should surprise us.

3437

3438 Number three is that I think it's very important -- and you all have not
3439 done that, so I'm not -- but it's very important that anybody listening
3440 doesn't -- when we speak about the Coast Guard or Lockheed Martin, it's
3441 not the Coast Guard of Lockheed Martin.

3442

3443 There may be some individuals that have made mistakes and that's not the
3444 entity, the entirety entity, and I just -- you all understand that. We
3445 understand that. I just want to make sure that everybody else
3446 understands that.

3447

3448 DIAZ-BALART: And, lastly, Mr. Chairman, I just want to thank you and,
3449 also, Chairman Oberstar for your statements to Mr. LoBiondo's question
3450 or comments, and your commitment to that, because as Mr. Sampson just

3451 stated, the Coast Guard has always been underfunded, which is why this
3452 project, this Deepwater project is so important.

3453

3454 But obviously it's important not only that it receive the funding, but
3455 that it's funded and the money's spent efficiently and effectively, and
3456 that's the purpose.

3457

3458 I want to thank both you gentlemen for clarifying that, again, nothing
3459 that we didn't expect to hear from you, but it's always, I think,
3460 important that we thank you for that strong statement of support for an
3461 efficient, effective Deepwater program that does protect our national
3462 interest, our national security, and obviously the men and women who...

3463

3464 (UNKNOWN): Would the gentleman yield just briefly?

3465

3466 DIAZ-BALART: Yes.

3467

3468 (UNKNOWN): For an observation. I've served on the Coast Guard
3469 subcommittee since I came to Congress 32 years ago. We have added 27 new
3470 functions to the Coast Guard in those years, but the Congress and
3471 administrations, Democrat or Republican, have not given the Coast Guard
3472 the funding they need to carry out those functions.

3473

3474 That's what I'm talking about. That's the frustration and, by damn,
3475 we're going to work on that and do that in this Congress.

3476

3477 DIAZ-BALART: And I thank the chairman. Reclaiming my time. I thank the
3478 chairman for that, for his commitment. I know that.

3479

3480 I've been in conference with you not that many years, obviously, and
3481 I've seen that commitment. Clearly, the Coast Guard deserves the
3482 funding.

3483

3484 I think one of the problems that I am seeing here from Mr. Sampson's
3485 statement, and, again, I don't want to paraphrase, I'm paraphrasing what
3486 you said, but one of the issues that may be unfolding here is that, yes,
3487 frankly, with this Deepwater program, we've finally funded some assets
3488 for the Coast Guard that, frankly, since probably the Coast Guard has
3489 been so underfunded for so many years, they just weren't ready for it
3490 and no excuse there.

3491

3492 But anyways, I just wanted to make those statements. I want to thank the
3493 chairman of the subcommittee and the chairman of the full committee for
3494 allowing us this opportunity. I think it's been very fruitful.

3495

3496 Thank you.

3497

3498 (UNKNOWN): Will the gentleman yield to me on your time?

3499

3500 DIAZ-BALART: Yes, sir, I give you the rest of my time.

3501

3502 (UNKNOWN): Thank you very much. I just wanted to, so I don't have to

3503 drag out this panel, Mr. Atkinson, could you clarify your \$20 remark?

3504 Because I had asked Mr. De Kort and Mr. Braden about it and I thought I

3505 heard you say, and I don't want to put words in your mouth, but the

3506 difference between the mylar aluminum and the braided, shielded was 20

3507 bucks.

3508

3509 Is that 20 bucks a foot, 20 bucks a mile?

3510

3511 ATKINSON: No, sir. The Coast Guard -- excuse me. ICGS purchased the

3512 cable made by a company called Cable General. This was an Ethernet cable

3513 similar to what many of you have in your offices, but it's a heavier

3514 duty version of that cable.

3515

3516 Now, this cable is made in two formats. It's called a ship LAN cable

3517 designed for local area networks aboard ships. The first version is an

3518 unshielded twisted pair with a mylar shield only.

3519

3520 There is also another version, which is only slightly more expensive,
3521 which is a double shielded braid and foil. On the ends of this cable is
3522 a connector made by Sentinel Connector Company or Sentinel Connector
3523 Systems, Inc., which the actual connector itself was developed by
3524 Lockheed Martin.

3525

3526 The price difference between the shielded cable and the mylar shielded
3527 cable ore the double shielded cable, if you will, and the mylar shielded
3528 cable, total cost for a 10-foot cable, that mylar shielded, is about
3529 \$7.50. The cable that is double shielded is roughly \$27.

3530

3531 (UNKNOWN): For 10 feet.

3532

3533 ATKINSON: For a 10-foot cable.

3534

3535 (UNKNOWN): Anybody have any idea how many feet of cable we're talking
3536 about in the 110 conversions, Mr. De Kort?

3537

3538 DE KORT: There are almost 400 cables in total. I don't know how many
3539 there are, but I'd imagine several dozen, but, again, sir, that would
3540 need to be multiplied times 49 times the rest of the vessels, because
3541 it's a system of systems.

3542

3543 And if I could, because I understand why you're going to down, if I
3544 could clarify really quickly. When you have a program where you bid \$4
3545 million per boat and you know you're overrunning double that and it's \$8
3546 million per boat, it's very possible that they thought their potential
3547 profit was literally in five cents per cable.

3548 And, also, though, by the time these issues had snowballed, I believe
3549 Lockheed Martin, part of their thought was this is embarrassing. So at
3550 some point, they just didn't want this to come out because of how
3551 avoidable it was and how crucial these issues were.

3552

3553 So it's the combination, sir, of the cost, schedule, as well as not
3554 wanting to necessarily come out.

3555

3556 (UNKNOWN): And I thank you, Mr. Diaz-Balart, for yielding. Thank you.

3557

3558 CUMMINGS: Mr. Hall?

3559

3560 HALL: Thank you, Mr. Chairman and Chairman Oberstar. Thank you for the
3561 patience of all our witnesses and our other witnesses. I'll keep this
3562 really brief.

3563

3564 Mr. Sampson, I gather you're, among other things, a naval architect.

3565

3566 SAMPSON: Yes, sir, that's correct.

3567

3568 HALL: And when one builds a 110-foot vessel or any vessel, I would guess

3569 that the naval architect tries to make it of the ideal proportions to

3570 begin with. In other words, you're going to have the right proportion of

3571 length overall, beam, draft, deck strength and so on and so forth and

3572 the boat is designed to handle varying sea states in its existing

3573 proportion.

3574

3575 There have been a number of famous cases of failures or believed

3576 failures, "Perfect Storm" being one, for instance, where a fishing boat

3577 was altered without consulting a naval architect in that case and wound

3578 up, some people think, capsizing because it had lockers installed on the

3579 deck that caught a sea that came transverse and pushed hard on it and it

3580 rolled over. We'll never know about that.

3581

3582 But my question is when you take a 110-foot boat that was originally

3583 designed to be the ideal proportions, aren't you taking it off of its

3584 ideal proportions by lengthening, almost by definition?

3585

3586 SAMPSON: Absolutely, yes, sir. That was one of our main points, that

3587 this was such an elementary decision point or observation, that if you

3588 lengthen a vessel, the mid-ship section modules or the strength of that

3589 vessel has to be increased.

3590

3591 This is a high speed craft. You don't have that much reserve margin

3592 built in to an existing craft or you'd over-design it and it wouldn't

3593 make the speed.

3594

3595 So to make the assumption that the craft did not have the -- or that had

3596 that reserve strength...

3597

3598 HALL: That's fine. And I just noticed in some of the testimony, the

3599 written testimony of the later witnesses, that the design specs call for

3600 it to operate up to sea state five, 8- to 13-foot seas.

3601 I have a 39-foot cutter myself that I sailed in seas bigger than that.

3602 That seems to me rather like a low threshold for a ship that may have to

3603 operate -- or a boat, it's a ship to me, but I think it's a boat that

3604 may have to operate under considerably more extreme weather, and does

3605 probably.

3606

3607 And on top of everything else, I'm just curious how one could not

3608 overbuild in this situation when you know you're cutting a boat open and

3609 then extending it.

3610

3611 Has that occurred to you?

3612

3613 SAMPSON: Absolutely. There's several things that are associated with
3614 that performance specification and later information that I was told in
3615 regards to the requirements.

3616

3617 We were always verbally told that it was designed to be the same
3618 capability as a 110, just a 123. So a 110, for purposes of the
3619 operators, Mr. Ghosh has commented to me and he'll probably confirm
3620 this, that the 110 is, in essence, unrestricted. It can go out and
3621 operate in a sea that normally the human will give up long before the
3622 ship.

3623

3624 HALL: Right.

3625

3626 SAMPSON: They will pull the throttles back. With the 123, after the
3627 failure, it was explained by Mr. Jacoby that the design spec was
3628 actually poorly written and that the requirements that were being
3629 interpreted were actually lower than what we felt was operationally
3630 needed.

3631

3632 HALL: Thank you.

3633

3634 And, Mr. Atkinson, I just wanted to ask you, I understand that by Coast

3635 Guard accounts, the Matagorda was given its ATO in January of 2005 and
3636 then later that year had a visual inspection.

3637

3638 Do you know if the deficiencies identified in that visual inspection
3639 were severe and was it appropriate that they were waived?

3640

3641 ATKINSON: No, sir. None of the items that were detected in the visual
3642 inspection should have been waived. By issuing these waivers, they
3643 quite literally were covering up significant vulnerabilities.

3644

3645 While our enemies may not have directly exploited those vulnerabilities,
3646 they did nonetheless create vulnerabilities that the Coast Guard decided
3647 were acceptable.

3648

3649 HALL: And what's the risk to national security if TEMPEST certifications
3650 testing process is not done properly and the vessel operates and
3651 broadcasts to other vessels?

3652

3653 ATKINSON: National security. A foreign government will be able to access
3654 our classified communications, not just on a one-ship basis, but more of
3655 a -- everything our country has, they can detect our codes, our ciphers,
3656 our hopping patterns, our communications.

3657

3658 They can exploit that not just on the Matagorda, but on everything in
3659 our inventory. You give them the keys to the kingdom when you breach

3660 TEMPEST.

3661

3662 HALL: Thank you very much. Thank you, Mr. Chairman.

3663

3664 CUMMINGS: Thank you.

3665

3666 First of all, I want to thank all of you for your testimony.

3667

3668 I was just sitting here thinking about what you all have said -- and I'm
3669 so glad that we have Americans who care as much as all of you care, and
3670 I really mean that.

3671

3672 One of the things that's really nagging at me, though, is Mr. De Kort
3673 and I'm wondering, Mr. Braden, you've been with Lockheed Martin how
3674 long?

3675

3676 BRADEN: Thirty years.

3677

3678 CUMMINGS: Thirty years. And you've heard the complaints of Mr. De Kort.
3679 Were those, in your mind, I mean, the things that you know about that
3680 you can express an opinion about, were those reasonable things to raise?

3681

3682 I just want to make sure that -- here's a man who, just like everybody
3683 else here, is making it clear that he wants the best for the Coast Guard
3684 and the best for our country. And I'm just wondering, what was your
3685 opinion on those things?

3686

3687 BRADEN: I think the issues he raised I would expect to be raised by any
3688 competent program manager, project manager or engineer.

3689

3690 CUMMINGS: Thank you very much.

3691

3692 Mr. Chairman?

3693

3694 OBERSTAR: I just want to nail a couple of things down with Mr. Atkinson.

3695

3696 The difference between a visual test and an instrumented test, a visual
3697 review and certification through follow-up instrumentation testing, what
3698 is the significance of the one and the other, and the two in
3699 combination?

3700

3701 ATKINSON: The physical inspection tells us if hardware has been properly
3702 placed onto the equipment, that cables are properly bonded, that cables
3703 are connected properly, that they're properly grounded, that isolation

3704 distances have been rigorously adhered to.

3705

3706 Those must be done in a visual inspection before you do an instrumented
3707 inspection.

3708

3709 OBERSTAR: And is it sufficient to do the visual? If those factors are
3710 verified, can the inspector say that's sufficient?

3711 ATKINSON: No, sir. It must pass a visual inspection and then pass an
3712 instrumented inspection.

3713

3714 OBERSTAR: And the instrumentation will tell us whether there is leakage
3715 and at what distance and what can happen with how the signal can be
3716 intercepted.

3717

3718 ATKINSON: Yes, sir.

3719

3720 OBERSTAR: Is that correct?

3721

3722 ATKINSON: It is very similar to going to the doctor with a cough. The
3723 doctor can hear your cough. He can see that you're in pain, but he
3724 doesn't know that you have water on your lungs. So he will send you to a
3725 radiologist to have your chest examined and X- rayed.

3726

3727 The X-ray is an instrumented test. An instrumented test is an absolute
3728 measure based on scientific principles, not just a visual observation.

3729

3730 The two must be done, but the visual needs to be done before the
3731 instrumented and then the visual needs to be repeated on a fairly
3732 regular basis.

3733

3734 OBERSTAR: There is a risk to national security in a vessel handling
3735 classified information and conducting classified communications with
3736 shore side and airborne equipment.

3737

3738 What is the risk to national security if a vessel handles such traffic
3739 without proper TEMPEST certification?

3740

3741 ATKINSON: If a Coast Guard cutter goes into the territorial waters of
3742 Cuba and while they're in the territorial waters of Cuba, they transmit
3743 a classified message through their satellite communications link or
3744 through other means and they have leaky equipment and Cuba picks up on
3745 those leaks, they will have just disclosed to the Cuban government how
3746 our cryptographic equipment works, how our C4ISR equipment works, the
3747 coding that it works on, and they will be giving away not only their
3748 position, but they'll be giving away, again, the keys to the kingdom.

3749

3750 They will allow Cuba to listen in now on any of our ships.

3751

3752 OBERSTAR: And it can be at close range or at long range.

3753

3754 ATKINSON: Depending on the specific vulnerability, it can be as little

3755 as somebody getting within 30 to 50 feet of a vessel or, in other cases,

3756 it can be in excess of several hundred miles.

3757

3758 OBERSTAR: Under those circumstances, was it acceptable that -- an

3759 acceptable risk that the Matagorda received authority to operate in

3760 January 2005?

3761

3762 ATKINSON: No, sir.

3763

3764 OBERSTAR: Without an instrumented test?

3765

3766 ATKINSON: The Matagorda had an instrumented test. It failed.

3767

3768 OBERSTAR: Without a successful test.

3769

3770 ATKINSON: Without a successful test. However, in Coast Guard documents,

3771 there is indication that they had planned a second instrumented test

3772 which was never accomplished.

3773

3774 OBERSTAR: Never accomplished, that's right.

3775

3776 I thank you very much.

3777

3778 Mr. Chairman, I think, as you said earlier, I think we should move on to
3779 the next panel. I'm grateful to these four public spirited citizens who
3780 take their sense of responsibility deeply and genuinely and grateful for
3781 your testimony today.

3782

3783 It will help us get the Coast Guard on a better track.

3784

3785 CUMMINGS: I understand Mr. Kagen has a few questions.

3786

3787 KAGEN: Thank you, Mr. Chairman. I apologize for being late.

3788

3789 Mr. De Kort, I'll keep you only very briefly. Would you agree that this
3790 process of self-certification by Lockheed Martin played a key role in
3791 the failure that you observed?

3792

3793 DE KORT: Yes, sir. It was the fox in the henhouse.

3794

3795 KAGEN: So you think this process of self-certification should be

3796 continued anywhere else?

3797

3798 DE KORT: I don't know that there's a place where you would allow

3799 self-certifying anywhere, whether it's in the government or private

3800 enterprise. It just doesn't sound like something you'd want to do.

3801

3802 KAGEN: Very good.

3803

3804 And would you also agree that in this project, overall, there was no

3805 effective oversight?

3806

3807 DE KORT: Yes. The oversight was not effective and the reason I hesitated

3808 is because I want to draw a distinction between the oversight that

3809 existed and needing more.

3810

3811 I don't necessarily -- I know you need more, OK, because of coverage

3812 issues. Again, there was plenty of oversight, though, with these issues

3813 being raised with the people who were there who had the authority to

3814 make changes.

3815

3816 So more in this case wouldn't have solved a thing. It was decisions that

3817 the people they had made. And every bit of it could have been avoided.

3818

3819 KAGEN: And it was the effectiveness of that oversight that was lacking.

3820

3821 DE KORT: Yes, sir.

3822

3823 KAGEN: And on a personal note, have you ever, at any time, felt that

3824 your health or your life was in danger? Do you ever feel nervous?

3825

3826 DE KORT: No, sir. I feel that I suffered retribution after this while I

3827 was in Lockheed Martin, but it never elevated to the point where I

3828 thought that myself or my family -- I never -- and nothing ever occurred

3829 to make me actually think that.

3830

3831 KAGEN: Very good. Thank you very much.

3832

3833 I yield back.

3834

3835 CUMMINGS: Just to clear up, following up on Chairman Oberstar's

3836 questions.

3837

3838 You know, Mr. Atkinson, one of the most troubling things is this whole

3839 idea of waivers, because you could have all the standards in the world,

3840 but if you're waiving, that's a problem.

3841

3842 The Matagorda, the visual TEMPEST test results are the most troubling or
3843 dangerous from a perspective of protecting classified materials. Is that
3844 right?

3845

3846 ATKINSON: No, sir. My concerns would be with all of the ships. The
3847 Matagorda received extra attention because it was a prototype. That
3848 which was on the Matagorda is also on the other ships, because Lockheed
3849 Martin was required to make it identical on every ship.

3850

3851 Therefore, if the first ship failed, all the ships failed. If the first
3852 ship passes, all of the ships pass. All eight ships failed.

3853

3854 CUMMINGS: So waiver, although there were waivers, I guess you're saying
3855 that even without the waivers, they would have probably failed.

3856

3857 ATKINSON: Yes, sir. It is akin to developing a hull breach and putting
3858 duct tape on it. It will fix it, but not really.

3859

3860 CUMMINGS: This is a mess.

3861

3862 ATKINSON: It is an enormous mess.

3863

3864 OBERSTAR: One last question, Mr. Chairman, if I may, in connection with

3865 that. I know the panel has visited this subject, but on the question of
3866 certification, would you recommend that for hull, for TEMPEST, that the
3867 Coast Guard engage or be subjected to an outside independent party for
3868 certification purposes?

3869

3870 ATKINSON: That's a very difficult issue. The Coast Guard lost their --
3871 it's referred to as a CTTA, which is a certified TEMPEST authority that
3872 attends and graduates a TEMPEST school.

3873

3874 They lost that person due to death prior to the Matagorda being
3875 commissioned or inspected. This person's second in command was then
3876 appointed an acting CTTA. He was not formally recognized by the National
3877 Security Agency as the cognizant authority. This is a matter of
3878 documentation which the committee has in their possession.

3879

3880 As a result, he was not recognized by the NSA as being competent to
3881 perform these inspections nor competent to make the instrumented
3882 inspections.

3883

3884 The Coast Guard turned to the Navy. The Navy sent their CTTA to the
3885 shipyards. He performed the instrumented inspection, which had three
3886 failure points.

3887

3888 The report then went back to the Coast Guard, the acting CTTA, and they
3889 stated issuing waivers. Things were found bad. Instead of fixing it,
3890 they threw a waiver on top of it.

3891

3892 OBERSTAR: Let me ask the other members of the panel, briefly, your
3893 response to that question.

3894

3895 SAMPSON: In regards to structural certifications and such, sir, Mr.
3896 Ghosh would probably be better suited for that question. The issue
3897 primarily is focused, I think, for purposes of the hull.

3898

3899 We have the capabilities. It's just a matter of whether or not we have
3900 the time, resources or the administrative authority to correct the
3901 contractor. Many times, this has been stated before, that I've been told
3902 many times, as an engineer, by a contracting officer that we have to
3903 give the contractor the opportunity to fail.

3904

3905 And that's a very frustrating position to be when we know for a fact
3906 that they are going to fail, but because we're required to give them
3907 that option, if we try to correct the contractor, it's always, "Well,
3908 delay and disruption" or "you're telling me, this is my way, it would
3909 have worked," and it's a very tenuous situation.

3910

3911 OBERSTAR: Mr. Braden or Mr. De Kort, do you have a comment?

3912

3913 BRADEN: As I said earlier, I believe that, say, an independent third
3914 party that would provide some degree of oversight would go a long way
3915 toward resolving differences, subjective differences of what a
3916 requirement is or isn't and I think that would help immensely, both for
3917 the efficiency of the Coast Guard side and the contractor sides.

3918

3919 OBERSTAR: Would the American Bureau of Shipping perform that function?

3920

3921 SAMPSON: That would be for the hull. ABS does have that capability to do
3922 certifications of designs.

3923

3924 OBERSTAR: Thank you.

3925

3926 Mr. De Kort?

3927

3928 DE KORT: Relative to TEMPEST, I could see utilizing, sir, the Navy to do
3929 that, because of their capabilities.

3930

3931 However, I'd come back to ships that float, planes that fly. These are
3932 basic items that are just done, and they're considered to be elementary.

3933 So I don't know that we necessarily need to over-think oversight or who

3934 should be testing.

3935

3936 You get in your car, you put it in drive, you push the gas and the car

3937 goes forward. If it doesn't go forward, it failed. I mean, sorry, these

3938 are basic things.

3939

3940 The Coast Guard should have equipment that survives the elements. If

3941 they don't, then who is? If you have every ship in the Coast Guard

3942 inventory matching designs, like I've said to Mr. Atkinson, 20 years

3943 from now, the Coast Guard gets in level sea state six or whatever

3944 condition or excessive wind, whatever it is, who's going to rescue the

3945 Coast Guard?

3946

3947 And I'd imagine, sir, that you could find pleasure craft, especially

3948 research vessels, that are in much better shape than these craft would

3949 have been going forward.

3950

3951 OBERSTAR: Thank you.

3952

3953 GILCHREST: Mr. Chairman? To your left, I'm to the left of the chairman.

3954

3955 CUMMINGS: Yes. Sorry, Mr. Gilchrest. My Maryland buddy.

3956

3957 GILCHREST: I just had a quick question to Mr. De Kort or anybody else
3958 who wants to answer this.

3959

3960 Standard design, and I'm curious, people have been making these Coast
3961 Guard cutters for a long time now. So if you go from 110 feet to 123
3962 feet, why should that be a problem?

3963

3964 DE KORT: Mechanical engineering is not my background, sir, but I'll just
3965 say, from an observer at 30,000 feet looking in on this, it shouldn't.

3966

3967 I mean, here's the thing. If the contract was that loose or the
3968 requirements were that gray, I'd like to know how ELC, Mr. Sampson or I
3969 figured it out?

3970

3971 I don't know that we had some special insight, capabilities or we're
3972 clairvoyant. So we had the same requirement set, the same contract, the
3973 same everything.

3974

3975 Now, it wasn't perfect. Did we need more oversight? Yes. Would I suggest
3976 potentially a contractual mess? Fine, yes. Could the requirements have
3977 been written better? Yes. But we're talking about just elementary items
3978 here that really don't take much discussion.

3979

3980 GILCHREST: And this is Lockheed Martin. This is not a new boat builder.

3981 If it's elementary design, you go from 110 feet to 123, I mean, is this

3982 that difficult that the hulls are going to breach? What happened?

3983

3984 DE KORT: Well, sir, I can't speak for the breach, but I can speak for

3985 all C4ISR. Again, it was the perfect storm. They made a strategic

3986 decision to bid the job without enough C4ISR engineers and to use people

3987 who literally didn't have enough background or they didn't have enough

3988 people who had the background.

3989

3990 And when they got into it, they were behind right away, because it was

3991 aggressively bid. So they quickly had to make decisions so that they

3992 could stay on schedule. Like I said, the person who picked the

3993 non-waterproof radio's background was a software configuration

3994 management specialist. It was a hardware item.

3995

3996 I mean, it sounds kind of incredible, I suppose, but it's literally what

3997 happened.

3998

3999 So that perfect storm just hit -- I'm sorry. I'm mixing metaphors. But

4000 then it snowballed and they just got in so deep that I don't know that

4001 they could figure a way out.

4002

4003 GILCHREST: This is like the chaos theory in reverse.

4004

4005 DE KORT: Yes, sir.

4006

4007 GILCHREST: Thank you, Mr. Chairman.

4008

4009 CUMMINGS: Well, again, I thank you all.

4010

4011 Mr. De Kort, what you just said is -- you're right. It seems so

4012 elementary. It seems so elementary it's painful.

4013

4014 And it's painful from the standpoint that we're talking about lives,

4015 lives of our Coast Guard folks. We're talking about ships that are not

4016 out there now guarding our coasts, interdicting drug runners, and the

4017 American people are paying big-time.

4018

4019 So I want to thank all of you. And all I can say is that if we can send

4020 -- and I'll say it 50 million times -- if we can send people to the

4021 moon, we ought to be able to fix a ship that's no bigger than this room.

4022

4023 It's incredible to me. We ought to be able to have communications

4024 whereby Cuba and other countries don't even have the capability of

4025 eavesdropping onto those communications.

4026

4027 It's incredible and literally shocking to the conscience. Thank you all

4028 very much. We'll move on to the next panel.

4029

4030 Mr. MacKay, Mr. Anton, Mr. Hamblin, Mr. Stanley, Mr. Rodgers, Mr.

4031 Winterstine, before you all sit down, I'm going to administer the oath.

4032

4033 (WITNESSES SWORN)

4034

4035 CUMMINGS: Thank you.

4036

4037 Mr. MacKay? Sorry, Dr. MacKay?

4038

4039 MACKAY: Good evening, Mr. Chairman and ranking member. I'm very grateful

4040 to be here on behalf of the people of Lockheed Martin and get the chance

4041 to explain the progress that Lockheed Martin is achieving on the

4042 integrated Deepwater system program, where we are responsible for

4043 aviation, C4ISR integrated logistics and system engineering.

4044

4045 Lockheed Martin has enabled deployment of more than 75 upgraded AJ-65

4046 helicopters featuring more powerful engines, delivered two new HZ-144A

4047 maritime patrol aircraft, with six more in various stages of contracting

4048 and construction, progressed through developmental test and evaluation

4049 of the HZ-144A electronic mission system, commenced mission system and
4050 sensor installation on all six J model HZ-130 long range search
4051 aircraft, and sustained service of the MH-68A armed helicopters,
4052 comprising the Coast Guard's helicopter interdiction squadron.

4053

4054 Lockheed Martin has upgraded command-and-control systems aboard all of
4055 the Coast Guard's 39 medium and high endurance cutters, resulting in
4056 significant increases in the seizure of illicit drugs.

4057

4058 In March, the Coast Guard issued full authority to operate the Deepwater
4059 command-and-control system at its district command center in Miami in
4060 District 7.

4061

4062 Achieving authority to operate is the government certification that the
4063 system performs and operates correctly. This system provides enhanced
4064 mission planning tools and facilitates rapid exchange of information
4065 through a common operating picture among Coast Guard commands, cutters
4066 and aircraft.

4067

4068 The system is now being installed in sector San Juan in Puerto Rico,
4069 soon to be followed at major Coast Guard commands in Massachusetts,
4070 Virginia, Washington, Hawaii, California and Louisiana.

4071

4072 Deepwater is delivering and making a real difference, impacting drug
4073 seizures, migrant interdictions and lives saved.

4074

4075 On the Pacific coast earlier this year, the Coast Guard performed a
4076 rescue utilizing an H8-65C helicopter under conditions that would have
4077 been impossible for the aircraft that it replaced.

4078

4079 And just last month, the Coast Guard Cutter Sherman, patrolling off
4080 Central America, utilized its Lockheed Martin installed electronics to
4081 track passively a ship of interest, to board her without alerting her,
4082 and to coordinate the seizure of a record 21 tons of cocaine with a
4083 street value of \$300 million, via secure satellite communications.

4084

4085 We take the concerns raised by the Department of Homeland Security's
4086 inspector general seriously. For example, during a Lockheed Martin
4087 review of 123-foot boat cabling, it was determined that 85 out of
4088 approximately 490 cables per ship could not be confirmed as having low
4089 smoke properties.

4090

4091 Subsequently, the government determined that the risks were low enough
4092 to grant a waiver. The cables extend outside on the mast or on the deck,
4093 are surrounded by windows enabling easy ventilation and are short in
4094 length.

4095

4096 After C4ISR equipment environmental requirements were updated in 2005,
4097 it became necessary to resolve inconsistencies in the specifications. A
4098 joint Coast Guard-Lockheed Martin working group was established and
4099 after their consideration of the mission criticality of each component,
4100 its specification compliance and its function aboard the boat, a request
4101 for waiver was determined to be the appropriate action.

4102

4103 This action permitted reconciliation of the program's acquisition
4104 strategy to maximize the use of ruggedized off-the-shelf commercial and
4105 government equipment with a multitude of military standards incorporated
4106 into the requirements.

4107

4108 By requesting a waiver, the Coast Guard was afforded the ultimate
4109 decision as to a course of action according to its standards of cost-
4110 effectiveness and safety.

4111

4112 While there has been much discussion regarding C4ISR TEMPEST
4113 capabilities, the inspector general determined in its report that the
4114 installed C4ISR system was not a security vulnerability.

4115

4116 In fact, an independent third party, the U.S. Navy Space and Naval
4117 Warfare Systems Center, or SPAWAR, as it's colloquially known,

4118 determined the system on the 123-foot patrol boats did not have
4119 compromising emissions in two instrumented tests and was subsequently
4120 approved by the Coast Guard to operate in a classified environment.

4121

4122 Finally, as the inspector general found, the camera system on the
4123 123-foot patrol boats fully complies with the video surveillance system
4124 requirements. It was designed as part of an overlapping series of
4125 measures, including sentries and an intruder detection system. Lockheed
4126 Martin did not consider it prudent to unilaterally increase costs by
4127 providing functionality that the customer did not want or need.

4128

4129 We continue to support the implementation, contractual and program
4130 management process improvements initiated by the Coast Guard, as well as
4131 the active incorporation of lessons learned.

4132

4133 We have supported the creation of a joint configuration control board
4134 and the participation of third parties for independent certification.

4135

4136 In closing, I'd like to read a short quote from the commanding officer
4137 of the Coast Guard's new Lockheed Martin installed C4ISR training center
4138 in Petaluma, California.

4139

4140 Quote, "The contrast between our tools of 1983 and the tools of the

4141 future ships like the Berthoff (ph), is significant. I remember analog
4142 radar, message traffic by teletype, paper charts and maneuvering boards,
4143 Polaroid cameras and slow criminal history checks.

4144

4145 "By contrast, our new national security cutters will train on
4146 computerized digital sensors, radar and charts, have live sharable
4147 digital video, message traffic by PC, voice communications with anyone
4148 clear or secure, and real-time criminal histories and intelligence
4149 checks.

4150

4151 "The Coast Guard will have increased maritime germane awareness to
4152 identify threats and accommodate operating (inaudible) to act when
4153 necessary, all to protect our coastlines and citizens," end quote.

4154

4155 Thank you again for the opportunity to present and explain the progress
4156 we're achieving on the Deepwater program. I look forward to answering
4157 your questions.

4158

4159 Thank you, Mr. Chairman, Mr. Ranking Member.

4160

4161 CUMMINGS: Thank you very much.

4162

4163 Mr. Stanley, do you have a statement?

4164

4165 STANLEY: No, I don't have a statement. I'm here to answer your
4166 questions.

4167

4168 CUMMINGS: Thank you very much.

4169

4170 Mr. Anton?

4171

4172 ANTON: Good evening, Mr. Chairman and Ranking Member of the committee,
4173 and thank you for the opportunity to appear before you to discuss the
4174 Deepwater program.

4175

4176 I am the executive vice president of Integrated Coast Guard Systems and
4177 the vice president of the Deepwater program with the Northrop Grumman
4178 Ship Systems.

4179

4180 As you may know, NGSS has nearly 70 years of experience designing,
4181 constructing and maintaining ships of all types. In that time, NGSS Gulf
4182 Coast operations has produced a total of (inaudible).

4183

4184 I would also like to thank this committee for their strong support of
4185 the Coast Guard and of the Deepwater program.

4186

4187 The 110-foot patrol boats have seen extensive duty since their entry
4188 into service some 20 years ago. The 123-conversion was intended as an
4189 interim measure to enhance the capabilities of the aging patrol fleet
4190 until a new vessel, the fast response cutter, was available to replace
4191 it.

4192

4193 The conversion work was performed by Bollinger Shipyards, the original
4194 builder of the 110s, under subcontract to Northrop Grumman. The
4195 conversion project underwent a traditional set of design and review
4196 processes with contractor and Coast Guard personnel.

4197

4198 After being awarded the patrol boat conversion work, but before
4199 beginning the actual conversion work, the Coast Guard, ICGS, NGSS,
4200 Lockheed Martin and Bollinger, with their joint venture partner, Halter,
4201 engaged in design reviews, including a preliminary design review, a
4202 critical design review and a production readiness review.

4203

4204 These reviews were reviews of the 123 conversion design which were
4205 presented to the Coast Guard in increasing levels of detail. Although
4206 not a contract requirement, ICGS conducted the preliminary design
4207 review, or PDR.

4208

4209 As part of the PDR process, drawings and analysis were submitted to the

4210 Coast Guard for consideration and review.

4211

4212 Half of the attendees at the PDR were Coast Guard personnel. The next
4213 phase was critical design review, or CDR. In conjunction with CDR, the
4214 Coast Guard reviewed a series of design deliverables. CDR presentations
4215 included results from a number of design tests and the Coast Guard
4216 represented nearly half of the attendees.

4217

4218 CDR was followed again by a production readiness review. During the PRR,
4219 the production process procedures and state of the design to convert the
4220 110 vessel into the 123 were presented.

4221

4222 As with the design reviews, the Coast Guard fully participated in the
4223 PRR process. Four days later, the Coast Guard delivered the Matagorda to
4224 Bollinger for conversion in Lockport, Louisiana.

4225

4226 In addition to these various reviews with the Coast Guard, during the
4227 conversion of the first vessel, the Matagorda, the American Bureau of
4228 Shipping examined the designed of the hull extension, the new deckhouse
4229 and monitored key elements of the work being performed.

4230

4231 The Coast Guard also had program management resident offices onsite to
4232 oversee the 123 conversions. At the completion of each conversion and as

4233 part of the acceptance process, the Coast Guard, similar to what the
4234 Navy does, established an in-service inspection board to examine the
4235 performance of the converted cutter and make a formal recommendation of
4236 acceptance.

4237

4238 At the conclusion of the Matagorda work, ABS issued a letter of approval
4239 for the conversion work and expressed no reservations with the
4240 feasibility of the conversion.

4241

4242 Based on all of the reviews and actions, the Coast Guard accepted
4243 delivery of the Matagorda. This same process was applied to each of the
4244 seven patrol boats delivered to and accepted by the Coast Guard.

4245

4246 To date, the problems associated with the 123 conversion include
4247 buckling or hull deformation and shaft and propeller alignment problems.
4248 Neither Coast Guard engineers nor our engineers have been able to
4249 determine the root cause for the 123 patrol boat structural problems.

4250

4251 We understand that Admiral Allen has decided to decommission the eight
4252 123 boats converted under the Deepwater program. Though I'm not privy to
4253 the research, tests and reports that led to this decision, we will
4254 continue to support the Coast Guard's effort to address its mission
4255 needs.

4256

4257 Thank you again for the opportunity to discuss with you the Deepwater
4258 program.

4259

4260 CUMMINGS: Does anyone else have a statement? Thank you very much.

4261

4262 Let me just begin the questioning.

4263

4264 To Mr. Rodgers, what position did you hold with regard to the Deepwater
4265 program?

4266

4267 RODGERS: From January '03 through September '05, I was the lead program
4268 manager for Lockheed Martin.

4269

4270 CUMMINGS: So did that position give you an overall day-to-day cost and
4271 schedule responsibility for the entire Deepwater and C4ISR effort?

4272

4273 RODGERS: The C4ISR effort was part of that responsibility.

4274

4275 CUMMINGS: All right. Was there ever any suggestion provided by you or
4276 your superiors at Lockheed Martin that cost and schedule goals were
4277 paramount and that the mission needs of the Coast Guard took a backseat
4278 to these considerations?

4279

4280 RODGERS: No, sir.

4281

4282 CUMMINGS: Was there pressure to produce this -- you were here when Mr.

4283 Braden testified, were you not?

4284

4285 RODGERS: Yes, I was.

4286

4287 CUMMINGS: And I think he talked a little bit about pressure, not trying

4288 to put words in his mouth, but he did talk about pressure. So you don't

4289 know anything about that pressure, the pressure he talked about.

4290

4291 RODGERS: From an overall program, there's always pressure to perform in

4292 that sense. In my 24 years, there's always pressure to execute the job

4293 you're assigned to.

4294

4295 CUMMINGS: Is it the case that employees of Lockheed Martin, regarded an

4296 assignment to the Deepwater project, as a type of punishment, did you

4297 ever get that impression?

4298

4299 RODGERS: No, I did not.

4300

4301 CUMMINGS: To what degree did limited resources available for the C4ISR

4302 components of the Deepwater project contribute to the failure of
4303 Lockheed to meet all contractual requirements on the systems installed
4304 in the 123s?

4305

4306 Were there budgetary problems?

4307

4308 RODGERS: Overall, we had a schedule challenge. We missed the original
4309 schedule in November of '03 and it was replanned with the Coast Guard to
4310 make March of '04. That was the major focus area, was that how do we
4311 achieve the first delivery.

4312

4313 CUMMINGS: Wait a minute. I'm sorry. I didn't hear a word you said.

4314

4315 RODGERS: OK.

4316

4317 CUMMINGS: Say that again.

4318

4319 RODGERS: The original schedule for delivery of the 123 was November of
4320 '03. And with that, we did a replan with the Coast Guard to make that
4321 March of '04. So from a schedule point of view, we replanned the
4322 original schedule.

4323

4324 CUMMINGS: All right. Now, you heard the testimony of Mr. De Kort, did

4325 you not?

4326

4327 RODGERS: Yes, I did.

4328

4329 CUMMINGS: Were you here for the entire testimony?

4330

4331 RODGERS: Yes, I was.

4332

4333 CUMMINGS: Did Mr. De Kort raise each and every one of these issues to

4334 you and your superiors, the ones that he stated?

4335

4336 RODGERS: Not to me personally.

4337

4338 CUMMINGS: Did you know about them?

4339

4340 RODGERS: I knew after the fact in the sense that I knew there was -- I

4341 facilitated him meeting with some of the senior management. To that

4342 point, I was aware of them.

4343

4344 CUMMINGS: So in other words, did you know what he was going to meet with

4345 senior management about?

4346

4347 RODGERS: I know he had some concerns with the program that were not

4348 being addressed and he wanted to have the ability to talk to some people
4349 in more senior management.

4350

4351 CUMMINGS: So in other words, you made it possible for him.

4352

4353 RODGERS: That was facilitated.

4354

4355 CUMMINGS: All right. And so you never really discussed them in any kind
4356 of detail. Is that what you're saying?

4357

4358 RODGERS: Yes, sir. From my seat, I would not. I was the overall program
4359 manager. So I would have not have spoken in technical detail to his
4360 concerns. We would have relayed that to engineering.

4361 CUMMINGS: Let me ask you this. Do you know whatever became -- do you
4362 know who he met with as a result of your facilitating discussions? Do
4363 you know who he met with after that?

4364

4365 In other words, who you made it possible for him to talk to.

4366

4367 RODGERS: He mentioned in his testimony that he met with the vice
4368 president of engineering, Carl Banner (ph). I was aware of that meeting.

4369

4370 CUMMINGS: And so you know for a fact that he did with meet with the vice

4371 president. What's his name again?

4372

4373 RODGERS: Carl Banner (ph).

4374

4375 CUMMINGS: You know for a fact that he met with him.

4376

4377 RODGERS: I knew that meeting was being set up and since he -- I have no

4378 reason to disbelieve that did not happen.

4379

4380 CUMMINGS: Now, when you heard -- you did hear -- I guess to facilitate

4381 the meeting, you had to hear a little bit about what he was concerned

4382 about. Did you have any immediate response other than facilitating a

4383 meeting?

4384

4385 RODGERS: Overall is that he has a chain of command within his department

4386 and, in particular, said, OK, those -- his concerns, I believe, were

4387 expressed through his chain of command, as he testified.

4388

4389 CUMMINGS: Now, where would you have been on the chain of command with

4390 regard to him?

4391

4392 RODGERS: I was the overall program manager.

4393

4394 CUMMINGS: In other words, what I'm trying to say is that were you -- did
4395 he have to go two steps up to get to you? Were you on the same level?

4396 I'm trying to figure out...

4397

4398 RODGERS: In general...

4399

4400 CUMMINGS: Hear my question. I'm just trying to figure out where you fit
4401 on the chain.

4402

4403 RODGERS: Overall, from a Lockheed perspective, there was approximately
4404 350 people on the Deepwater program. I was the overall lead.

4405

4406 CUMMINGS: The last words?

4407

4408 RODGERS: I was the overall lead.

4409

4410 CUMMINGS: So you were like at the top.

4411

4412 RODGERS: Or second to the top, yes.

4413

4414 CUMMINGS: So in order for him to get to you, that man, he skipped over
4415 some folks. In other words, what I'm trying to get to is, he got to you
4416 and you said there was a chain of command.

4417

4418 You said there's some 300 people. You're at the top. So you then told

4419 him to meet with somebody above you. Is that it?

4420

4421 RODGERS: Overall, he had concerns about some engineering concerns. We

4422 had him meet with the head of engineering to share his concerns.

4423

4424 CUMMINGS: And the person who you facilitated the meeting with, the vice

4425 president that you just spoke of...

4426

4427 RODGERS: Yes.

4428

4429 CUMMINGS: ... that person was above you.

4430

4431 RODGERS: Correct.

4432

4433 CUMMINGS: OK, got you. Now, you've heard -- you're familiar with the

4434 Deepwater program, and you just said that you were responsible for the

4435 day-to-day cost and schedule responsibilities.

4436

4437 So you're pretty familiar with it, are you not?

4438

4439 RODGERS: I left the program 18 months ago. So I'm familiar with it up

4440 until September of '05.

4441

4442 CUMMINGS: Well, let me ask you, you heard the complaints of Mr. De Kort

4443 today, did you not?

4444

4445 RODGERS: Yes, I did.

4446

4447 CUMMINGS: And I'm just wondering, do you have an opinion? Do you think

4448 they were reasonable complaints?

4449

4450 RODGERS: The first time I -- I do not have -- the first time I read his

4451 complaints was in the inspector general's report, which, when I got

4452 called to testify, I read.

4453

4454 I understand the inspector general's report. I don't have a specific

4455 opinion on his complaints, from a technical perspective, because his

4456 complaints, to me, are technical perspectives.

4457

4458 CUMMINGS: Is that unusual for employees to have complaints of this

4459 nature, to have had them with regard to this Deepwater program? I'm just

4460 curious.

4461

4462 I'm sure you've done other programs, too. Is it unusual for people to

4463 bring issues like this to you?

4464

4465 RODGERS: No, it's not unusual for people to bring issues like this to

4466 me.

4467

4468 CUMMINGS: Now, did you ever have a conversation with the vice president

4469 that you referred him to about his complaints? Was there ever a

4470 conversation, ever?

4471

4472 RODGERS: No, not about his complaints specifically.

4473

4474 CUMMINGS: Say that again.

4475

4476 RODGERS: Not about his complaints specifically.

4477

4478 CUMMINGS: About him?

4479

4480 RODGERS: Other than facilitating the meeting, I did not get feedback

4481 from the meeting.

4482

4483 CUMMINGS: All right.

4484

4485 Now, were you aware that Lockheed had planned to install a non-

4486 waterproof radio in the prosecutor's launch on the 123s? Were you aware
4487 of that?

4488

4489 RODGERS: No, I was not.

4490

4491 CUMMINGS: Were you aware that the installation of a non- waterproof
4492 radio in the prosecutors would put the crew of the prosecutors at risk
4493 of potential electric shock?

4494

4495 RODGERS: Can you clarify? When you say "are you aware?"

4496

4497 CUMMINGS: Well, this is what I'm asking you. You're the day-to- day guy.

4498

4499 RODGERS: Right.

4500

4501 CUMMINGS: You're number one or number two. You're there. You're up there
4502 and you said, I didn't say this, you said it. You're the day-to-day
4503 cost, schedule responsibility guy and you said you're familiar with the
4504 project.

4505

4506 RODGERS: Correct.

4507

4508 CUMMINGS: Is that right? I'm not trying to put words in your mouth.

4509

4510 RODGERS: The 123 is just one of many projects within the Deepwater
4511 program.

4512

4513 CUMMINGS: OK. Now, what I'm asking you is that I think you would agree,
4514 if you heard Mr. De Kort, and I think maybe another person may have said
4515 it, too, but this radio that they used is their means of communication,
4516 is that right?

4517

4518 RODGERS: I don't know. I'm not a technical expert from -- I'm not a
4519 technical expert on the 123 design.

4520

4521 CUMMINGS: Let me ask you this. If you're producing a boat and water's
4522 splashing up on it and there's a radio, would you deem it prudent to
4523 have a radio that's waterproof?

4524

4525 RODGERS: Yes, I would.

4526 CUMMINGS: Let me ask you something else. Were you aware that that
4527 topside equipment was installed on the 123s that would not meet
4528 environmental requirements?

4529

4530 RODGERS: No, I was not aware at that time.

4531

4532 CUMMINGS: Were you aware that Mr. De Kort tried to identify this
4533 noncompliant equipment and have it replaced and that Lockheed directed
4534 him not to do so?

4535

4536 RODGERS: No, I was not aware of that.

4537

4538 CUMMINGS: Were you aware that the contractor eventually self- certified
4539 that the topside equipment met specifications when, in fact, it did not?
4540 Did you know that? That's from the I.G. report. Are you aware of that?

4541

4542 RODGERS: I've read the I.G. report once. I'm not familiar -- I have not
4543 studied its contents.

4544

4545 CUMMINGS: Let me ask you this. Do these things that I'm saying to you
4546 concern you? I mean, in other words, you were the top guy.

4547

4548 RODGERS: Right.

4549

4550 CUMMINGS: And we've got a radio that's not waterproof. We've got topside
4551 equipment that they claim met specifications, but didn't. And you're the
4552 top guy. You're the one, I guess, that if anything goes wrong, somebody
4553 says, "Wait a minute. What happened?" Is that right?

4554

4555 You're the one that I guess the president would ask questions of.

4556

4557 RODGERS: I have overall program oversight.

4558

4559 CUMMINGS: Does it concern you that these things have come out in the

4560 I.G. report when you were responsible for this?

4561

4562 RODGERS: The I.G. report, as I said, I've read it. I have not studied

4563 its results. I've been off the program. The first time I saw the I.G.

4564 report was on Tuesday of this week.

4565

4566 CUMMINGS: Maybe you can answer this and maybe you can't, because it

4567 seems like there's -- well. Why was the deficiency in the topside

4568 equipment on the 123s not clearly spelled out on the Matagorda's DD-

4569 250, as the intention to submit a waiver for noncompliance with the

4570 requirement for low smoke cabling was clearly singled out in the DD-

4571 250?

4572

4573 RODGERS: I don't know.

4574

4575 CUMMINGS: Was the deficiency with the topside equipment noted on any of

4576 the DD-250 forms or any of the eight 110-foot patrol boats lengthened to

4577 123 feet?

4578

4579 RODGERS: I would not have had the day-to-day cognizance of what went on
4580 that 123 DD-250.

4581

4582 CUMMINGS: Did the integrated team indicate on self-certification forms
4583 that there were no applicable environmental requirements for the topside
4584 equipment?

4585

4586 RODGERS: I'm not familiar with the self-certification form, other
4587 than...

4588

4589 CUMMINGS: Is there anybody up here that would be familiar with that? Do
4590 you know? Nobody? Can you all, can anybody tell us who we can get the
4591 answers to these questions from?

4592

4593 Mr. MacKay, you seem like you've got an answer.

4594

4595 MACKAY: Mr. Chairman, if I might.

4596

4597 CUMMINGS: This concerns us, because we're here, just trying to get to
4598 the bottom of some things and you tell us that you're in charge. This is
4599 a major corporation, major project. You're sitting there under oath and
4600 then you tell us you don't know anything.

4601

4602 And Mr. Taylor said something that was very, very interesting when he
4603 talked about the fact that he couldn't understand why nobody had been
4604 fired. I guess nobody's been fired because nobody knows anything.

4605

4606 Mr. MacKay?

4607

4608 MACKAY: Mr. Chairman, if I might just explain some things about the way
4609 the certifications and the other things or requirements on the program
4610 are determined.

4611

4612 As other people have mentioned, it's an IPT environment and issues are
4613 vetted in a joint environment, the Coast Guard, Lockheed Martin,
4614 Northrop Grumman and industry.

4615

4616 In spec'ing out a ship program in the C4ISR specifically on that, the
4617 way the program operated was that there's a cutter certification matrix.
4618 Some 1,700 documents that have all the requirements and specifications
4619 that go into outlining the requirements for a cutter that industry must
4620 meet as it presents the cutter for DD-250 and acceptance.

4621

4622 What happens is from those universe of requirements, a cutter specific
4623 certification matrix or a subset of those requirements is culled out,

4624 and they are either assigned to the HM&E lead, Northrop Grumman,
4625 Bollinger, Halter-Bollinger, those folks or to C4ISR.

4626

4627 In the event of the -- as I understand it, I've talked to people who
4628 have contemporaneous knowledge, the issue is that the -- if you look in
4629 the I.G. report, the standard that's called out, MIL Standard 1399-C, at
4630 the time, was only specified for HM&E. It was not specified for C4ISR.

4631

4632 It was not until the July 2005 timeframe that that specification was
4633 deemed and agreed to by Coast Guard and industry working together that
4634 that specific sort, sort 21, if you look on the document, presented in
4635 the I.G. report, photostatically copied there, was deemed to apply to
4636 C4ISR.

4637

4638 That's why, if you look closely at that document, the signature
4639 attesting to the S016 is from Bollinger. They were attesting to
4640 environmental standards with respect to HM&E.

4641

4642 Once it was understood that those -- and assigned properly to C4ISR, a
4643 joint working group was undertaken and as the I.G. outlines in his
4644 report, eventually, a request for waiver was -- a process was
4645 undertaken.

4646

4647 And let me be clear about what that process entails. Industry presents
4648 to government the conditions, specifications, costs of complying with
4649 the requirement. Then government looks at that data and makes an
4650 independent judgment based on its standards of cost- effectiveness, its
4651 assessment of the safety considerations, and either grants the waiver or
4652 deviation or does not do so.

4653

4654 And so it's a very disciplined process in which all the facts relevant
4655 come out on the table and the government is allowed to make a decision
4656 about the prudence of a waiver or deviation or compliance to the
4657 requirement.

4658

4659 And so the reason that the Form S016 that's photostatically copied in
4660 the I.G. report does not bear a Lockheed Martin signature is at that
4661 time on the program, in March '05, I think if you look on the document,
4662 those specifications, MIL Standard 1399-C or Sort 21, as it's also
4663 called right there on the form, were not understood by either government
4664 or industry to pertain to the C4ISR portion of the program.

4665

4666 That judgment was subsequently corrected or changed, altered by mutual
4667 agreement.

4668

4669 CUMMINGS: So the Coast Guard has always said that the certification was

4670 required. Are you aware of that? You haven't heard the testimony, but

4671 are you aware of that?

4672

4673 MACKAY: No, sir, I'm not.

4674

4675 CUMMINGS: They've consistently said that.

4676

4677 MACKAY: The facts that I am aware of, Mr. Chairman, are that it was not

4678 until July 2005 that that specific sort was deemed to apply to C4ISR. It

4679 was given to the HM&E side of the program. It was not given to the C4

4680 side until later in the spring, summer time frame of '05.

4681

4682 CUMMINGS: Would it concern you if we produced a system, C4 system, where

4683 the Cubans and others could eavesdrop? I'm just curious. Would that

4684 concern you?

4685

4686 I watch when the president comes to the Capitol, and they go through 50

4687 million changes. They bring in all kinds of experts to make sure he's

4688 got a secure line. I mean, they have somebody guarding the line,

4689 literally. I wish you could see the operation.

4690

4691 And when I listened to the testimony that we heard a little earlier

4692 about countries being able to eavesdrop, I'm just wondering, is that

4693 something that would concern Lockheed Martin?

4694

4695 MACKAY: Yes, sir. It very well would. And I'd like to just read from the

4696 DHS I.G. report on page 5. The complaint -- I am quoting here, I'm

4697 reading from the report itself.

4698

4699 "The complaint also alleged that the use of non-braided cable would

4700 limit the 123 cutter's ability to meet TEMPEST testing requirements,"

4701 what we've talked about at length here. "However, TEMPEST testing

4702 conducted on the Matagorda and Padre between February 2004 and July 2006

4703 indicated the cabling installed during the C4ISR upgrade was not a

4704 source of compromising emissions."

4705

4706 Those instrumented tests were conducted by SPAWAR, by the Navy's Space

4707 and Electronic Warfare Command, the U.S. Navy, with all their expertise.

4708

4709 CUMMINGS: To your knowledge, was there ever certification, TEMPEST

4710 certification done and it passed?

4711

4712 MACKAY: I'm not...

4713

4714 CUMMINGS: Are you familiar with any TEMPEST certification that took

4715 place with regard to the systems that you put in place?

4716

4717 MACKAY: I'm aware of these tests that were done by the Navy's Space and
4718 Electronic Warfare Command. One was done prior to the DD- 250 or the
4719 acceptance of the vessel in the February '04 timeframe and the other was
4720 done in '06, after the allegations were raised in the I.G. report, sir.

4721

4722 CUMMINGS: Why were you testing in 2004?

4723

4724 MACKAY: That would be testing pursuant to the DD-250, which is the
4725 turning over of the vessel from industry to government. It's the
4726 acceptance form. That's what a DD-250 is, sir.

4727

4728 CUMMINGS: And so you were testing then. So then there were tests later
4729 on, is that correct?

4730

4731 MACKAY: Yes, sir. After the I.G. report and the concerns were raised,
4732 another instrumented test was performed by the Navy and SPAWAR, and I
4733 just read the quote from the I.G. report about the results of those
4734 instrumented tests conducted by the Navy. I can read it again, sir...

4735

4736 CUMMINGS: No, no, no, no, no. I'm going to go to Mister -- I'm going to
4737 come back.

4738 Mr. LaTourette?

4739

4740 LATOURETTE: Thank you very much, Mr. Chairman. Just a couple of
4741 observations before I make my questions.

4742

4743 I would say to both chairmen, over my spring vacation, one of the places
4744 that I visited was the Lockheed Martin site in Akron and, Mr. Chairman,
4745 you should see it. They've taken over the air dock down in Akron, Ohio.
4746 It's one of three, it's my understanding, that are existing still in the
4747 country and they're going to build a high- altitude airship.

4748

4749 And we're not only excited about that, but we're happy with the work of
4750 the aerostats that are protecting our border and also doing yeoman's
4751 work at 5,000 feet in the Middle East.

4752

4753 Having said that, I know that you were all in the room for the first
4754 panel. There's nobody, I think, on the committee, there's nobody in the
4755 audience, there's nobody in the country that thinks that spending \$90
4756 million for eight ships that don't work is a good idea or that it's
4757 acceptable.

4758

4759 But taking that off the table -- and if anybody thinks it was a good
4760 idea, then you can chime in, but I don't think I'm going to get any
4761 responses.

4762

4763 There's a big difference between that, in my mind, because that, you
4764 prosecute people, you sue people, money damages are awarded. There's a
4765 big difference between that and some of the stuff that came up during
4766 the first panel and some of the accusations, quite frankly, that are
4767 being leveled against Lockheed Martin.

4768

4769 And the staff tells me that these cameras located around here are "60
4770 Minutes." And I'm going to tell you that there's two types of stories. I
4771 mean, there is bad performance on a contract, which is unacceptable, but
4772 there are also two allegations that I really think, Dr. MacKay, I would
4773 like you to address that have been made during the course of the first
4774 panel and maybe as we proceed.

4775

4776 And Mr. De Kort, the whistleblower in this case, and let's start with
4777 one first, and that's national security. The story sort of perking under
4778 the surface here is that because of a difference between \$7 a cable,
4779 \$7.95 for 10 feet of cable and \$27.95 for 10 feet of cable, that
4780 Lockheed Martin, in the reconfiguration of these 110-foot ships, made
4781 either a schedule decision or a cost decision to put our national
4782 security at risk by installing aluminum mylar cable instead of the
4783 braided, shielded cable.

4784

4785 And I think I need you to tell me what you think about that allegation.

4786

4787 MACKAY: Well, what I will tell you is what I know, sir, is that the --

4788 and these facts are verified by the I.G. report -- that the aluminum

4789 mylar cable met contract specifications.

4790

4791 I think the experts that were here said that there are design choices

4792 that are made. Braided cable has some superior characteristics, but it's

4793 not always and universally a superior or the appropriate choice.

4794

4795 As verified by the I.G. report, the aluminum mylar cable met contract

4796 specifications and both these tests conducted by the Navy's SPAWAR and

4797 reported in this I.G. report said that there were no compromising

4798 emissions.

4799

4800 That's what I...

4801

4802 LATOURETTE: And that's my next question, because Mr. Atkinson said, you

4803 may remember I asked Mr. Atkinson can any witness, under oath, and even

4804 not under oath, I mean, I don't think everybody has to be under oath. If

4805 you don't tell the truth, that's a bad thing, oath notwithstanding.

4806

4807 But I believe, in response to my question, can any witness come before

4808 us and indicate that this system passed the TEMPEST test, and he said
4809 that anybody that said that would be committing perjury.

4810

4811 Now, I understood you to say to not only read that section on page 5 of
4812 the I.G.'s report, but I understood you to say in your introductory
4813 testimony that the TEMPEST system passed. Is that right?

4814

4815 MACKAY: Sir, what I'm attesting to is what I -- there were no
4816 compromising emissions. That was the judgment of the DHS I.G. reviewing
4817 that data.

4818

4819 LATOURETTE: OK. But I really want this, for your sake, as well as the
4820 country's sake, I want that in language that people sitting at home
4821 apparently some Sunday evening can understand.

4822

4823 The allegation was made that Fidel Castro is going to be listening in on
4824 our most secure -- the keys to the kingdom was the phrase used by the
4825 first panel, that because Lockheed Martin made a design choice to put in
4826 the \$7.95 cable as opposed to the \$27.95, that the keys to the kingdom
4827 are given to Fidel Castro and our enemies.

4828

4829 And I want you to tell me that that's not so, if you believe that.

4830

4831 MACKAY: Sir, that's what I believe and that's what I -- if you read the
4832 inspector general's report, that's what they attest to.

4833

4834 LATOURETTE: OK. Now, let me get to the second issue, because just as
4835 important, if not more important than national security are the lives
4836 and the well-being of the Guardsmen that serve on these ships.

4837

4838 Mr. De Kort's second observation was about low smoke cabling and I think
4839 Mr. Oberstar was -- I think many of us remember what happened when the
4840 bundled cables ignited and we had horrible problems on airplanes.

4841

4842 And there has to be a reason for low smoke cabling specifications for
4843 fires, as well as certainly the health and safety of the crew.

4844 I understood you to say that the low smoke cabling, you went to the
4845 Coast Guard or the Coast Guard -- who came to who on the low smoke
4846 cabling? I'm sorry for not remembering.

4847

4848 Did you go to them for the waiver or did they come to you and ask for a
4849 waiver?

4850

4851 MACKAY: Since we're in an IPT, it's sort of you always discover these
4852 things almost simultaneously, sir.

4853

4854 LATOURETTE: OK. But regardless, a waiver was granted. So somebody
4855 reached the conclusion, and maybe jointly, if you're all in these
4856 meetings, that low smoke cabling wasn't required on these 110
4857 conversions or at least we'd waive that requirement.

4858

4859 MACKAY: The determination that was made is that in a situation like
4860 this, you examine all of the relevant facts, which is where the low
4861 smoke cabling is, what the density of it is. Just a couple of things
4862 that -- 16 of the -- when an analysis was done, 85 of the 490 C4ISR
4863 cables that are on each individual ship were not low smoke.

4864

4865 A couple of facts. Sixteen of the 85 cables were actually extended
4866 outside to the mast or on deck. So if the issue is that when there's a
4867 fire, that there are fumes, those fumes immediately waft away.

4868

4869 Seventy-one of the 85 cables run into the pilothouse, which is
4870 surrounded by windows, enabling easy ventilation. And the cables are --
4871 we're using commercial off-the-shelf or government off-the-shelf, trying
4872 to maximize. That's our acquisition strategy.

4873

4874 So a lot of times you have proprietary cable assemblies where there's
4875 not a low smoke equivalent available. There are cable assemblies that
4876 are attached to equipment, to radar, masts and the like. Sometimes if

4877 you remove the manufacturer-supplied cable, you void the manufacturer's
4878 warranty. And in some situations, it might be cost prohibitive due to
4879 the employment of unique connectors.

4880

4881 But all of that data, and it is a request for a waiver of deviation, all
4882 of that data, all those considerations are bundled together. They are
4883 given to the government.

4884

4885 The government makes a judgment based on cost-effectiveness, its safety
4886 standards, how much risk it's willing to take and whether it's a prudent
4887 risk, and they either grant the waiver or they say, "No, you have to..."

4888

4889 LATOURETTE: No. I get that.

4890

4891 MACKAY: That's the process, sir.

4892

4893 LATOURETTE: I get that. And during these hearings, I think there was bad
4894 judgment all the way around. But, again, I want this to be real clear on
4895 the record.

4896

4897 The allegation is made, and people aren't being shy about the
4898 allegations here, the allegation is made, to save money, to meet a
4899 deadline, Lockheed Martin installed low smoke cables on a ship that

4900 endangered the lives of Coast Guardsmen.

4901

4902 And I want you to tell me whether that's true or not.

4903

4904 MACKAY: No, sir.

4905

4906 LATOURETTE: And because of the explanation, I assume.

4907

4908 (CROSSTALK)

4909

4910 MACKAY: I'm not saying that there's no low smoke -- that there's no --

4911 that all the cabling is low smoke.

4912

4913 LATOURETTE: I know that.

4914

4915 MACKAY: I said that for all the factors that I mentioned...

4916

4917 LATOURETTE: But my question was, I mean, the allegation is that by not

4918 using low smoke cables, you put Coast Guardsmen at risk and you put the

4919 ship at risk.

4920

4921 I believe your answer is no, but could you just say no if that's your

4922 answer?

4923

4924 MACKAY: No, sir, not in the judgment of the government which granted the
4925 waiver.

4926

4927 LATOURETTE: OK. And the last question, Mr. Chairman, just so we're not
4928 parsing words on the TEMPEST system passing.

4929

4930 I think that if Mr. Atkinson were able to come back in here and take
4931 another swing, he would say that the reason that the TEMPEST system
4932 passed the SPAWAR test was because so many waivers were granted that it
4933 really didn't pass the test, it passed the test that wasn't a test.

4934

4935 Would he be right if he said that?

4936

4937 MACKAY: Sir, that's a question that would have to be asked to the
4938 government agencies...

4939

4940 LATOURETTE: And I will.

4941

4942 MACKAY: ... that granted that. And also to, I would guess, to the I.G.
4943 that made the determination that there were no emanations that
4944 compromise those standards, sir.

4945

4946 LATOURETTE: Thank you very much.

4947

4948 Thank you, Mr. Chairman.

4949

4950 CUMMINGS: In fairness, I want to be real clear. We're under oath here

4951 and I want to be real clear.

4952

4953 SPAWAR has stated to this committee that they did not certify the ships

4954 in an instrument test. They simply ran the test.

4955

4956 They gave the data to the Coast Guard. It had deficiencies. The Coast

4957 Guard has turned over records that we have in our possession that we

4958 have reviewed that show that they could not have passed, and if they did

4959 pass, quote/unquote, it was because of waivers.

4960

4961 The I.G. told the committee that the Coast Guard told them they passed.

4962 In other words, the Coast Guard says they passed. But the I.G. did not

4963 have the expertise, and that's according to the I.G., to evaluate the

4964 records.

4965

4966 And so the committee did have the records evaluated.

4967

4968 So we can mess with words from now until forever, but everything we have

4969 gone through, (inaudible) changes, getting records, as a lawyer, I've
4970 never seen anything like it -- from the Coast Guard mainly.

4971

4972 And our staffs have spent literally 19-hour days going through those
4973 records. We got records as late as yesterday evening that we requested
4974 almost a month ago.

4975

4976 And so I hear you, Mr. LaTourette, but I don't want the record to remain
4977 there that there's something where there has been TEMPEST certification,
4978 because I know you are as concerned as I am that certification is, in
4979 fact -- has been, in fact, done.

4980

4981 And all I can say is that's what we have.

4982

4983 And I'm going to come back to you, Mr. Rodgers, because I have some
4984 concerns about some of your testimony.

4985

4986 But now we're going to Mr. Oberstar.

4987

4988 OBERSTAR: Was there a contract specification for a particular type of
4989 radio for these vessels?

4990

4991 MACKAY: Mr. Chairman, if you're directing that at me, I was not on the

4992 program at that time. My entry to the program was in July of 2005. I
4993 don't have any contemporaneous knowledge of that.

4994

4995 OBERSTAR: Well, in the contract, this is an unusual type of contract, in
4996 which there was an absence of very specific contract specifications.

4997

4998 So in the agreement, in the contractual agreement between the Coast
4999 Guard and Lockheed, who is the electronics supplier, was the contractor
5000 free to choose what it, in its judgment, felt was the proper equipment
5001 to put on board this class of vessels?

5002

5003 You don't know? You can't answer that question?

5004

5005 MACKAY: With specific reference to those radios, no, sir, I cannot.

5006

5007 OBERSTAR: Is anyone on the panel able to answer that question?

5008 RODGERS (?): Dr. MacKay mentioned the IPT. Within the IPT environment,
5009 the Coast Guard, working with ICGS, with Northrop Grumman and Lockheed
5010 Martin, was then gone through that process choose which radios.

5011

5012 OBERSTAR: So somebody made a choice for a radio that was not waterproof.
5013 It's going to be operating at sea in an exposed situation, where it can
5014 short out or shock someone or worse. Right?

5015

5016 No one wants to take responsibility for that. No one knows anything
5017 about it on this panel. Lockheed was the contractor, right?

5018

5019 MACKAY: Yes, sir. My experience on the program just doesn't extend back
5020 that far, Mr. Chairman.

5021

5022 OBERSTAR: The issues that I think Mr. LaTourette was raising about
5023 whether individuals were compromised, it's not a question of whether you
5024 made a deliberate choice of the type of cable to achieve a particular
5025 end.

5026

5027 But the fact is that this cable was not sufficient, the cable used on
5028 the to be 123-foot patrol boats was not sufficient to prevent leakage,
5029 correct? That's what we heard from the previous panel.

5030

5031 But on the 170s, that cable, the more secure cable was, in fact, used.

5032 Now, why was cabling on one class of vessel used at a higher level and a
5033 different level used on the other class of vessel?

5034

5035 Dr. MacKay, have you got an answer?

5036

5037 MACKAY: I don't, Chairman. As I've mentioned, my tenure on the program

5038 doesn't extend back to that time frame.

5039

5040 I can take the question for the record, if you (inaudible).

5041

5042 OBERSTAR: Mr. Winterstine, do you believe Lockheed made the right

5043 technical, contractual and ethical decisions on the 123 program?

5044

5045 WINTERSTINE: Mr. Chairman, Lockheed Martin entered into a contract

5046 arrangement to satisfy the 123 requirements that we had under contract.

5047 We went through the design processes, shared those designs with the

5048 Coast Guard, discussed those designs with the Coast Guard and then

5049 implemented those designs. So, yes, sir.

5050

5051 OBERSTAR: You were the program management liaison to the integrated

5052 team. Are the allegations made by -- that you heard previously by

5053 Michael De Kort, are they with or without merit?

5054

5055 WINTERSTINE: Mr. Chairman, Mr. De Kort made quite a few allegations. I'd

5056 rather not offer opinion, sir.

5057

5058 OBERSTAR: Well, on January 7, 2004, Mr. De Kort sent a memo to a number

5059 of people, including Mr. Rodgers, and there are others who are --

5060 Clifford, Ewing, Patrick, Laverty (ph), Brian Laverty (ph) -- Brian

5061 Lavery (ph), I'm sorry -- he's got the names in reverse order -- in
5062 which he says, "I've become increasingly frustrated with the direction
5063 the Deepwater project is following. We have sacrificed hard earned and
5064 well founded engineering and customer-focused principles in order to
5065 meet the needs of non-realistic schedules. I believe this path will
5066 lead, at best, to the delivery of a substandard product that will harm
5067 our reputation and, at worst, the delivery of a product that will hamper
5068 our customer's ability to successfully carry out their mission."

5069

5070 Are you aware of that memo?

5071

5072 WINTERSTINE: No, sir, I am not.

5073

5074 OBERSTAR: Mr. Rodgers, you are on that memo. Are you aware of it?

5075

5076 RODGERS: Not specifically.

5077

5078 OBERSTAR: If you received such a memo, would that get your attention?

5079

5080 RODGERS: Was it a memo? Was it e-mail?

5081

5082 OBERSTAR: Whether it was an e-mail or a memo makes no difference. It was
5083 a message sent on January 7, 2004, time 11:53 a.m. Maybe it was an

5084 e-mail.

5085

5086 The question is, it's a very strong allegation, "a substandard product

5087 that will harm our reputation and, at worst, the delivery of a product

5088 that will hamper our customer's ability to successfully carry out their

5089 mission."

5090

5091 RODGERS: So what you're referring to is an e-mail and I'm not

5092 specifically familiar with this e-mail itself.

5093

5094 OBERSTAR: If you had gotten that, would that trouble you? Would you want

5095 to do something about it?

5096

5097 RODGERS: Overall, with that said, I would encourage him to express his

5098 concerns to his management and let's get them adjudicated.

5099

5100 OBERSTAR: Well, it doesn't appear that much was done about it. It was

5101 sent and you didn't see it. You're one of the signees.

5102

5103 RODGERS: I receive many, many e-mails in a day (inaudible).

5104

5105 OBERSTAR: This is a big contract.

5106

5107 RODGERS: Yes, sir.

5108

5109 OBERSTAR: This goes to the expertise of your organization. You're

5110 supposed to pay careful attention to this stuff and not dismiss it,

5111 saying, "I get many e-mails." I get thousands, all of us get thousands

5112 of communications a week.

5113

5114 RODGERS: Yes, sir. I did not...

5115

5116 (CROSSTALK)

5117 OBERSTAR: something of this magnitude, it's serious. You got to pay

5118 attention to it.

5119

5120 CUMMINGS: Would the gentleman yield just for one question?

5121

5122 OBERSTAR: Yes.

5123

5124 CUMMINGS: You said a few minutes ago -- and thank you, the gentleman,

5125 for yielding -- in answer to one of my questions, you said that the

5126 first time you had heard about this was, I think, recently, about you

5127 just did not have very much detail about it.

5128

5129 This memo really outlines everything very, very carefully. And I'm just

5130 wondering, would you now like to -- does this refresh your recollection

5131 at all, I mean, this memo, now that you have it in your hand?

5132

5133 Because he really lays out everything and you're one of the top people

5134 on the project, and if somebody came and said, "I've got these issues,

5135 Mr. Rodgers," and they put them in writing and they're talking about

5136 issues that go to our national security and go to the safety of the

5137 wonderful, brave men and women, patriotic men and women of the Coast

5138 Guard, that we're supposed to be producing a vessel for that's safe, it

5139 seems to me that that would -- that's something that would go to the

5140 very essence of your thought process. And it would also concern you that

5141 your corporation, Lockheed Martin, you don't want them, I'm sure, to be

5142 placed in an embarrassing position.

5143

5144 But what you're saying is that you don't remember the e-mail at all.

5145

5146 RODGERS: Let me clarify, sir. Overall, I mentioned the schedule issue in

5147 November of that year. With that, we added resources. We added

5148 additional talent.

5149

5150 Some of the people on this e-mail were added, such as Mr. Clifford, Mr.

5151 Ewing, Mr. Wilhelm. They were added to the team. My day-to-day

5152 interaction was with those gentlemen.

5153

5154 So to clarify with that, after the November time frame, I did not
5155 interface with Mr. De Kort on a day-to-day basis.

5156

5157 CUMMINGS: Did any of those gentleman bring it to your attention, the
5158 memo?

5159

5160 RODGERS: This memo? Not to my recollection, sir.

5161

5162 CUMMINGS: I yield back.

5163

5164 OBERSTAR: What's emerging from the questioning and from the responses is
5165 the fundamental issue that we're concerned about and there's a
5166 structural failure in the way this program was carried out. There's a
5167 structural failure of the Coast Guard self-certifying and allowing the
5168 contractor to self-certify and there was not a third- party oversight of
5169 this in an effective way.

5170

5171 Ms. Lavan, you're vice president of ethics and business conduct for
5172 Lockheed, correct?

5173

5174 LAVAN: That's correct. Actually, right now, I'm vice president of
5175 internal audits since February.

5176

5177 OBERSTAR: You were at the time of...

5178

5179 LAVAN: For the past three and a half years, since October 2003.

5180

5181 OBERSTAR: When you get an ethics complaint, what was your procedure for
5182 dealing with it?

5183

5184 LAVAN: Well, just as a bit of background on Lockheed Martin and its
5185 ethics program, we have a very solid program that's comprised of a
5186 number of components.

5187

5188 One of the most important components is that we have ethics officers at
5189 each of our major locations, for instance, here, where Deepwater is
5190 located.

5191

5192 And so those ethics officers are tasked with taking in any kind of
5193 complaints that employees bring forward. So they are to conduct thorough
5194 and complete investigations of any complaints that are brought forward,
5195 and that's what Mr. De Kort brought forward in October of 2004 to the
5196 ethics office.

5197

5198 OBERSTAR: He brought forth a very technically complex complaint.

5199

5200 LAVAN: He did. Yes. And the ethics officers that investigated it were

5201 both -- had both engineering -- both had engineering backgrounds.

5202

5203 OBERSTAR: So they had the technical expertise to evaluate the complaint

5204 from Mr. De Kort. Then what was -- in what way was it disposed of?

5205

5206 LAVAN: They conducted an investigation that took over two months. They

5207 looked at all his concerns, talked to people on the program, reviewed

5208 documents and determined that his concerns about an ethical issue were

5209 not substantiated in that they -- we believe, they believe that the

5210 customer was well informed and involved in this decision-making process

5211 on the issues that were raised.

5212

5213 I do want to mention that Mr. De Kort, at that time, had raised the

5214 radio issue.

5215

5216 OBERSTAR: Yes.

5217

5218 LAVAN: It was not investigated, because, as Mr. De Kort himself

5219 mentioned to the committee, it was replaced under warranty by Lockheed

5220 Martin. So those radios were never put on the boat.

5221

5222 OBERSTAR: Do you have a document of exoneration, self- exoneration of
5223 Lockheed that you just mentioned? You said the issue was resolved and it
5224 was determined that there was not an ethical issue here.

5225

5226 Was that in writing?

5227

5228 LAVAN: The issue about the radio?

5229

5230 OBERSTAR: No. The other, the previous question.

5231

5232 LAVAN: Oh.

5233

5234 OBERSTAR: (inaudible)

5235

5236 LAVAN: We keep a record of our ethics investigations. That's not
5237 something we typically share with the complainant. It's internal to
5238 Lockheed Martin.

5239

5240 OBERSTAR: Mr. De Kort said that you told him that the official response
5241 is that the allegations -- his allegations were baseless and had no
5242 merit. Is that the way the ethics...

5243

5244 LAVAN: There were three...

5245

5246 OBERSTAR: ... issue was resolved?

5247

5248 LAVAN: Actually, there were three separate ethics investigations, as Mr.

5249 De Kort continued to be unsatisfied with the results of the

5250 investigations and went to increasingly different levels.

5251

5252 The next level involved what we call our business area, (inaudible

5253 business area, where we put together a team of experts that had

5254 technical background, procurement background, as well programmatic

5255 background, and they again looked at the original investigation. They

5256 talked to people on the program, looked at documents, talked to Mr. De

5257 Kort, and found that his concerns were unsubstantiated because they were

5258 being worked with the customer through the customer system.

5259

5260 OBERSTAR: So did you dismiss the De Kort complaint, ethics complaint, on

5261 grounds of ethics or on substance of the work to be accomplished?

5262

5263 LAVAN: But we never dismissed his complaint. We took his complaints very

5264 seriously and invested...

5265

5266 OBERSTAR: You said it was disposed of and...

5267

5268 LAVAN: Internally, we would go back to Mr. De Kort...

5269

5270 OBERSTAR: You found it not substantiated.

5271

5272 LAVAN: Exactly, yes.

5273

5274 OBERSTAR: So I call that a dismissal.

5275

5276 That's a very important element in this whole inquiry. And you said that

5277 you hold these matters internally. Could the committee receive a copy of

5278 your internal documents for our review, if you wish in a confidential

5279 manner?

5280

5281 LAVAN: Yes. The ethics investigation, certainly, you'd be entitled --

5282 you could receive a copy of that.

5283

5284 OBERSTAR: We'd like to have that.

5285

5286 LAVAN: There's actually -- they're fairly substantial documents.

5287

5288 OBERSTAR: It's a very substantial issue and I think it goes to the core

5289 of our inquiry here.

5290

5291 In the end, did your office at the time or did Lockheed conclude that
5292 the deficiencies existed, as listed by De Kort, but that Lockheed was
5293 not responsible for them because the Coast Guard took contractual
5294 delivery of the boats?

5295

5296 LAVAN: The way we looked at it, and then there was a third
5297 investigation, which I spoke with Mr. De Kort myself and looked at the
5298 program myself personally, and the way we looked at it, for the issues
5299 that Mr. De Kort raised, was that was the customer informed? Were they
5300 fully aware? And were there decisions that were being made in terms of
5301 the -- for the benefit of the customer and the program?

5302

5303 We knew that, at that point, that the SPAWAR had approved the TEMPEST,
5304 had passed the TEMPEST test. We also knew that the ongoing IPT was
5305 looking at the C4ISR specifications and that was to be resolved on a
5306 contractual basis.

5307

5308 So we knew that there was ongoing dialogue and debate between the
5309 customer and Lockheed Martin.

5310

5311 OBERSTAR: So in the end, Lockheed took the position that if the Coast
5312 Guard wanted the problems fixed, they would deal with it, extend the
5313 schedule and add the funds to do so. Is that correct?

5314

5315 LAVAN: We viewed that there was an open and honest dialogue between
5316 Lockheed Martin and the Coast Guard and that both Lockheed Martin and
5317 the Coast Guard, through the IPT provisions of the contract, would reach
5318 a decision that was well informed on both sides.

5319

5320 OBERSTAR: Mr. Chairman, I'll withhold at this point.

5321

5322 CUMMINGS: Mr. Coble?

5323

5324 COBLE: Thank you, Mr. Chairman. I apologize. I've been going between
5325 four or five different meetings, and I was here earlier, but I missed a
5326 good portion of this panel.

5327

5328 It appears what we have is a dependable, respected armed service in the
5329 U.S. Coast Guard and two highly regarded defense contractors plagued by
5330 an expensive fiscal error.

5331

5332 Dr. MacKay, let me ask you a question. In light of the commandant's
5333 proposal for a new direction for the Deepwater program and the problems
5334 that have been revealed today and in previous hearings, how would you
5335 suggest -- what suggestion would you have to improve the protocol and
5336 the procedures that govern acquisition, design, construction,

5337 coordination, et cetera, for future projects?

5338

5339 MACKAY: Sir, I'll limit my remarks to the Deepwater project.

5340

5341 I think that the course of actions that the commandant has laid out is

5342 prudent and goes to a direct and active dealing with issues that have

5343 surfaced on this program.

5344

5345 Industry, both Lockheed and Northrop Grumman, both myself and Mr. Anton

5346 and well above us, extending to our CEOs, have been in active

5347 consultation and discussion about the way forward on this program.

5348

5349 And the new acquisition plan that the commandant lays out, the features

5350 of it, some of the other things at a lower level, like the joint

5351 configuration control board, the incorporation of ABS, I think, are an

5352 affirmative series of steps to meet the challenge and the issues that

5353 have been raised by this committee and other bodies.

5354

5355 And we look forward to continuing to cooperate with the Coast Guard to

5356 effectuate those steps to improve this program and to continue to

5357 deliver the kind of performance that I alluded to in my opening

5358 statement.

5359

5360 The fact that every Coast Guard station now has new HH-65C helicopters,
5361 that all of their medium and high endurance cutters in the Coast Guard
5362 have been touched by not one, but two rounds of upgrades, the fact that
5363 though we have spent a lot of the program time upgrading legacy cutters,
5364 in this year of 2007, we now turn to deliver all new systems, the
5365 HC-144, and eventually the national security cutter, and redeliver the
5366 C-130Js to the Coast Guard, it'll be their longest range and most
5367 capable maritime patrol aircraft.

5368

5369 There's a lot that can be gained as this program goes forward, and I
5370 think the commandant has laid out a prudent and well considered way to
5371 get there.

5372

5373 COBLE: Thank you, sir.

5374

5375 Let me ask you this, Doctor. What level of responsibility do the system
5376 integrator and the contractors have for the failure of the 110- foot
5377 conversion project?

5378

5379 MACKAY: Lockheed Martin is responsible for the C4ISR. I am not aware of
5380 a C4ISR issue that's directly connected to the issues that led to the
5381 lay-up of these cutters.

5382

5383 COBLE: Anybody else want to weigh into that?

5384

5385 Mr. Stanley, Mr. Sampson, the naval architect who was employed by the

5386 Navy and the Coast Guard, appeared on the first panel.

5387

5388 Did he ever contact you regarding this matter?

5389

5390 STANLEY: Not to my recollection, no, sir.

5391

5392 COBLE: Do you know whether he contacted anyone in your company?

5393

5394 STANLEY: It could have happened, but not to my knowledge.

5395

5396 COBLE: All right.

5397

5398 I thank you, Mr. Chairman. I yield back.

5399

5400 CUMMINGS: Thank you very much, Mr. Coble.

5401

5402 Mr. Taylor?

5403

5404 TAYLOR: First, I want to thank all of you, gentlemen and ladies, for

5405 staying around until 8:20 tonight.

5406

5407 I'm going to go back to my question to the last panel. Well over \$50
5408 million was spent, eight working Coast Guard cutters are now rendered
5409 useless, and everybody says, "It wasn't me."

5410

5411 Now, if I was running a large offshore supply boat company and had
5412 tasked a company to design a change to those vessels to make them longer
5413 and had hired a company to implement that, and then I found out in a
5414 subsequent Coast Guard inspection that those vessels were now rendered
5415 useless, I would do one of several things.

5416

5417 I would sue the company that designed it, I'd sue the company that built
5418 it and I'd tell all the parties involved that my company's not going to
5419 do another dime's worth of business with any of you until someone
5420 accepts responsibility.

5421

5422 Now, the reason I say that is I'm fortunate enough to serve, as is Mr.
5423 Cummings, not only on this committee, but on the Armed Services
5424 Committee, and there's a heck of a lot of similarities between this
5425 vessel and the LCS, both very similar, thin-hulled vessels, designed to
5426 operate in very tough conditions.

5427

5428 The Navy is counting on the LCS program to ride to the rescue as far as

5429 getting the numbers of the fleet back up. We're having substantial
5430 problems with the LCS program, dollar-wise, cost-wise. Some very serious
5431 mistakes, I think, were made in the construction of it, not addressing
5432 problems as they arose, but continuing to build the vessel so that when
5433 it came time to fix those things, it cost a heck of a lot more than it
5434 should have.

5435

5436 And so, again, using that analogy, I do think this Congress has some
5437 very substantial leverage when it comes to someone stepping forward,
5438 because it just is really easy in my capacity to say we're not going to
5439 build any LCSs.

5440

5441 If the folks who've made the screw-ups here are being counted on to do
5442 great work there and no one's going to admit a mistake and then I've got
5443 to believe they're going to make the same mistakes on the next one.

5444

5445 So at what point does one of you step forward and say, "We made a
5446 horrible mistake. We're not going to bill our nation \$50-plus million
5447 for mistakes we made and we're going to accept responsibility for
5448 ruining eight ships that still had a good 10 to 15 years life left in
5449 them." Because that really is an option that's available to me.

5450

5451 I can't guarantee you that the other members of my subcommittee or the

5452 other members of my committee would go along with it, but at this point,
5453 I am dead serious when I make that statement, because I can't look
5454 700,000 Mississippians in the eye and say you all treated us fairly, and
5455 I sure as heck can't look 300 million Americans in the eye and say that
5456 you all have treated me fairly or our nation fairly.

5457

5458 And I'll open it up to the panel, because apparently all of the
5459 decision-makers are represented right there.

5460

5461 I think the stakes are pretty high, folks. I'm giving you an opportunity
5462 to tell me what went wrong and who's going to accept responsibility,
5463 because we do know that there are eight ruined ships that the Coast
5464 Guard is not even trying, at this point, not even trying to fix. They're
5465 either going to scrap them or sink them.

5466

5467 And hope that it's swept under the rug. It's not swept under the rug.
5468 It's a very real problem, and it's a very real problem that could occur
5469 again in the LCS, and I cannot, in good faith, let that happen.

5470 MACKAY: Mr. Taylor, I will tell you that I have met with the -- and

5471 Lockheed Martin has put forward to the Coast Guard for the C4ISR...

5472

5473 TAYLOR: Let's talk about the hull, sir.

5474

5475 MACKAY: The hull?

5476

5477 TAYLOR: Let's talk about the hull.

5478

5479 MACKAY: Sir, I don't...

5480

5481 TAYLOR: Because the reason that the ships are being retired is not

5482 because the radios weren't waterproof, which strikes me as really dumb,

5483 or that we had vulnerabilities on the communications, particularly if

5484 you're a Colombian drug lord and want to know whether or not a vessel is

5485 going to be in a certain place, and there are countries around the world

5486 that might be cooperating with them. So I can see that one, too.

5487

5488 But the reason the ships are being retired is because of hull failure.

5489 And no one has stepped forward to say, "We screwed up."

5490

5491 The builder says he didn't do it, the designer says he didn't do it. I

5492 can tell you one thing: Apparently, the two welders I hired in Bay St.

5493 Louis with a sketch that I did on the back of an envelope, we built a

5494 boat that still works.

5495

5496 All these experts apparently couldn't do what those couple of guys in

5497 Bay St. Louis did for me.

5498

5499 MACKAY: Mr. Taylor, I can't address the hull aspects. Lockheed Martin

5500 wasn't under contract for that.

5501

5502 But I will tell you that we have approached the...

5503

5504 TAYLOR: Sir, I think, as a point of clarification, I think Lockheed

5505 Martin was the lead contractor on that.

5506

5507 MACKAY: No, sir. No, sir.

5508

5509 TAYLOR: You were not involved in any way in the stretching of that

5510 vessel.

5511

5512 MACKAY: No, sir, not with respect to the hull. The HM&E, the hull,

5513 machinery and the electricity, no, sir. That was a...

5514

5515 TAYLOR: You weren't involved in the design.

5516

5517 MACKAY: No, sir.

5518

5519 TAYLOR: You did not hire someone to do the design work.

5520

5521 MACKAY: Sir, the way...

5522

5523 TAYLOR: You didn't pay the folks who did the work.

5524 MACKAY: No, sir. Let me just -- as a point of clarification, sir, and

5525 then I'll turn it over to my -- my partners can comment, because they --

5526 in ICGS, Lockheed Martin is responsible for C4ISR.

5527

5528 With respect to shipbuilding, that is the responsibility of Northrop

5529 Grumman and its partners, one of which is represented here in Halter,

5530 Bollinger.

5531

5532 What I wanted to tell you is that with respect to C4ISR, we have

5533 discussed with the Coast Guard Lockheed Martin proposals for the reuse

5534 of the 123 C4ISR data, equipment on the 123s, and that is -- the Coast

5535 Guard has considered that and they will dispose of that as they deem

5536 fit.

5537

5538 We were not contractually responsible or otherwise participated in the

5539 design or fabrication of the hull. That was a responsibility, under the

5540 joint venture, of Northrop Grumman Ship Systems and their partners on

5541 that side.

5542

5543 TAYLOR: Mr. Anton?

5544

5545 ANTON: The Coast Guard yesterday made the announcement that they were
5546 going to lay up the 110-123 converted -- the converted vessels. In that
5547 announcement, the commandant indicated that there were multiple pieces
5548 of analysis that have been done and that the root cause cannot be
5549 determined based on that analysis.

5550

5551 Now, we're not privileged to that analysis, but we have requested a copy
5552 of it. We need to determine the cause of the failure, sir, and when we
5553 determine the cause of the failure, we'll determine accountability, and
5554 when we determine accountability, we'll know who needs to stand up.

5555

5556 TAYLOR: How long does that take? What was it, two years ago?

5557

5558 ANTON: We just...

5559

5560 TAYLOR: Right around the time of the hurricane, so I realize some of us
5561 were busy with other things. To the best of my understanding, the
5562 Matagorda, the problems on it were better than two years ago.

5563

5564 ANTON: The first problem on Matagorda did occur two years ago. We
5565 immediately dispatched a team, both the Coast Guard, industry, and
5566 Bollinger, Northrop Grumman, Bollinger and the Coast Guard, dispatched a

5567 team to the Matagorda to survey that ship and to find out what had
5568 happened and why the ship had buckled.

5569

5570 In that survey, we found an unwelded stringer right in the area where
5571 the buckling occurred. When we went back and reviewed the analysis, we
5572 felt like that the stringer had caused the problem.

5573

5574 At that point, Bollinger welded the stringer under warranty or under no
5575 cost and the ship -- we thought we had the problem solved.

5576

5577 And I don't -- for the record, I'll have to take for the record the
5578 string of events, but I can't tell you when the next failure occurred,
5579 but I can tell you all eight boats were already in conversion.

5580

5581 And when the next failure occurred, I believe four or five of the boats
5582 had been delivered.

5583

5584 So it does take a long time. A lot of people have looked at it. Just
5585 today, testimony from Scott Sampson indicates that the ABS rules, 1997
5586 ABS rules were flawed.

5587

5588 It takes time. And we were not aware of that, of that comment until
5589 today.

5590

5591 With respect to the design and with respect to the fabrication of the
5592 extension and the vessel, I'll have to let Mr. Stanley comment on that.

5593

5594 TAYLOR: But for the record, because I think I have heard otherwise, and
5595 so I'd like a clarification from you gentlemen under oath, for the
5596 record, was anyone from Bollinger shipbuilding ever invited to look at
5597 the vessels after the problem occurred to see if they could identify
5598 what they thought was causing the problem?

5599

5600 ANTON: I'll let Mr. Stanley answer that.

5601

5602 OBERSTAR: Will the gentleman yield? And the gentleman's right on with
5603 the line of questioning that, in fact, I was going to pursue at a later
5604 point.

5605

5606 So at this stage, Bollinger also did the Navy's extension of the 170- to
5607 179-foot and you had no failures there.

5608

5609 >From what I understand, it's that the work proceeded by strengthening
5610 the hull, and you advised the Coast Guard that they needed to do the
5611 same because they were doing a much greater percentage extension of the
5612 hull than the Navy was doing and they did not take your counsel.

5613

5614 And I want you to add that on to the question, in your response, that
5615 the gentleman from Mississippi raised.

5616

5617 STANLEY: I'll be glad to answer all the questions.

5618

5619 If we could, Congressman Taylor, there's several periods of damage to
5620 the Matagorda, and you've got to decipher and discuss to be for clarity
5621 where Bollinger was involved and where it was not.

5622

5623 And I'd like to offer, if I could, and I think it might be helpful if
5624 we'd spend a couple of seconds to go back over the history of the
5625 Matagorda and then the...

5626

5627 TAYLOR: Can we go back to my direct question first? And then we'll go to
5628 what -- and I certainly want to give you an opportunity to say what you
5629 want to say.

5630

5631 STANLEY: All right.

5632 TAYLOR: I thought I heard representatives from Bollinger Shipyards say
5633 that they had never been invited to inspect the failed vessels so that
5634 they could give their opinion of what went wrong.

5635

5636 STANLEY: That's correct. You heard that in your office and I was there
5637 the day it was said.

5638

5639 TAYLOR: OK. That seems to be a little different from what the gentleman
5640 from Northrop just said.

5641

5642 STANLEY: No...

5643

5644 TAYLOR: So, again...

5645

5646 STANLEY: It's not.

5647

5648 TAYLOR: I'm giving you -- everyone an opportunity to clarify that.

5649

5650 STANLEY: Well, that's what I was trying to do. I need to spend just a
5651 moment with you.

5652

5653 The Matagorda, after she came out of completion at Bollinger of the work
5654 that was contracted under Deepwater, Matagorda went into what they call
5655 a PDMA. It went into a maintenance period.

5656

5657 So there was work done on the ship that was separate and apart from the
5658 Deepwater scope of work. Before it went into its PDMA, it went through

5659 an operational test evaluation period to see if it had -- effectively
5660 would perform to the specification in the contract or the conversion.
5661
5662 It went into the PDMA and then after the PDMA, it went to Key West, and
5663 then following the arrival at Key West -- it left Key West en route to
5664 Miami fleeing one of the storms that year. This is September time frame
5665 of '04.
5666
5667 In fact, several of the boats -- all of the boats in Key West left
5668 fleeing the same storm to Miami. And the damage on Matagorda, the first
5669 damage, buckling damage, happened at that time.
5670
5671 That was reported to Bollinger. The ship was brought back to Bollinger,
5672 to Lockport, Louisiana, and repaired by Bollinger, with a joint
5673 discussion with the Coast Guard of what had happened, what had caused
5674 the failure, and what should be done to correct it.
5675
5676 Northrop Grumman was in that discussion. ICGS was in that discussion.
5677 All the Coast Guard collectively was in that discussion. And we
5678 recognized that in the early calculations of the 110's conversion, that
5679 some mistakes was made in those calculations.
5680
5681 We all identified those mistakes and for the part of the mistakes that

5682 Bollinger made, Bollinger stepped up to the table and certainly said:

5683 That was a mistake and this is the right, correct number and this is

5684 what should be done with this number.

5685

5686 Then what happened was that ship sailed and it had other damage and it

5687 had other decisions made to correct that damage.

5688

5689 Believe it or not, I didn't know until January, in some of the Coast

5690 Guard's testimony, of some of the repairs that was done to the damage --

5691 the Matagorda after it left us.

5692

5693 So it's very difficult for us as a shipyard. And you personally have

5694 known our owners many years and we are very proud of our work and we're

5695 very proud of what we've done with the Coast Guard.

5696

5697 We built all of the (inaudible) class. We built all the CPBs. We dealt

5698 with -- our employees has married Coast Guard people. Our employees have

5699 sons and daughters that serve in the Coast Guard.

5700

5701 We take this very seriously. We are at a loss as to what happened. And

5702 we don't believe, although we respect the commandant's decision, we

5703 don't believe that this question should remain unanswered. There is an

5704 answer, you're absolutely correct.

5705

5706 And the commandant, I can't speak for him, but I think what his decision
5707 was that in the best interest considering everything, it's better to
5708 decommission those ships and move forward.

5709

5710 I think that's what he's thinking. I certainly can't speak for him. But
5711 if you want an answer, there is an answer, and there has been, as Mr.
5712 Anton said, many independent studies done that Bollinger nor Northrop
5713 has seen.

5714

5715 I think we could be very helpful in resolving the solution, but that
5716 information needs to be shared.

5717

5718 TAYLOR: Well, I appreciate the gentleman's answer. I stick by what I'm
5719 saying. If all the parties involved are also involved in the LCS and
5720 none of the parties involved are going to step forward and say, "That's
5721 the problem, this is who ought to pay," then I don't see why our nation
5722 ought to be doing business with you for the LCS.

5723

5724 Mr. Chairman, I yield back my time.

5725

5726 OBERSTAR: Mr. Chairman, I'd like to follow-up on Mr. Taylor's...

5727

5728 CUMMINGS: Mr. Gilchrest, if you don't mind.

5729

5730 OBERSTAR: But just one minute, because Mr. Stanley has said something
5731 extremely important here. We're at a loss as to what happened. There
5732 should be an answer.

5733

5734 And is the answer that Bollinger built both the 170 and the 179 and the
5735 110 and the 123? The 179 did not crack because the hull and the hull
5736 girders were strengthened and the Navy specified that strengthening and
5737 the Coast Guard did not.

5738

5739 STANLEY: That's not quite correct, Mr. Chairman. And if I could, let me
5740 separate two issues for you.

5741

5742 OBERSTAR: All right.

5743 STANLEY: The patrol coastals, the P.C.s for the Navy, were strengthened
5744 very early after their delivery into service, long before the extensions
5745 were added to them and for a much different reason.

5746

5747 The patrol coastals, like the Allen class and like the specifications
5748 for the 123 and like most operating equipment in the marine and in the
5749 air environment, they have operational restrictions.

5750

5751 And in the case of the P.C., P.C. was actually designed and specified to
5752 work in the littorals, but it found itself making many transits on open
5753 ocean. And as it made transits with its normal Navy operations, it made
5754 those with large ship convoys at convoy speeds, and sometimes the speed
5755 of the convoy and the size of the ship would get into weather that would
5756 not affect big ships, but it really affected small ones, like the P.C.

5757

5758 So the Navy -- and we had cracking on the P.C., because the P.C. was
5759 operating outside of its planned and designed environmental envelope.

5760

5761 And we strengthened the P.C.s, which allowed them to then transit with
5762 the big ships in heavy seas at transit speeds.

5763

5764 Much later on, some of the P.C.s, not all, but some of the P.C.s
5765 received stern extensions for a very similar reason as we extended the
5766 110s, to allow for the boarding of a small rigid hull inflatable, for
5767 the safe boarding and exit of a rigid hull inflatable.

5768

5769 But the two are not necessarily connected together and I think that's
5770 very important. It is true that the hulls of the P.C.s were
5771 strengthened. In the case of the 110, this calculation...

5772

5773 OBERSTAR: But did the Navy specify a strengthening of the hull of the

5774 170s in its extension to 179?

5775

5776 STANLEY: I'm sorry, Mr. Chairman?

5777

5778 OBERSTAR: Did the Navy specify hull strengthening for the extension of
5779 the 170 to 179? Did they not give specifics?

5780

5781 STANLEY: No, because the hulls had already...

5782

5783 OBERSTAR: That's what the Navy told us they did.

5784

5785 STANLEY: Well, no. I don't think there's a...

5786

5787 OBERSTAR: The Carderock Division, David Taylor, model basin specialist
5788 told us that, and you're saying they didn't.

5789

5790 STANLEY: I think it's a matter of timing. The Navy and Bollinger
5791 strengthened the hulls on the P.C.s, all of the P.C.s, long before, long
5792 before, several years before the stern extensions were added.

5793

5794 So to say that the Navy instructed Bollinger to increase the strength of
5795 the hull because it wanted to add a stern is incorrect. The hull had
5796 already been changed for another reason and its strength increased for

5797 another reason.

5798

5799 OBERSTAR: All right. We'll desist there, because there are other members

5800 who have questions and I want to go on, in all fairness.

5801

5802 Thank you, Mr. Gilchrest, for forbearing here.

5803

5804 CUMMINGS: Mr. Gilchrest?

5805

5806 GILCHREST: Thank you, Mr. Chairman. I guess I'd like to stick with the

5807 hull design here for a little while.

5808

5809 Mr. Anton, you are executive vice president of Northrop Grumman. Is that

5810 correct? And so you, working with the ICGS, got the contract to work on

5811 the hulls on these 110s. Is that correct?

5812

5813 ANTON: ICGS is the prime contractor. When the contract comes in to ICGS,

5814 the HM&E portion of the work is given to the Northrop Grumman partner of

5815 the joint venture.

5816

5817 GILCHREST: So Northrop Grumman has this contract and you subcontract to

5818 Mr. Stanley or to Bollinger?

5819

5820 ANTON: We did.

5821

5822 GILCHREST: So when Mr. Bollinger was done -- when Bollinger Shipyard was
5823 done with each of these boats at various times, what was your
5824 responsibility before the boat was put into service, after Bollinger
5825 boat yard finished the boats?

5826

5827 ANTON: Could you ask that again?

5828

5829 GILCHREST: Northrop Grumman is the contractor to extend the hull or make
5830 the 110 into a 123. So you subcontract to Bollinger Shipyard to do the
5831 work.

5832

5833 ANTON: Yes, sir.

5834

5835 GILCHREST: Once Bollinger Shipyard is done, what is your responsibility
5836 to ensure that the work was done appropriately?

5837

5838 ANTON: During the production effort at Bollinger, we had a Q.A. team --
5839 a Q.A. plan and a quality assurance team, and we worked side- by-side
5840 with the program office from the Coast Guard reviewing the work that
5841 Bollinger was accomplishing.

5842

5843 In addition to that, the Coast Guard, again, formed an in-serve team, an
5844 in-service inspection team, which actually took the ship out on trials
5845 and then made a recommendation as to whether to accept the ship or not.

5846

5847 GILCHREST: And apparently you and the Coast Guard accepted each of these
5848 ships at various times.

5849

5850 ANTON: Bollinger certified to Northrop Grumman that the work was in
5851 accordance with the spec. In the case of the hull extension, ABS
5852 monitored the structural part of the conversion process and they also
5853 signed a certification that the work was done in accordance with the
5854 design and we accepted that certification based on our on-site Q.A.
5855 team. And we certified that, yes.

5856

5857 GILCHREST: So as a result of that, looking in hindsight at each of these
5858 eight ships going into service, the Matagorda, at 7 February '05 went
5859 into service, and the hull problem was identified 10 September '04,
5860 that's what I have here.

5861

5862 The hull problem -- well, rather than go through all the dates, in
5863 hindsight, was there a design flaw in this extension or was there less
5864 than top grade material used?

5865

5866 Mr. Stanley and Mr. Anton, what was the problem with the breach of the
5867 hull?

5868

5869 ANTON: I'm going to tell you we have to determine the root cause for the
5870 failure. Then we'll understand, and we'll be able to answer that
5871 question.

5872

5873 GILCHREST: Are each of the eight ships different in their failure?

5874

5875 ANTON: Yes. Each ship is, in fact -- you know, fails in a different
5876 area.

5877

5878 The modeling that's been done to date, to my knowledge, I know the
5879 modeling that we have done, but the modeling, I believe, that the Coast
5880 Guard has done has not been able to predict the occurrence of these
5881 failures on each vessel.

5882

5883 GILCHREST: Has there ever been a 110 extended to a 123 in the past?

5884

5885 STANLEY: No, not to my knowledge.

5886

5887 GILCHREST: This is the first time.

5888

5889 STANLEY: Yes.

5890

5891 GILCHREST: So did you, Mr. Anton or Mr. Stanley, who conducted the
5892 technical review of the design prior to the beginning of construction?

5893 STANLEY: We initiated the design, which Northrop reviewed, as well as
5894 the Coast Guard reviewed in the design process. Before we took the
5895 design to construction or to conversion, that design was generated and
5896 vetted many different times.

5897

5898 GILCHREST: How was the design vetted? Was it vetted with third parties,
5899 other engineers, other boatyards, other ship builders?

5900

5901 STANLEY: No. It was vetted inside of our -- inside of the Deepwater or
5902 the ICGS structure. And parts of that design, the stern extension, the
5903 superstructure was vetted to ABS outside to review that design.

5904

5905 GILCHREST: Now, the hull failures went from 10 September '04 to 24 March
5906 '06. Can you tell us anything about -- once you had a failure in '04,
5907 was there any sense or anticipation that you were going to have another
5908 failure in another boat? Was the design changed in future boats?

5909

5910 STANLEY: As I outlined for Congressman Taylor, we were involved in the
5911 initial failure of the Matagorda, and, in fact...

5912

5913 GILCHREST: You say you were not involved.

5914

5915 STANLEY: No. I said we were involved.

5916

5917 GILCHREST: I see.

5918

5919 STANLEY: And the boat brought back to Louisiana, calculations reviewed

5920 with the Coast Guard and hull strengthening on the Matagorda and all the

5921 boats that followed her was applied.

5922

5923 Failures that happened after that point and studies that happened after

5924 that point and events that happened after that point, we do not have any

5925 knowledge of. That has not been shared with us.

5926

5927 GILCHREST: So you were the contractor that worked on the hulls of all

5928 these eight boats.

5929

5930 STANLEY: Yes, sir.

5931

5932 GILCHREST: But you're not familiar with the problem of the breaches in

5933 the hull other than the Matagorda.

5934

5935 STANLEY: That's pretty much correct. And let me say that we're not the
5936 only contractor that worked on the breaches in the hull. As I reported,
5937 the ships left us, they went into an availability. And then, at some
5938 point in time, those ships also received modifications to their hull
5939 structure.

5940

5941 GILCHREST: Where did they receive modifications, at different shipyards
5942 around the country?

5943

5944 STANLEY: At different shipyards, in Savannah, in Alabama.

5945

5946 GILCHREST: But regardless of the modifications, every one of them that
5947 had this extension failed.

5948

5949 STANLEY: I'm not sure of that, and we don't have those records of how
5950 many boats failed.

5951

5952 GILCHREST: Thank you, Mr. Chairman.

5953

5954 CUMMINGS: All eight failed, the ones that I saw, all eight of them
5955 failed.

5956

5957 Mr. Kagen?

5958

5959 KAGEN: Thank you, Mr. Chairman. I recognize the hour is late and the
5960 interest is still quite high, at least for this new representative.

5961

5962 I've been here 100 days and change, so I'm new to ship building. I'm a
5963 physician, a doctor. I design laboratory tests. I have never designed a
5964 boat.

5965

5966 I want to thank you all for being here and giving your best opinion, but
5967 I'm still trying to sort out, in my mind, about these ships that have a
5968 hull that doesn't work.

5969

5970 It's obvious to me that the design was less than perfect and that no
5971 matter who touched and tried to repair the ship after this design was
5972 put into place, they were unable to keep it together.

5973

5974 So I'm trying to decide where the buck stops. Earlier, when you were
5975 testifying about the electrical wire and how well or unwell it's wrapped
5976 for security purposes, I got a little bit dizzy and confused trying to
5977 decide who's in charge.

5978

5979 So with regard to who's in -- where does the buck stop with regard to
5980 the hull design? Would that be Northrop? Would that be Bollinger? And

5981 just to make it easy for me, I've built this for you. So I'll hand it to
5982 you and you pass it around, but when it stops, that's the person I want
5983 to talk.

5984

5985 The buck stops here, who's going to take it?

5986

5987 ANTON (?): Bollinger did the design work for the 110-123 extension. So I
5988 think it's appropriate that Mr. Stanley answer your question.

5989

5990 KAGEN: Mr. Stanley?

5991

5992 STANLEY: I'd be glad for the buck to stop here.

5993

5994 KAGEN: Very good.

5995

5996 STANLEY: I can only supply the information that we have and I can only
5997 tell you that I -- the reason that I'm here today and our basic -- one
5998 of our basic corporate tenets in our company is to not shy away from
5999 good times or bad times.

6000

6001 I can't answer your question where the buck stops yet. I really can't. I
6002 can tell you that we did the design.

6003

6004 KAGEN: All right. So the answer is, yes, you did do the design for the
6005 hull.

6006

6007 STANLEY: We did the design.

6008

6009 KAGEN: And if that design has been proven to be inadequate for the task
6010 at hand, would you agree with me that your company then would be
6011 responsible for the failures that follow?

6012

6013 STANLEY: That could be possible.

6014

6015 KAGEN: And so if I represent the people in Wisconsin, northeast
6016 Wisconsin and we got something designed, the design failed, would it be
6017 too much to ask for our money back?

6018

6019 STANLEY: You certainly could do that. You certainly could do that.

6020

6021 KAGEN: If you did accept damages and we did get all of our money back,
6022 including loss of use for these eight ships in their future years, would
6023 that permanently damage your company? Would it put you out of business?

6024

6025 STANLEY: There's a question before that. There are very clear ways
6026 contractually, in Deepwater as well as naval ship building, that Mr.

6027 Taylor refers to, to determine where the buck stops.

6028

6029 KAGEN: Sir, Mr. Stanley, we cannot hear you. I'm sorry. And this

6030 testimony, I really, really want to hear this.

6031

6032 STANLEY: There's very clear ways and established ways to settle where

6033 the buck stops. There's contractual obligations that are placed on the

6034 contractors. There's obligations the government undertakes in its side

6035 of the contract.

6036

6037 And in the case of the 110 and in the case of any dispute where the

6038 contractors and the government have a problem, there are very clear ways

6039 forward. And we encourage those ways at Bollinger to be pursued, and I

6040 hope that answers your question.

6041

6042 KAGEN: It does in part, and it leads to some other queries. When you do

6043 design a piece of work to extend a ship off the rear end, I'm sure you

6044 had other people take a look at your plans and your designs. Is that

6045 true?

6046

6047 STANLEY: Yes. And I can't tell you how many that...

6048

6049 KAGEN: Would that also mean that there might be other people besides

6050 your own company that should accept at least partial responsibility for
6051 this failure of design?

6052

6053 STANLEY: Well, that's part of the process that I tried to describe.

6054

6055 KAGEN: Are any of those companies represented here this evening?

6056 STANLEY: Well, the Coast Guard is here, Northrop Grumman is here.

6057

6058 KAGEN: That's two other individuals.

6059

6060 STANLEY: And Bollinger is here. I don't know if there's ABS people here,

6061 I haven't seen them.

6062

6063 KAGEN: You don't think anybody else...

6064

6065 STANLEY: But certainly all three of those groups have a responsibility

6066 to share a part of the success or failure of the contract.

6067

6068 KAGEN: I want to applaud your honesty in accepting the buck stops here

6069 sign. I think that it takes a great deal of courage to be here when

6070 things are bad.

6071

6072 I know in the practice of medicine, sometimes doctors will do everything

6073 right, but things still don't work out. People still succumb even to an
6074 illness that's treated appropriately.

6075

6076 And I'm a little saddened because no one has really got to the bottom
6077 line in figuring out why this unprecedented modification of a
6078 lightweight high speed craft hasn't been analyzed to the point where you
6079 could present the data here this evening to someone who really
6080 understands ship building that could explain exactly where a single or
6081 multiple failures occurred in the design.

6082

6083 But, obviously, this is a troubled project and you'd accept that. And I
6084 applaud you for accepting, if not total, at least partial
6085 responsibility.

6086

6087 And I yield back my time.

6088

6089 CUMMINGS: Thank you very much.

6090

6091 I've got to tell you, Mr. Stanley, I just heard what you said. And let
6092 me make sure I'm clear.

6093

6094 Are you trying to tell us -- I just want to make sure I'm clear on this,
6095 because I want the record very, very, very clear, because a lot is

6096 riding on what you just said.

6097

6098 Are you telling me that you believe that Bollinger is responsible for

6099 the hull problem? Is that what you're telling us?

6100

6101 STANLEY: No, not at all.

6102

6103 CUMMINGS: Oh. Then what are you saying? Because I want to make it clear.

6104 I want to make sure that whoever's responsible, going back to what Mr.

6105 Taylor was talking about, is held responsible, because it's not going to

6106 -- we're not going to be able to prevent these things from happening in

6107 the future if we don't get to the bottom line.

6108 And so as I listened to your answer, the answers that you just gave, I'm

6109 sitting here as a lawyer and I'm saying if this was my case and I were

6110 representing Northrop Grumman, I'd say hallelujah, because apparently

6111 somebody had taken responsibility.

6112

6113 Now, I'm just asking you to be clear. What are you saying? He talked

6114 about the buck stopping. And when I hear the buck stopping and to hear

6115 what you just said, it sounds like you were accepting liability here.

6116 Sworn testimony, I would think that somebody would be able to take that

6117 into a court of law and do something with it.

6118

6119 So I'm just curious.

6120

6121 STANLEY: I would like to be very clear with you, as I thought I was very

6122 clear with the congressman. I said there is a process in federal

6123 contracting, a very clear one, that adjudicates disputes. And in the

6124 adjudication of the dispute, it places responsibility and

6125 accountability.

6126

6127 And in our interchange, the congressman asked me how many people was

6128 here in that process that could have responsibility, and I said three.

6129

6130 CUMMINGS: OK, I got you. I just wanted to make that clear and I wanted

6131 to make sure that people back at your company wouldn't be mad at you

6132 when you got back.

6133

6134 Ms. Lavan, let me go to something that you said that is troubling me.

6135 You said that the Coast Guard was kept informed, when we were talking

6136 about Mr. De Kort's complaints and then we showed -- there's a letter

6137 that's sitting up there somewhere from Mr. De Kort, where he made some

6138 complaints.

6139

6140 But you said -- yes, would you pass that to her, Mr. Rodgers?

6141

6142 You said that the Coast Guard was kept informed of various things that
6143 was happening with this contract. Is that correct?

6144

6145 LAVAN: Yes, sir.

6146

6147 CUMMINGS: Now, would they have been kept informed of the topside issue?

6148

6149 LAVAN: You're referring to, first of all, the e-mail. This is January
6150 2004, before the ethics complaint came in, which was October 2004.

6151

6152 And in terms of the topside equipment, where I was talking about the
6153 blow-down of the specifications and where -- as Mr. MacKay was talking
6154 about, where the sort should have been placed, the Coast Guard was part
6155 of the IPT, which is the integrated product team, that was looking at
6156 that issue.

6157

6158 CUMMINGS: OK. So when De Kort raises topside, and that memo is January
6159 2004, is that right?

6160

6161 LAVAN: That's right.

6162

6163 CUMMINGS: It's dated January 2004. The Matagorda is received and a
6164 DD-250 is dated -- that would have been dated around March 2004. Is that

6165 right?

6166

6167 LAVAN: Yes.

6168

6169 CUMMINGS: Now, the Coast Guard becomes aware of noncompliance, according

6170 to the I.G., and I know everybody's very familiar with the I.G. report,

6171 which I'm very impressed with, thank you very much, July of 2005. Are

6172 you aware of that?

6173

6174 LAVAN: Yes.

6175

6176 CUMMINGS: And on August 29th of 2006, the Coast Guard gets a letter from

6177 the integrated team indicating that the topside equipment did not meet

6178 minimum standards. Are you familiar with that?

6179

6180 LAVAN: Not specifically, no.

6181

6182 CUMMINGS: Well, they did. Are you familiar, Mr. MacKay?

6183

6184 LAVAN: I think we're talking about two different...

6185

6186 CUMMINGS: All right. Help me.

6187

6188 LAVAN: One is the TEMPEST issue. The other is the topside equipment
6189 issue. The TEMPEST issue is the one that was approved by SPAWAR in March
6190 of '04.

6191

6192 CUMMINGS: OK. And so...

6193

6194 LAVAN: Separate issues.

6195

6196 CUMMINGS: So the Coast Guard was made aware of that. Is that right?

6197

6198 LAVAN: The Coast Guard was, as I understand, part of the testing.

6199

6200 CUMMINGS: All right. That clears that up. That's good.

6201

6202 Ladies and gentlemen, any other questions?

6203

6204 Let me say this -- we've heard a lot of testimony here today and I tell

6205 you, if I were a judge, I would let the higher authority try to ferret

6206 all this out. I'm being to be very frank with you.

6207

6208 We have so many documents that, to be frank with you, show all kinds of

6209 inconsistencies, to be very frank. And I'm at a point right now where I

6210 have questions, but I think it's better that I turn them over to

6211 somebody else, a higher authority, because this has been -- this
6212 concerns me tremendously.

6213

6214 Thank you very much. Thank you for being here. You're dismissed.

6215 Mr. Ghosh, Mr. Michel, Lieutenant Commander Jacoby and Ms. Martindale.

6216

6217 (WITNESSES SWORN)

6218

6219 CUMMINGS: Thank you.

6220

6221 Mr. Ghosh?

6222

6223 GHOSH: Good evening, Mr. Chairman and distinguished members of the
6224 committee. It is a pleasure to appear before you today to discuss
6225 compliance with the requirements of the Deepwater contract.

6226

6227 I am Debu Ghosh, director of research of the Coast Guard's asset project
6228 office (inaudible) boats. I'm a naval architect with over 30 years of
6229 experience, specializing in the design of high speed craft.

6230

6231 I have been in the boat engineering branch of the United States Coast
6232 Guard for the last 23 years, serving as the branch chief for the last 15
6233 years.

6234

6235 Mr. Chairman, I would like to submit my written statement in the record.

6236

6237 I have a bachelor's degree in naval architecture from IIT, an MBA from
6238 Tulane University in New Orleans, and a master of science degree from
6239 the ICAF (ph).

6240

6241 I have been involved with all the coastal patrol boat acquisition
6242 programs in the Coast Guard, including the 110, plus the 87-foot coastal
6243 patrol boat, the 123 boat conversion and the fast-response cutter.

6244

6245 My branch (inaudible) integrated policy stance on the (inaudible) patrol
6246 boat program began in the spring of 2002 following the contract award to
6247 Integrated Coast Guard Systems.

6248

6249 After identifying our initial concerns with possible (inaudible) and
6250 stern problems, I asked both Coast Guard and the members of the
6251 technical management information team to (inaudible) to the Navy's
6252 (inaudible).

6253

6254 I also solicited to Bollinger that Bollinger consider (inaudible), the
6255 original designer of the Allen class patrol boats. I was unable to get
6256 support for this because the Deepwater contract was a performance-based

6257 contract, so the contractor was solely responsible for the structure of
6258 the design.

6259

6260 Nonetheless, I advised Bollinger to study this matter more carefully due
6261 to the unusual nature of the (inaudible) lightweight vessel by adding
6262 length up instead of by adding length amid ships, which is the normal
6263 process.

6264

6265 After the cutter Matagorda failure, the (inaudible) calculation of the
6266 (inaudible) submitted by Bollinger was found to be in error and did not
6267 meet ABS guide for high speed craft 1997.

6268 A detailed review of the original strength and buckling calculations by
6269 ELC revealed that the primary stress of the deck and the side cell would
6270 exceed the critical buckling strength of the damaged panels.

6271

6272 Subsequently, the Coast Guard accepted the ICGS proposed solution, known
6273 as modification one, comprising three straps welded onto each side. This
6274 raised the (inaudible) enough to meet ABS high speed craft guide.

6275

6276 This modification reduced the stress to an adequate level and also
6277 increased the allowable buckling load on the critical plates. After the
6278 cutter (inaudible) buckling damage, I took over as the project engineer
6279 from Deepwater to find the root cause of the problems with the cutters

6280 when the (inaudible) problems continued.

6281

6282 I ordered six different contracts to nationally and internationally

6283 known contractants to resolve the problems. A variety of tests, analysis

6284 and reviews were performed, including independent third party

6285 (inaudible) analysis.

6286

6287 It is important to note that although this problem originates in

6288 (inaudible) bending and involves overall hull girder strength, the light

6289 structure required for high speed small patrol boats results in various

6290 types of buckling failures, not mainly cracking. These are much more

6291 complicated sets of responses than those commonly seen in larger ships.

6292

6293 I believe this shows that the Coast Guard has to have more direct

6294 responsibility for and control of future acquisitions and oversight for

6295 vessels designs, as this committee has advised and as the commandant is

6296 now implementing.

6297

6298 The Coast Guard has to rely more on the experience of existing proven

6299 vessels and the experienced designers of these specialized high speed

6300 craft. This had been the practice that produced the successful 87-foot

6301 coastal patrol boat and the original 110-foot Allen class patrol boat.

6302 And this is the strategy that Coast Guard is now following for the

6303 replacement patrol boat, FRCD.

6304

6305 This also suggests that independent survey and design funding should be
6306 available to Coast Guard engineers as it was in the past so that the
6307 Coast Guard can investigate potential problems like this in a proactive
6308 fashion.

6309

6310 Thank you for the opportunity to testify before you today. I'll be happy
6311 to answer any questions you may have.

6312

6313 CUMMINGS: Thank you very much.

6314

6315 Mr. Michel?

6316

6317 MICHEL: Good evening, Mr. Chairman and distinguished committee members.

6318

6319 It's a pleasure to appear before you today to testify on the compliance
6320 with the requirements of the Deepwater contract.

6321

6322 My name is Joe Michel. Currently, I'm assistant deputy with the
6323 Nationwide Automatic Identification System project, Coast Guard Office
6324 of Acquisition. Prior to that, I was an engineering technical lead with
6325 the Ports and Waterways Safety System, also with Coast Guard

6326 acquisition.

6327

6328 And from December 2001 to March of 2004, I was the Coast Guard's lead

6329 C4I engineer on the 123-foot patrol boat integrated product team.

6330

6331 I'm pleased at the opportunity to appear before you and I'll be happy to

6332 answer any questions that you have.

6333

6334 CUMMINGS: Lieutenant Commander Jacoby?

6335

6336 JACOBY: Good evening, Mr. Chairman and distinguished members of the

6337 committee. It's a pleasure to appear before you tonight to discuss the

6338 compliance with requirements of the Deepwater contract.

6339

6340 I am Lieutenant Commander Chad Jacoby. I served as the program manager

6341 for the 123-foot patrol boat conversion project from July 2004 to

6342 October 2006. As the 123 program manager, I managed the delivery task

6343 orders under the Deepwater contract that pertained to the production,

6344 delivery and warranty support of the 123-foot cutters.

6345

6346 During my time as program manager, I supervised the delivery of Coast

6347 Guard Cutter Attu, Coast Guard Cutter Nunivak, Coast Guard Cutter

6348 Vashon, Coast Guard Cutter Monhegan, and Coast Guard Cutter Manitou.

6349

6350 I managed contracts with engineering firms to diagnose structural
6351 issues. I administered the one-year warranty period on all eight
6352 delivered 123s. And I managed the contract modifications to install
6353 structural upgrades on the cutters.

6354

6355 Thank you for the opportunity to testify before you tonight and I will
6356 be happy to answer any questions that you may have.

6357

6358 CUMMINGS: Thank you very much.

6359

6360 Ms. Martindale?

6361

6362 MARTINDALE: Mr. Chairman, I have a brief oral statement. I request that
6363 my written statement be entered into the record.

6364

6365 Good evening, Mr. Chairman and distinguished members of the committee.

6366 It is a pleasure to appear before you today to discuss compliance with
6367 requirements of the Deepwater contract.

6368

6369 I am Cathy Martindale. I am currently the chief of the contracting
6370 office for the Coast Guard's Engineering and Logistics Center, located
6371 in Baltimore, Maryland.

6372

6373 I have been a contracting officer for the U.S. Coast Guard for 15 years.

6374 I hold a bachelor of science degree in business administration from the

6375 University of Maryland. I also hold a certificate in procurement and

6376 contracts management from the University of Virginia and a Defense

6377 Acquisition University Level 3 certification.

6378

6379 I was a contracting officer with Coast Guard headquarters and assigned

6380 to the Deepwater program beginning January 2000 through March 2006.

6381

6382 While assigned to the Deepwater program, I served at various times as a

6383 contracting officer in both the surface and air domains at the systems

6384 integration program office located in Roslyn, Virginia.

6385

6386 I was one in a series of three contracting officers responsible for

6387 administering the 110-123 conversion of the Matagorda. As a contracting

6388 officer, I have responsibility for administering, interpreting and

6389 ensuring compliance with contract requirement.

6390

6391 I worked daily with my contracting officer technical representative, the

6392 program office and Integrated Coast Guard Systems. I attended design

6393 reviews, participated in integrated product team meetings and accepted

6394 contract deliverables.

6395

6396 Thank you for the opportunity to testify before you today. I'll be happy

6397 to answer any questions that you may have.

6398

6399 CUMMINGS: Thank you very much. I want to thank all of you for being here

6400 and we really appreciate it.

6401

6402 Mr. Michel, was anyone in the Coast Guard aware, during the 123 program,

6403 of the internal disputes at Lockheed or the actions of Michael De Kort

6404 to raise awareness of his concerns?

6405

6406 Would those kind of issues have been things that would have come to your

6407 attention?

6408

6409 MICHEL: Not as such, sir. I was not aware until some time later that Mr.

6410 De Kort had actually pursued alternative action up through his

6411 management chain.

6412

6413 CUMMINGS: Well, Mr. De Kort indicates that he contacted the Coast Guard

6414 to raise his concerns with them. Do you know whether any action was

6415 taken?

6416

6417 I take it that you found out later on that he had raised issues. Did you

6418 ever find out whether action had been taken in regard to the issues that
6419 he raised?

6420

6421 MICHEL: No, sir, I did not. He was extremely vocal during my tenure with
6422 the IPT.

6423

6424 CUMMINGS: And when you say he was extremely vocal, how did it come to
6425 your attention that he was extremely vocal?

6426

6427 MICHEL: He made his concerns known inside and outside of integrated
6428 product team meetings.

6429

6430 CUMMINGS: And so then you did have knowledge of those concerns, did you
6431 not, based on what you just said?

6432

6433 MICHEL: I did, sir, but I did not know that he had gone as far up his
6434 management chain.

6435

6436 CUMMINGS: When he was complaining, were you aware of specific
6437 complaints?

6438

6439 MICHEL: I was, sir.

6440

6441 CUMMINGS: And did you have an opinion back then, when you were listening
6442 to them or hearing them, as to whether or not they were -- you
6443 considered them to be valid complaints and things that you all should be
6444 concerned about?

6445

6446 MICHEL: Well, sir, he and I shared a lot of the same concerns.

6447

6448 CUMMINGS: Is that right?

6449

6450 MICHEL: Yes, sir.

6451

6452 CUMMINGS: Well, why don't you tell us about the concerns that you shared
6453 and why you had the concerns that you did?

6454

6455 MICHEL: Well, I think we've talked a lot about the TEMPEST concerns this
6456 evening.

6457

6458 CUMMINGS: Yes.

6459

6460 MICHEL: A few things that he might have perhaps...

6461

6462 CUMMINGS: Let me go back for one moment.

6463

6464 MICHEL: Yes, sir.

6465

6466 CUMMINGS: Because I want to make it very -- I want us to be clear. Mr.

6467 De Kort had his concerns, as I understand it, and you had concerns. Was

6468 this a thing that it just so happened that you sort of ended up with the

6469 same concerns or were you all talking and he says, "You know what? I

6470 really don't like this TEMPEST situation," and you sort of joined into

6471 that or were these things that you could sort of observe independently,

6472 is what I'm saying?

6473

6474 MICHEL: Yes, sir, independently. Any two C4ISR systems engineers looking

6475 at the same problem would have come to the same sort of conclusion.

6476

6477 CUMMINGS: No doubt about it.

6478

6479 MICHEL: Absolutely, sir, no doubt.

6480

6481 CUMMINGS: Now, tell me the complaints, the concerns that you had that

6482 were common to his complaints, his concerns?

6483

6484 MICHEL: Early on during the design reviews and during the review of

6485 various contract data, exhibits, it was apparent that there either

6486 wasn't a clear understanding of TEMPEST requirements, for example,

6487 within the Lockheed design community or they were not addressing them.

6488

6489 So during design reviews, during review of contract documents and
6490 designs and submission of comments via the IPT process, these concerns
6491 were made known to Lockheed from the Coast Guard perspective.

6492

6493 And I was not alone. There were many folks in the C4I community that
6494 were matrixed into the IPT that made these concerns known.

6495

6496 So Lockheed went and did this study that was referred to earlier this
6497 evening. And they came to the same conclusion that, yes, in fact,
6498 TEMPEST was a requirement, processing classified information, we're
6499 going to have to adhere to TEMPEST if we want to get this cutter
6500 certified and operate on classified networks.

6501

6502 So a round turn was taken on the design. Lockheed did try, they did try.
6503 The equipment racks were reconfigured. Red and black equipment was
6504 separated, red and black cables were separated. I can't say that there
6505 was any material solution pursued, that is, the equipment that they had
6506 procured, the cables they had procured, that's what they were using.

6507

6508 CUMMINGS: So in other words, he was saying, if I understood his
6509 testimony correct, that he felt that there should have been some other

6510 kind of cables. And it seems like there's been a big deal made of the
6511 kind of cable that was used as opposed to the kind that he thought that
6512 would be best for TEMPEST certification.

6513

6514 Did you have that same concern?

6515

6516 MICHEL: Yes, sir.

6517

6518 CUMMINGS: So what you're saying is that the same type of cabling,
6519 although there were the complaints, Lockheed Martin's reaction to that
6520 was to keep the same type of cabling, but to just kind of reconfigure
6521 it.

6522

6523 Is that a fair statement of what you just said?

6524

6525 MICHEL: Yes, sir. Yes.

6526

6527 CUMMINGS: Now, did you ever make any complaints?

6528

6529 MICHEL: I did, sir. During the design reviews and during the review of
6530 the designs themselves, I made numerous comments and raised my concerns.

6531

6532 Some of these problems, and I think we've talked about the structure of

6533 the Deepwater contract at length this evening, I was trying to work
6534 within the structure of the contract.

6535

6536 CUMMINGS: Well, speaking of working within the structure of the
6537 contract, did you take your concerns to the higher-ups in the Coast
6538 Guard?

6539

6540 MICHEL: I elevated those concerns as high as I could within the program.

6541

6542 CUMMINGS: And how high is that?

6543

6544 MICHEL: To the deputy at the systems engineering and integration team.

6545

6546 CUMMINGS: Say that one more time.

6547

6548 MICHEL: The deputy, sir.

6549

6550 CUMMINGS: And who would that have been?

6551

6552 MICHEL: Mr. Giddons (ph) at the time.

6553 CUMMINGS: And what reaction did you get when you brought those to his
6554 attention?

6555

6556 MICHEL: Well, he was extremely concerned, and he wanted the issues to be
6557 resolved.

6558

6559 CUMMINGS: And so do you know why they were not resolved?

6560

6561 MICHEL: Well, regrettably, I had mentioned that in March 2004, my time
6562 with the Deepwater program came to an end. So there were many issues
6563 that were unresolved that were contractually identified on the DD-250,
6564 which was also referred to earlier this evening, that were, quite
6565 frankly, still up in the air.

6566

6567 CUMMINGS: Why were you so concerned about the TEMPEST issue?

6568

6569 MICHEL: For some of the reasons that the first panel indicated, sir,
6570 compromise of classified information.

6571

6572 CUMMINGS: Now, so when did you leave?

6573

6574 MICHEL: About three weeks after Matagorda was delivered.

6575

6576 CUMMINGS: All right. I'll come back to you.

6577

6578 Ms. Martindale, you were the contracting officer for Deepwater.

6579

6580 MARTINDALE: Yes. I was the contracting officer with the...

6581

6582 CUMMINGS: Is your mike on?

6583

6584 MARTINDALE: Yes, sir, it is. I was the contracting officer administering

6585 the 110-123 delivery task order for the Matagorda.

6586

6587 CUMMINGS: And does the contracting officer have the authority to decline

6588 to accept the delivery of a ship or a boat?

6589

6590 MARTINDALE: Yes. Yes, sir.

6591

6592 CUMMINGS: And is that something that you have done in the past with

6593 regard to Deepwater? In other words, have you declined...

6594

6595 MARTINDALE: I have declined acceptance of data deliverables, but not a

6596 ship, sir.

6597

6598 CUMMINGS: I see. And explain that, explain what you just said. You

6599 decline a date, but not a ship.

6600

6601 MARTINDALE: No. I'm sorry, sir. A data deliverable. We had delivery

6602 requirements for data.

6603

6604 CUMMINGS: Oh, data.

6605

6606 MARTINDALE: Design documents. And when they didn't comply with the

6607 contract requirements, we didn't accept delivery. We gave them our

6608 comments, asked that corrections be made and then we'd accept it once

6609 those corrections were made.

6610

6611 CUMMINGS: So basically, you would get documents from the integrated

6612 team, is that right?

6613

6614 MARTINDALE: That's correct, sir.

6615

6616 CUMMINGS: With regard to, let's say, for example, a ship.

6617

6618 MARTINDALE: Yes.

6619

6620 CUMMINGS: A vessel.

6621

6622 MARTINDALE: Technical specifications, yes.

6623

6624 CUMMINGS: And then you would not necessarily see the ship itself. You

6625 would actually base your judgment on documents that you receive. Is that
6626 a fair representation?

6627

6628 MARTINDALE: No, sir. Prior to delivery of the ship, there's a series of
6629 data deliverables, technical specifications, design documents. If they
6630 did not comply with the requirements of the contract, then I would
6631 reject those deliverables.

6632

6633 CUMMINGS: And how do you confirm the quality of the items for which you
6634 accept delivery?

6635

6636 MARTINDALE: I rely on the technical expertise of my contracting officer
6637 technical representative.

6638

6639 CUMMINGS: And so if a technical representative comes to you and says
6640 something is, say, for example, certified, TEMPEST certified, then you
6641 basically accept that, is that correct?

6642

6643 MARTINDALE: That's correct, sir.

6644

6645 CUMMINGS: And so there is -- and the procedure, I take it, is that you
6646 -- if they are incorrect, you wouldn't necessarily know that. All you
6647 do, is you get a document saying that it's fine or not fine.

6648

6649 MARTINDALE: Yes, sir. I rely on their technical expertise.

6650

6651 CUMMINGS: Now, were you at all concerned about the condition in which

6652 123s were delivered?

6653

6654 MARTINDALE: Yes.

6655

6656 CUMMINGS: At any time.

6657

6658 MARTINDALE: Yes, sir. There were areas where it did not comply with the

6659 contract. As a contracting officer, it would be my preference not to

6660 take delivery of something that's not in full compliance.

6661

6662 But we had discussions with regard to that, the COTR and myself, and the

6663 noncompliant issues were such that they could be resolved after

6664 delivery.

6665 CUMMINGS: So in other words -- wait a minute. Let me make sure I get

6666 this right. You're saying that you would accept the delivery and it

6667 would be -- you would accept it, but there were assurances made to you

6668 that things would be corrected later.

6669

6670 MARTINDALE: That's correct.

6671

6672 CUMMINGS: Now, is that standard procedure?

6673

6674 MARTINDALE: It is not unusual, sir. It is a common practice in

6675 contracting where you sign a DD-250 accepting delivery of a product or

6676 service and you may withhold some aspect of payment or identify

6677 nonconformance areas with the expectation that, at some point in the

6678 future, they will bring the product into conformance.

6679

6680 CUMMINGS: Now, were all the major deficiencies noted in the DD- 250 for

6681 the Matagorda and each subsequent ship?

6682

6683 MARTINDALE: I can't speak to the subsequent ships, sir, but for the

6684 Matagorda, to my knowledge, all the nonconformances were identified in

6685 the DD-250, sir.

6686

6687 CUMMINGS: Was there noncompliance of the topside equipment noted on the

6688 DD-250 with regard to the environmental standards?

6689

6690 MARTINDALE: No, sir.

6691

6692 CUMMINGS: It was not. And if it was not, why would that not have

6693 happened, because why? In other words, if there was a problem with the

6694 topside equipment with regard to the environmental standards and it had
6695 not been met, why would that not be noted on the DD-250?

6696

6697 MARTINDALE: If it was an area of noncompliance, it should have been
6698 noted, sir.

6699

6700 CUMMINGS: And the I.G. said that it was an area of noncompliance. Are
6701 you aware of that?

6702

6703 MARTINDALE: No, sir.

6704

6705 CUMMINGS: Does it concern you that we may have accepted a ship that did
6706 not have that notice on the DD-250...

6707

6708 MARTINDALE: Yes.

6709

6710 CUMMINGS: ... when, in fact, there was a problem?

6711

6712 MARTINDALE: Yes, that would be a concern, sir.

6713

6714 CUMMINGS: Are there occasions when you have -- this has happened in the
6715 past where maybe something came in, you accepted compliance, DD-250
6716 prepared, and then you later found out that there was something that was

6717 not right? Has that happened?

6718

6719 MARTINDALE: I haven't had any firsthand experience with it, sir.

6720 CUMMINGS: OK. So with regard to -- I want to just make sure I'm clear on

6721 this. With regard to the 123, the program, call it the program, were

6722 there other things, were there things that concerned you overall? Was

6723 there anything unusual that concerned you?

6724

6725 MARTINDALE: It was a very large, complex program, sir. I was not only

6726 responsible for the 110-123 DTO administration, but I also had

6727 responsibility for administering the NSC, the SRP and the FRC. So I was

6728 spread very thin, sir.

6729

6730 CUMMINGS: You did all that by yourself?

6731

6732 MARTINDALE: Yes, sir. I was the sole contracting officer responsible for

6733 all those delivery task orders. So that was certainly a concern.

6734

6735 CUMMINGS: Now, with regard to change orders, how were they dealt with?

6736

6737 MARTINDALE: If the COTR identified an area of the contract requirements

6738 that they wanted to modify or add or subtract from, I would request a

6739 proposal from the contractor. And then we'd receive that proposal,

6740 review it, negotiate and modify the contract.

6741

6742 CUMMINGS: Now, did that happen often with the 123 project?

6743

6744 MARTINDALE: No, sir.

6745

6746 CUMMINGS: You've been sitting around here for all this testimony

6747 earlier, have you not? Just about all of it.

6748

6749 MARTINDALE: Yes, sir.

6750

6751 CUMMINGS: And you heard that there were concerns with regard to wiring

6752 and whether one piece of wire cost a little bit more, cable cost a

6753 little bit more than the other.

6754

6755 Did those kind of things ever come to your attention in any way? In

6756 other words, did the integrated team ever come back and say, "Look,

6757 we've got a problem here, we need to change the wiring?"

6758

6759 MARTINDALE: On the 110-123 contract, that delivery task order?

6760

6761 CUMMINGS: Yes.

6762

6763 MARTINDALE: That was a firm fixed price performance-based contract. So
6764 as far as the contractor and the type of cable that they would install,
6765 for them to correct that issue would not have necessitated a
6766 modification to the contract.

6767

6768 They needed to do whatever was necessary to meet the standards that were
6769 incorporated into the contract.

6770

6771 CUMMINGS: Period.

6772

6773 MARTINDALE: Period.

6774 CUMMINGS: Let me make sure I'm clear on this. Even if it cost more,
6775 you're saying if the specifications ask for a certain thing, if they
6776 wanted to change from the -- do something other than the specifications
6777 with regard to cabling...

6778

6779 MARTINDALE: The specifications of the 110-123 contract did not specify a
6780 type of cable. It specified a standard and then they had to decide what
6781 type of cable to use to comply with that standard.

6782

6783 If they chose the wrong cable and needed to use a different type of
6784 cable, a contract modification is not necessary to make that change.

6785 They just need to make whatever changes are necessary to comply with the

6786 standard that was incorporated into the contract.

6787

6788 CUMMINGS: But if their complaint was that it's going to cost us more
6789 money.

6790

6791 MARTINDALE: That's the firm fixed price risk nature of performance of
6792 that type of contract.

6793

6794 CUMMINGS: So it would fall on the contractor.

6795

6796 MARTINDALE: Yes.

6797

6798 CUMMINGS: And so you might not ever even know about that, is that what
6799 you're saying?

6800

6801 MARTINDALE: That's correct, sir.

6802

6803 CUMMINGS: Let me just ask you this final question. The Defense
6804 Acquisitions University, are you familiar with them?

6805

6806 MARTINDALE: Yes, sir.

6807

6808 CUMMINGS: In its report on Deepwater, it indicates that the contractors

6809 and the Coast Guard were both incentivized to under- estimate the cost
6810 of the new systems and their technical support needs.

6811

6812 Do you think that was the case?

6813

6814 MARTINDALE: No more than any other contractor is incentivized to do that
6815 to capture a contract in their bidding process. They may have
6816 under-estimated things in an attempt to come in with the lowest possible
6817 bid to capture the contract. But that's not...

6818

6819 CUMMINGS: That's not unusual.

6820

6821 MARTINDALE: No. And we did do cost realism analysis when we evaluated
6822 the initial proposals to be awarded the Deepwater contract to try to
6823 ferret out those types of concerns.

6824

6825 CUMMINGS: And did the integrated team ever develop cost estimates that
6826 it knew were lowballed?

6827

6828 MARTINDALE: Not that I'm aware of.

6829 CUMMINGS: So basically, what you're saying to me is that folks can come
6830 in with a low bid to get the contract, get the contract and then when
6831 they get it, come back for change orders and things of that nature, and

6832 that's not unusual. Yes or no?

6833

6834 MARTINDALE: I don't know that I say unusual or not.

6835

6836 CUMMINGS: But you've seen it. You believe that you have seen that

6837 happen.

6838

6839 MARTINDALE: Yes, sir.

6840

6841 CUMMINGS: You can't say for sure, but based upon just your judgment, you

6842 believe that's happened.

6843

6844 MARTINDALE: Yes, sir.

6845

6846 CUMMINGS: OK. I'm not trying to put words in your mouth. I'm just asking

6847 a question.

6848

6849 Mr. LaTourette?

6850

6851 LATOURETTE: Thank you, Mr. Chairman.

6852

6853 Ms. Martindale, I want to pick up a little bit where the chairman left

6854 off.

6855

6856 I think I have in front of me the DD-250 for the delivery of the
6857 Matagorda. And just so I'm clear, under the exceptions section, there's
6858 no reference to the shielded, braided cable. The requirement left on the
6859 TEMPEST system is that the TEMPEST and classified testing will occur
6860 after the delivery of the ship.

6861

6862 MARTINDALE: That's correct.

6863

6864 LATOURETTE: OK. And have you looked at the inspector general's report,
6865 the DHS inspector general's report?

6866

6867 MARTINDALE: No, I have not, sir.

6868

6869 LATOURETTE: Let me just -- the reason for that not being listed on here,
6870 on page 5 of the inspector general's report, it indicates that according
6871 to the contract required the use of only shielded, not braided metallic
6872 shielded cable as recommended by the National Security
6873 Telecommunications.

6874

6875 And so because the contract didn't make the requirement of the braided,
6876 you wouldn't list that as an exception. What was yet to occur is the
6877 TEMPEST testing.

6878

6879 MARTINDALE: That's correct, sir.

6880

6881 LATOURETTE: And, Mr. Michel, I don't know if you're the right one to ask

6882 this series of questions to or not, but we've sort of been going around

6883 and around on this TEMPEST testing business.

6884

6885 MICHEL: Yes, sir.

6886

6887 LATOURETTE: Sort of a -- I'm not going to go there. And we had a witness

6888 on the first panel who said no way could this ever pass the TEMPEST

6889 testing.

6890

6891 We have, in the inspector general's report, not a clear indication that

6892 it passed the TEMPEST testing, but the sentence is, "The TEMPEST testing

6893 conducted on the Matagorda and Padre between February '04 and July '06

6894 indicated that the cabling installed," so I guess this is the mylar

6895 aluminum cabling, "during the C4ISR upgrade was not a source of

6896 compromising emissions."

6897

6898 Are you familiar with that finding by the inspector general?

6899

6900 MICHEL: I am not, sir.

6901

6902 LATOURETTE: Do you have any opinion on that, in light of your
6903 observation that you shared the same concerns as one of our previous
6904 witnesses?

6905

6906 MICHEL: I had examined the visual inspection report that was provided to
6907 the program by TSCOM (ph) and I was made aware of the instrumented
6908 TEMPEST survey results that had been performed by SPAWAR. And in neither
6909 case, the initial survey, was the vessel recommended for certification.
6910 Basically, it failed both tests.

6911

6912 So what we did to simplify matters on the DD-250, the items were rolled
6913 up into this one line item, this TEMPEST and classified testing, because
6914 it was simply impossible to do classified testing until we could get the
6915 vessel to pass TEMPEST. You just can't do it.

6916

6917 LATOURETTE: Let me ask you this. This observation by the I.G. that
6918 whatever testing was conducted indicated that there was not -- the big
6919 issue in the second panel, if you were here, and the first panel, is
6920 that we had national security stuff floating all over the country and
6921 our enemies are listening in on these or could have the ability to
6922 listen in on these ships, compromising national security.

6923

6924 Do you think that the statement that the cabling installed, even though
6925 it's not the braided cable that everybody prefers, was not a source of
6926 compromising emissions is an accurate statement or not?

6927

6928 MICHEL: It's possible, sir. I didn't actually see the instrumented
6929 TEMPEST results for that particular compartment. It is possible.

6930

6931 LATOURETTE: Who would have been in charge of that?

6932

6933 MICHEL: That would have been Mr. Ron Porter at TSCOM (ph). The report
6934 itself was classified.

6935

6936 LATOURETTE: Right.

6937

6938 And back to you, Ms. Martindale, just for a minute. One of the
6939 exceptions listed in number 7 is low smoke cable that we've heard some
6940 things about, too.

6941 We've also heard from Lockheed Martin that I think, at some point in
6942 time, I think after the delivery of the fourth ship, that a waiver was
6943 granted. Were you involved in that process?

6944

6945 MARTINDALE: No, sir.

6946

6947 LATOURETTE: Who would have been involved in that process?

6948

6949 Commander Jacoby, thank you. Can you sort of walk us through how that
6950 happened?

6951

6952 JACOBY: Yes, sir. In July of 2004, I reported on board. One of the
6953 issues that was pending, sir, was a request for waiver from the
6954 contractor to the Coast Guard for around 80 cables that did not meet the
6955 low smoke requirement.

6956

6957 I could see from the documentation that the IPT had worked this issue
6958 for close to a year. The number of low smoke cables in the waiver
6959 request originally was very high. Through the IPT process, those cables
6960 were -- the number of cables on the waiver was reduced to 80.

6961

6962 I consulted with the IPT, got their input. I also called the C4ISR lead,
6963 Mr. Michel's replacement, and got his input on recommendation on
6964 approval or disapproval of the waiver.

6965

6966 I signed the waiver. Actually, I signed a recommendation of the waiver,
6967 forwarded it to the contracting officer, and the contracting officer
6968 approved the waiver.

6969

6970 LATOURETTE: Now, again, there's a couple story lines that can come out
6971 of this investigation and this hearing and one relative to the low smoke
6972 cable is that because that requirement was waived, that Guardsmen are
6973 put at risk if there should be a fire aboard that vessel.

6974

6975 So I guess I appreciate your observations as to why you agreed to that
6976 waiver if that were an accurate assessment.

6977

6978 JACOBY: Yes, sir. To be accurate, the requirement was not waived. The
6979 request for deviation was approved for specific cables and those
6980 specific cables, as was addressed before, were either on the mast, which
6981 the rationale that was provided from the IPT and from the C4 community
6982 was that a cable on the mast that produces smoke does not put anyone at
6983 risk.

6984

6985 Also, some of the cables on the waiver request were -- some examples
6986 would be phone cords or keyboard cords, not cables that were installed
6987 by Lockheed Martin, but cables that came on COTS equipment and the
6988 determination from the IPT and from the C4 community was that you would
6989 not want to cut the phone cords off the COTS equipment and have Lockheed
6990 try to put low smoke cables in their place, sir.

6991

6992 Those were the rationales that I received before signing the waiver.

6993

6994 LATOURETTE: And were you involved at all in the TEMPEST cabling issue?

6995

6996 JACOBY: I was involved with -- not with the initial design, no, sir, but

6997 I did provide the cutters -- make the cutters available to the TEMPEST

6998 inspectors.

6999

7000 And then, also, as the PM, when discrepancies were identified, I pursued

7001 either physical correction of those discrepancies by enforcing the

7002 requirements of the contract or correcting the discrepancies to the

7003 satisfaction of Mr. Porter, the certifying authority at TSCOM (ph), sir.

7004

7005 LATOURETTE: And let's get to that, because, again, when I was talking to

7006 Mr. Michel and we've talked to other witnesses, the allegation is that

7007 even though the contract wasn't violated, according to the I.G.'s

7008 finding, that the contractor had a choice, there's a preferred cable.

7009

7010 The preferred cable was not used and because the preferred cable was not

7011 used, we had a danger of national security being compromised. What's

7012 your take on that?

7013

7014 JACOBY: My take, sir, is I relied on the recommendations and counsel of

7015 the C4 experts and the Coast Guard, which, to my knowledge, are

7016 certified to certify TEMPEST requirements.

7017

7018 Like I said, we made the ships available for the inspections. We
7019 received the discrepancies from the inspections. We satisfied those
7020 discrepancies to the satisfaction of the TEMPEST authority.

7021

7022 LATOURETTE: And this is kind of key to me, because I think everybody
7023 wants to be clear. When you say "satisfied to the satisfaction of the
7024 TEMPEST authority," is there, when this thing passes, I know when it
7025 doesn't pass, you get a report that says here are the problems.

7026

7027 When it passes, is there some kind of certificate that's issued or how
7028 do we know -- how do you know that it's passed? How do you know if it's
7029 passed?

7030

7031 JACOBY: Yes, sir. An interim authority to operate or an authority to
7032 operate is granted once the -- once Mr. Ron Porter is satisfied with the
7033 TEMPEST results.

7034

7035 And for some perspective, from the program management standpoint, the
7036 time period between the inspections and the final authority to operate
7037 or even the interim authority to operate was a span of months, which was
7038 weekly meetings of the program office, the contractor and Mr. Porter

7039 working off those discrepancies.

7040

7041 So from a program management point of view, for one, it was very

7042 difficult to work through this process and gain that ATO. And how we

7043 knew that we had done that was satisfied the requirements of Mr. Porter,

7044 the Coast Guard's TEMPEST certifying authority, sir.

7045

7046 LATOURETTE: Is it fair, because I don't operate in your world, but is it

7047 fair that when the ATO, the authority to operate was issued on these

7048 ships, that the TEMPEST test had been completed and the system was

7049 installed in a manner that was acceptable to the service?

7050

7051 JACOBY: Yes, sir.

7052

7053 LATOURETTE: And would acceptable to the service include a system that

7054 was leaking national security information out of its cables?

7055

7056 JACOBY: I would have to assume that the TEMPEST certifying authority

7057 would not grant an ATO if that was the case, sir.

7058

7059 LATOURETTE: And is that the case on all -- did you get ATOs on all eight

7060 ships?

7061

7062 JACOBY: Yes, sir.

7063

7064 LATOURETTE: Thank you.

7065

7066 Nothing else, Mr. Chairman.

7067

7068 CUMMINGS: Mr. Oberstar?

7069

7070 OBERSTAR: Mr. Ghosh, you were internally and integrally involved with

7071 the design. So who was primarily responsible for the design for

7072 lengthening the hull 110 to 123 feet?

7073

7074 GHOSH: In my opinion, sir, it's Bollinger, ICGS.

7075

7076 OBERSTAR: It was?

7077

7078 GHOSH: In my opinion, ICGS is the...

7079

7080 OBERSTAR: ICGS.

7081

7082 GHOSH: As the prime contractor and their support contractor, Bollinger.

7083

7084 OBERSTAR: What was your role in all of this? You're a naval architect,

7085 aren't you?

7086

7087 GHOSH: Yes, sir. But, again -- yes, sir, we got involved in the sense

7088 that when the design -- review of the design, but, again, Bollinger

7089 calculations showed that the required strength exceeds the calculations

7090 (inaudible) exceeds the (inaudible) by about 100 percent.

7091 But, also, I was the first person to contact Carderock and B.T. (ph) and

7092 Bollinger to get these people on board.

7093

7094 OBERSTAR: Now, you had conversations with, as we understand it, with

7095 Scott Sampson, who is a Navy employee at the Carderock facility, which I

7096 always call the David Taylor model basin, in September 2002, and Mr.

7097 Sampson warned the Coast Guard at that time of a likely design flaw.

7098

7099 Did you get detailed information about that?

7100

7101 GHOSH: Yes, sir. Before even then actually the 179 problem, the cracks

7102 on the 179, I knew about that.

7103

7104 And they are correct that that 179 was (inaudible) only 5 percent, but

7105 under 123, there was 12 percent. But there is a distinction between the

7106 length. The 110-foot versus 175-feet, that length difference makes this

7107 problem different.

7108

7109 In our analysis, (inaudible) analysis in the future, what we found, and
7110 we knew that for a small boat, the failure which the P.C. had is a
7111 yielding failure, meaning a steel has a yield strength of 40,000 pounds
7112 per square inch and the failure on the 179 P.C. was cracking due to
7113 tensile strength exceeding that 40,000 pounds.

7114

7115 But in our case, the 110, because of the short length, the failure is
7116 completely different. It's a buckling failure, which could be much
7117 lower.

7118

7119 Like in our Matagorda case, it was only at 7,200 pounds per square inch.
7120 So the two failures are completely different, and all the knowledge and
7121 ABS rules and the DNV rules, everybody suggested that like, for example,
7122 the DNV rules only apply to more than 150 feet length.

7123

7124 The ABS rules, the 1997 rules, which Mr. Scott Sampson mentioned, they
7125 didn't apply. In that rule it said that this buckling and all this
7126 (inaudible) needs to be done if it is more than 200 feet.

7127

7128 Subsequently, of course, ABS changed that rule in 2003 to 79 feet.

7129

7130 OBERSTAR: ABS changed the rule?

7131

7132 GHOSH: ABS changed the rule, yes, sir.

7133

7134 OBERSTAR: Now, did the Navy offer to provide design and engineering

7135 support for Bollinger, for Northrop Grumman and for the Coast Guard?

7136

7137 GHOSH: Yes, sir.

7138

7139 OBERSTAR: We understand that offer was declined.

7140

7141 GHOSH: Because I couldn't get the funding. I didn't have any funding.

7142 OBERSTAR: The funding was how much?

7143

7144 GHOSH: \$42,000 (inaudible).

7145

7146 OBERSTAR: \$42,000, did you say? Total cost, we understand, was somewhere

7147 between \$50,000 and \$60,000. This is a \$90 million project?

7148

7149 GHOSH: Yes, sir.

7150

7151 OBERSTAR: They couldn't -- they, the Coast Guard, Commander Jacoby,

7152 couldn't find that money?

7153

7154 JACOBY: Respectfully, sir, this was two years before I joined the
7155 program. I can't really speak for whether they could find money or not,
7156 sir.

7157

7158 OBERSTAR: All right.

7159

7160 The Navy offered, and it was not going to do this free. They're going to
7161 do it on a cost-reimbursable basis, and the cost was in the range of
7162 \$60,000 on a \$90 million contract?

7163

7164 I don't understand this.

7165

7166 When did you, Mr. Ghosh, become aware of the deck cracking issue on the
7167 123s?

7168

7169 GHOSH: After September 2004, Matagorda.

7170

7171 OBERSTAR: At least six of the eight, by a year later, six of the eight
7172 converted ships had developed severe cracking. Is that correct?

7173

7174 GHOSH: It's not cracking, sir. There is cracking -- there are cracking
7175 in the aluminum deck, but the main problem has been the buckling on the
7176 side shells (ph) and current problem is buckling on the bottom and

7177 misalignment of shafts. We cannot keep the shafts aligned. And it's a
7178 much more complicated problem. Again...
7179
7180 OBERSTAR: You can have buckling without cracking.
7181
7182 GHOSH: Yes, sir.
7183
7184 OBERSTAR: I understand. I understand.
7185
7186 GHOSH: Because the stress level for the buckling is much, much lower.
7187
7188 OBERSTAR: Did you think it was useful to have the Navy advise the Coast
7189 Guard on this?
7190
7191 GHOSH: Well, the current problem, the way we have analyzed it, yes, of
7192 course, it would have been good, but that solution they would have
7193 presented at the time, like we have already done in our MOD-1 (ph),
7194 MOD-2 (ph) structures, we're having to (inaudible) as well as the
7195 buckling, in case the buckling (inaudible) its problems.
7196
7197 So it's a much more complicated problem than (inaudible).
7198
7199 OBERSTAR: You said something very interesting earlier in your statement.

7200 You were comparing strength of steel -- I know a good deal about steel,
7201 my district was very much involved in and I've spent a great deal of
7202 time on the steel industry. You talked about 14,000 pounds strength per
7203 square inch.

7204

7205 GHOSH: Forty thousand, sir.

7206

7207 OBERSTAR: Pardon me?

7208

7209 GHOSH: Forty thousand.

7210

7211 OBERSTAR: Forty thousand.

7212

7213 GHOSH: Yes, sir.

7214

7215 OBERSTAR: I misunderstood.

7216

7217 GHOSH: High strength steel.

7218

7219 OBERSTAR: Very high strength, yes. That's very good. And was it 7,200

7220 pounds per square inch?

7221

7222 GHOSH: Per inch, was the buckling failure, sir, yes.

7223

7224 OBERSTAR: So what was the specification for strengthening of the hull,

7225 if any, on the 123?

7226

7227 GHOSH: They are supposed to -- the contract -- supposed to look at this

7228 critical buckling strength, 7,200, but, again, the (inaudible) was so

7229 high, almost 200 percent (inaudible). So they didn't do any calculations

7230 (inaudible).

7231

7232 OBERSTAR: A previous witness in a previous panel said that this was not

7233 a problem at all, that the problem of hull buckling or cracking was due

7234 to an underlying stringer in the ship construction that was not attached

7235 and, therefore, did not provide strength and that the failure was due to

7236 something else, not to the design of the hull extension.

7237

7238 GHOSH: That is true. The Matagorda...

7239

7240 OBERSTAR: You mean true that there was a stringer...

7241

7242 GHOSH: Stringer not welded.

7243

7244 OBERSTAR: Did that have a relationship to the strength of the hull?

7245

7246 GHOSH: That stringer being not welded, the Matagorda failed at very low
7247 wave height, very low (inaudible). But eventually when we fixed the
7248 problem and increased the strength based on when we found the
7249 calculation mistake and we increased the strength, which Carderock would
7250 have suggested the same thing, still you had failure, and that failure
7251 is not due to just not having the welded stringer.

7252 It is much more complicated. And (inaudible) we have spent \$0.5 million
7253 almost in trying to solve this problem with experts from Europe, the
7254 original designer (inaudible) and several (inaudible) we have done.

7255

7256 The main theory, what we think is that because the engine room hatch
7257 basically doesn't have the deck, it has a soft patch, (inaudible) that
7258 moved toward the mid-ship of the hull. And that also one other problem
7259 with these particular boats are (inaudible) different from a normal
7260 boat, a steel-hull boat always has steel deck, also, but the 110 and 123
7261 has aluminum deck.

7262

7263 Aluminum basically feels like rubber in this particular case. And that
7264 is like a canoeing, if you have open canoe. You can push it and it sort
7265 of buckles and that's what is happening.

7266

7267 We cannot prove it by (inaudible) analysis and we have gone through many
7268 experts. Nobody could pinpoint the exact failure (inaudible).

7269

7270 OBERSTAR: Why wouldn't that have shown up prior to actual construction
7271 work undertaken on the vessel? Why wouldn't there have been a design
7272 evaluation before you put the vessel to construction?

7273

7274 GHOSH: Well, the 110...

7275

7276 OBERSTAR: And, secondly, why in the strengthening, the lengthening and
7277 strengthening, why didn't someone notice the stringer wasn't attached?

7278

7279 GHOSH: The stringer was...

7280

7281 OBERSTAR: I don't understand that.

7282

7283 GHOSH: The stringer not attached was...

7284

7285 (CROSSTALK)

7286

7287 OBERSTAR: And was that endemic to the other vessels?

7288

7289 GHOSH: No, sir.

7290

7291 OBERSTAR: Just to this one.

7292

7293 GHOSH: Just that one. But, again, on the other hand...

7294

7295 OBERSTAR: But the others cracked -- the others buckled, call it that
7296 way.

7297

7298 GHOSH: Buckled. And the main problem right now is that we cannot keep
7299 our shafts aligned.

7300

7301 OBERSTAR: All right. So the testimony we got in the previous panel was
7302 -- not your words, but mine -- a cover-up for their failure.

7303

7304 When you received this information from the Navy and then you passed it
7305 on and recommended their guidance, and action was not taken because, in
7306 the Coast Guard's word, they didn't have the money to do this, did you
7307 have any further leverage in this arena? Were your hands tied at that
7308 point?

7309

7310 GHOSH: No, sir. We couldn't use our own money, plus we didn't have our
7311 money also, because (inaudible) projects, you have to have right
7312 (inaudible) of money to use it, you couldn't use mix and match.

7313

7314 OBERSTAR: All right, thank you, Mr. Chairman. I think that testimony is

7315 very helpful and sheds important light.

7316

7317 I'm going to come back and review this matter of steel strength and take

7318 a closer look at it later, not in this hearing, but in another context.

7319

7320 I appreciate that. It's very, very useful testimony.

7321

7322 CUMMINGS: Mr. Gilchrest?

7323

7324 GILCHREST: Thank you, Mr. Chairman.

7325

7326 Maybe if you wrote a letter to the Coast Guard auxiliary, they would

7327 have contributed that \$40,000 for that extra evaluation.

7328

7329 Mr. Ghosh, you have, in your testimony, on page 3, I just want to read a

7330 couple of sentences, second paragraph: "I asked both contracting

7331 officers' technical representative and the Bollinger members of the

7332 technical management information team to award contracts to the Navy's

7333 Combatant Craft Division because of its experience with similar problems

7334 that occurred after lengthening the 179-foot patrol craft and its

7335 earlier involvement with the 110-foot Island class patrol boat.

7336

7337 "I also suggested that Bollinger consult Vosper Thornycroft because it

7338 was the original designer of the Island class patrol boat. I was unable
7339 to get support for this."

7340

7341 Who did you need to get support to have this done?

7342

7343 GHOSH: I would say the project office.

7344

7345 GILCHREST: Who was in the project office that didn't give you support
7346 for this?

7347

7348 GHOSH: Well, I was a member of the TMIT team and I could go there and I
7349 didn't go any further.

7350

7351 But, also, I would like to point out that even if we had gotten the
7352 support at the time (inaudible) suppose we had gone to Carderock at the
7353 time and they would have told us to (inaudible) and that's exactly what
7354 we have done today, but still the boat fails.

7355

7356 GILCHREST: So what I'm saying is you had some concern about design
7357 flaws, I guess, and you could not get support for a further evaluation
7358 for those proposed design flaws.

7359 GHOSH: No, sir. I didn't know there is design flaw. I just wanted them
7360 to look at the design because they have the experience, more than I did.

7361

7362 GILCHREST: Now, why were you not able to get support for this further
7363 evaluation?

7364

7365 GHOSH: I cannot speak for it. I didn't control the money.

7366

7367 GILCHREST: Who specifically was the person that turned you down?

7368

7369 GHOSH: I cannot remember exactly, but everybody in Deepwater program
7370 knew about that, that we wanted to get the money to...

7371

7372 GILCHREST: I'd just to -- Mr. Chairman, I'd like to follow up and find
7373 out who that person was that you suggested that you get this other
7374 information, and I think I'd just like to follow through down the road
7375 so that we can find out who that person or persons were.

7376

7377 I'd like to go to page 5 of your testimony, and it's the second from the
7378 last paragraph, about the middle way down. And I just want a
7379 clarification from you, Mr. Ghosh, that it seems, from what you say
7380 here, you now understand what caused the damage on the hull buckling on
7381 these ships.

7382

7383 "After analyzing all additional information, the Coast Guard's

7384 Engineering Logistics Center has developed a solution that might address
7385 all the possible mechanisms of damage. Add a stiff beam and a closed
7386 tube to the upper edge of the deck and I believe this will answer the
7387 major structural problems, but I cannot provide complete certainty that
7388 this will work or there won't be any other anticipated problems."

7389

7390 So what we're talking about here, what Mr. Oberstar is talking about,
7391 the hull breaches, the hull buckling and all of those issues, a stiff
7392 beam and a closed tube to the upper edge of the deck will solve some of
7393 those problems, possibly?

7394

7395 GHOSH: Possibly, sir, yes. The thing is that increasing the strength by
7396 just putting (inaudible) plates (inaudible) it didn't work. And what we
7397 have come to the theory about, (inaudible) was mentioning, if we have a
7398 closed cell, which is several hundred times stronger in torsion, and
7399 that will stabilize the deck.

7400

7401 GILCHREST: Now, we have eight ships sitting up at Curtis Bay, just
7402 outside of Baltimore City. If you think you might have a solution to
7403 this problem, should we scrap those boats or should we pick out one and
7404 see if it'll work?

7405

7406 GHOSH: Well, that's...

7407

7408 GILCHREST: That's not your decision to make?

7409

7410 (CROSSTALK)

7411

7412 GHOSH: ... because I do not have 100 percent guarantee. I mean, I cannot

7413 guarantee.

7414

7415 GILCHREST: I mean, considering all the money that's been put into this

7416 project, there's some pretty good workers up there at Curtis Bay. They

7417 might -- is it possible to hold the line, let's not scrap all these

7418 ships, let's see if we can salvage one, put it out on the high seas for

7419 a year. I'll sail down to McMurdo on it, if need be. Give me six months

7420 leave of absence, Mr. Chairman.

7421

7422 Are these ships so far gone that salvaging one and testing it out just

7423 isn't worth it?

7424

7425 GHOSH: No, sir, I agree. It can be -- I mean, you could do that, what

7426 you suggesting, sir.

7427

7428 GILCHREST: So this 110 -- these 110 boats, changed to 123, that's never

7429 been done before. This is the first time we took 110s to make them 123s?

7430

7431 GHOSH: Yes, sir.

7432

7433 GILCHREST: This is really a silly question, I guess. Considering all the
7434 potential problems that we're seeing here, both from Lockheed Martin and
7435 from Northrop Grumman, from the aviation, the logistics, the hulls and
7436 all that, would it not have been more prudent to do one, set it out
7437 there, because the first one entered service in '05, but there were
7438 already hull problems in '04 on that same boat, set it out there and see
7439 if you could get the kinks out?

7440

7441 GHOSH: Yes, sir. Yes.

7442

7443 GILCHREST: Did the Navy have similar problems when they went from 170 to
7444 179?

7445

7446 GHOSH: Not similar problems, sir. I just said that the stress level on
7447 the deck, they are seeing the 40,000 pounds per square inch level and
7448 ours is between (inaudible) in that range.

7449

7450 GILCHREST: You talked about solving one of these -- this will be my last
7451 question, Mr. Chairman.

7452

7453 What you talked about as far as add a stiff beam and a closed tube to
7454 the upper edge of the deck would have solved some of those damage
7455 problems with the 123.

7456

7457 Is there a similar design in the 179?

7458

7459 GHOSH: No, sir. They have -- again, because the problem (inaudible) they
7460 have increased the strength of the (inaudible) my solution, also,
7461 increasing the strength, but in our 123 case, just increasing the
7462 strength does not help or will not help. It has to have a closed cell
7463 because of the open deck.

7464

7465 In the P.C.s, though, they have some hatch, but by increasing the
7466 strength, that solved their problems. It was cracking in their case. In
7467 our case, it's mostly buckling.

7468

7469 GILCHREST: How many 110s are left in the Coast Guard?

7470

7471 GHOSH: Forty-one, sir.

7472

7473 GILCHREST: Are any of those going to be 123s?

7474

7475 GHOSH: No.

7476

7477 GILCHREST: Thank you, Mr. Chairman.

7478

7479 CUMMINGS: Just before we go to Mr. Kagen, let me just ask you this, Mr.

7480 Michel.

7481

7482 Given that you agreed with Mr. De Kort's concerns, do you believe that

7483 Lockheed Martin did anything unethical?

7484

7485 MICHEL: I wouldn't say unethical, sir, no.

7486

7487 CUMMINGS: Did you file an ethics complaint?

7488

7489 MICHEL: I did not, sir.

7490

7491 CUMMINGS: Mr. Kagen?

7492

7493 KAGEN: Thank you, Mr. Chairman.

7494

7495 I didn't know when I took this job we might be having sleepovers. I

7496 don't think I brought all my equipment.

7497

7498 CUMMINGS: At least you're a doctor. So if we get sick, you can take care

7499 of us.

7500

7501 KAGEN: That's right. But I'm not allowed to write myself those

7502 prescriptions.

7503

7504 Is it Dr. Ghosh, Ph.D.?

7505

7506 GHOSH: No, sir. I have just a bachelor's degree in (inaudible) from

7507 Indian Institute of Technology (inaudible).

7508

7509 KAGEN: With 33 years of experience in architecture related to naval

7510 vessels.

7511

7512 GHOSH: Yes, sir.

7513

7514 KAGEN: And were you here during the earlier testimony...

7515

7516 GHOSH: Yes, sir.

7517

7518 KAGEN: ... when I questioned Mr. Stanley?

7519

7520 GHOSH: Yes, sir.

7521

7522 KAGEN: And do you agree with his answers with regard to potential
7523 responsibility?

7524

7525 GHOSH: I would say, yes, sir.

7526 KAGEN: Is there anybody else that you think you should add to the list
7527 of three?

7528

7529 GHOSH: No, sir.

7530

7531 KAGEN: And with regard to the name of the person, either your superior
7532 or someone in your organization that may not have been able to come up
7533 with the money necessary to do some more studies, is it possible that
7534 you could find that person's name if not tonight, then in the next
7535 several days, certainly during my first term here?

7536

7537 GHOSH: It's been five years, sir. I didn't keep that good notes.

7538

7539 KAGEN: OK.

7540

7541 GHOSH: But, again, it was in a meeting and all names have been given.

7542

7543 KAGEN: All right. Well, can you offer perhaps three things that you
7544 think were the primary things that went wrong with the 110? Give me a

7545 list. I have a fact-based -- I have a scientific mind, but don't shake
7546 your hands, because when I teach medical students, when a professor does
7547 this, we put our notes down, don't write anything, because it's just a
7548 bunch of bull.

7549

7550 So just give me three things that you think were the key things that
7551 went wrong with this project.

7552

7553 Design. You mentioned the space in the hull, the hatch, so to speak.

7554

7555 Let me ask you, yes or no, can you come up with three things that you
7556 think were central to the failure of this project?

7557

7558 GHOSH: I guess I could.

7559

7560 KAGEN: Perhaps then you can write to me and give me my answers in
7561 writing at a later time.

7562

7563 Is it Mr. Michael (ph) or Mr. Michel?

7564

7565 MICHEL: It's Mr. Michel, sir.

7566

7567 KAGEN: Mr. Michel, you mentioned in your statement that you're assistant

7568 deputy for systems implementation with the Coast Guard's nationwide
7569 automatic identification system project.

7570

7571 MICHEL: Yes, sir.

7572

7573 KAGEN: I'm sure they don't answer the phone that way, but can you give
7574 me just a little background about what that means, what you do?

7575

7576 MICHEL: These days I'm more of a program management type than an
7577 engineering technical lead, but the two are closely related in my
7578 present responsibilities.

7579

7580 KAGEN: So someone in that organization depends on your judgment.

7581

7582 MICHEL: Yes, sir.

7583

7584 KAGEN: On your good judgment and your judgment is based not just on your
7585 education, but your training and your experience.

7586

7587 MICHEL: Yes, sir.

7588

7589 KAGEN: Is that correct? So you were involved in this project and let me
7590 ask you this. Do you agree with everything offered in sworn testimony by

7591 Mr. Atkinson?

7592

7593 MICHEL: I do not.

7594

7595 KAGEN: Is there anything that you disagree with him on?

7596

7597 MICHEL: I think that some of his statement were a bit of a stretch.

7598

7599 KAGEN: So the adjectives might be a problem, but what about the facts?

7600 Is it not a fact that some wiring and covering of wiring created the

7601 possibility, as you testified earlier this evening, for eavesdropping?

7602

7603 MICHEL: For compromising emanations, yes, sir.

7604

7605 KAGEN: And when you left the project, is it not also true that that same

7606 wiring was in place?

7607

7608 MICHEL: Yes, sir.

7609

7610 KAGEN: Do you think your judgment was sound in allowing it to continue

7611 to be present?

7612

7613 MICHEL: I made my concerns known during my tenure.

7614

7615 KAGEN: Well, you did talk about it, but what happened? What are the
7616 results? Don't read my lips. What do you think? Was it poor judgment to
7617 walk away from that project knowing that they were unshielded wiring?

7618

7619 MICHEL: Well, perhaps, sir, but it was a promotion.

7620

7621 KAGEN: OK.

7622

7623 Well, I'll tell you, I'm new around these parts and I think, Joe, you
7624 testified earlier that you thought there was really a contract problem.
7625 I don't think it's a contract problem. I think it's a people problem and
7626 it's really a problem of oversight.

7627

7628 And I can, as my time expires here, reassure you that the 110th Congress
7629 is intently interested in providing oversight. And in my evening that
7630 I'm spending here with you, there was one man who was honest thus far
7631 and that gentleman is sitting in the back row from Bollinger.

7632

7633 Marc 'fessed up. He accepted responsibility. And he's invited everybody
7634 else to accept responsibility.

7635

7636 If I may just ask Cathy Martindale a question.

7637

7638 Are you understaffed? Do you have a lot more responsibility to do

7639 personally than you think one person should be doing?

7640

7641 MARTINDALE: While assigned to the Deepwater project, yes, sir.

7642

7643 KAGEN: So how many other staff members do you feel would be adequate to

7644 get the job done right?

7645

7646 MARTINDALE: There should be an overarching surface contracting officer.

7647 There should be a contracting officer assigned to each asset. That would

7648 be the SRP, the 123, the NSC, the FRC, the OPC, that would be five

7649 contracting officers. And maybe they would need two to three specialists

7650 working for each of those contracting officers.

7651

7652 KAGEN: Is that not a staff of close to 18 in addition to you?

7653

7654 MARTINDALE: Yes, sir.

7655

7656 KAGEN: And who would be responsible for providing all that staff? Who's

7657 the decision-maker? Where does that buck stop?

7658

7659 MARTINDALE: I really don't know, sir.

7660

7661 KAGEN: See, one of the principles in my businesses that I've run is that
7662 if I give someone a job that they cannot do, shame on me.

7663

7664 Someone gave you a job that was humanly not possible, in my early
7665 estimation. Would you agree with that?

7666

7667 MARTINDALE: Yes, sir.

7668

7669 KAGEN: So it's a question, again, of failure of oversight. It's not a
7670 failure of contracts. I don't think this is necessarily a problem that's
7671 going to be solved by attorneys. It's going to be solved by this
7672 Congress in its oversight of activities, not just in the Coast Guard,
7673 but elsewhere.

7674

7675 Any other comments before I yield back my time from the panel?

7676

7677 MARTINDALE: I have a comment, sir.

7678

7679 KAGEN: Thank you.

7680

7681 MARTINDALE: I believe another issue of concern is the construct of the
7682 contractor. It's been a struggle in administering the contract when you

7683 have a joint venture, ICGS, which is a shell of a company, and then you
7684 have subcontractors, Lockheed Martin, Northrop Grumman Ship Systems, and
7685 then another tier subcontractor, Bollinger.

7686 Not necessarily those contract relationships reflect that of the Coast
7687 Guard's with ICGS, making it an additional challenge, and, also, the
7688 work was divided up. C4ISR was focused on doing their C4ISR work. HM&E,
7689 they were focused on doing their HM&E. And not necessarily when the two
7690 would come together did they work compatibly, and that was just a
7691 fallout of the organizational construct with whom we had a contract
7692 relationship.

7693

7694 KAGEN: You've just described a disorganized orchestra where everyone's
7695 playing their own musical instrument, but there's no conductor. So we
7696 have Madam Speaker Pelosi to guarantee there's going to be oversight in
7697 this Congress.

7698

7699 I yield back my time.

7700

7701 CUMMINGS: Thank you very much.

7702

7703 I just wanted to say that Admiral Blore, who's right over there, Ms.

7704 Martindale, is the guy who can get you some more help. OK?

7705

7706 Mr. Altmire (ph)?

7707

7708 ALTMIRE (?): Thank you, Mr. Chairman.

7709

7710 I wanted to clarify one thing. This is for Commander Jacoby. You talked

7711 earlier about Ron Porter and the visual TEMPEST exam of the Matagorda.

7712

7713 JACOBY: Yes, sir.

7714

7715 ALTMIRE (?): So my question is, was Ron Porter a fully certified TEMPEST

7716 authority at the time he conducted the visual TEMPEST exam of the

7717 Matagorda?

7718

7719 JACOBY: To my knowledge, he was, although I did not verify his

7720 certification, sir.

7721

7722 ALTMIRE (?): OK. Thank you.

7723

7724 Also, for you, Commander, according to records supplied by the Coast

7725 Guard, Matagorda received its interim authority to operate its C4ISR on

7726 October 14, 2004. It then had a visual TEMPEST inspection on December

7727 19, 2004, which noted a few lingering discrepancies. It received its

7728 authority to operate on January 19, 2005.

7729

7730 Next, the 123 class received a class waiver for visual discrepancies on
7731 July 12, 2005. Matagorda itself was reinspected for visual TEMPEST on
7732 October 28, 2005.

7733

7734 So the question is, why did Matagorda receive its ATO before the class
7735 waiver for the 123s' visual discrepancies was granted and before
7736 Matagorda was given a visual TEMPEST inspection to assess the condition
7737 of remaining discrepancies -- deficiencies? I'm sorry.

7738

7739 JACOBY: I tried to keep up with you on dates there, sir. I believe that
7740 there's a mixing of two issues there. The class-wide waiver, which
7741 applied to not the Matagorda, but the follow-on hulls, was granted, I
7742 believe, on the date you mentioned.

7743

7744 If I can just run through the Matagorda...

7745

7746 ALTMIRE (?): Please.

7747

7748 JACOBY: I think that would clear things up.

7749

7750 The Matagorda received a visual TEMPEST inspection and an instrumented
7751 TEMPEST inspection in the February of '04 time frame and received

7752 authority to operate, interim authority to operate in October of '04,

7753 and a final authority to operate in January of '05.

7754

7755 Those dates, in sequential order, I believe are the only ones applicable

7756 to Matagorda. The class-wide waiver, in my understanding, from what I've

7757 received from Mr. Porter, was after several cutters had been tested, his

7758 confidence level that the class met a configuration management standard

7759 that was consistent across the class, and he felt comfortable granting a

7760 class-wide authority to operate.

7761

7762 ALTMIRE (?): Thank you.

7763

7764 Then my final question, we pulled from the testimony and it has some

7765 acronyms in there which I'm going to try to pronounce correctly, but

7766 forgive me if I don't.

7767

7768 >From March 11 to April 5, 2005, Matagorda was among a group of ships

7769 reassessed by Navy's COMOPTEVFOR unit and the Navy wrote the following,

7770 which we were, I think, going to put up on the screen, but it's late

7771 now.

7772

7773 "TEMPEST discrepancies and COMSEC discrepancies were corrected in Coast

7774 Guard Cutter Matagorda. However, there were unsolved installation

7775 discrepancies which precluded a SPAWAR SYSCOM recommendation for Coast

7776 Guard 62 to release an IATO.

7777

7778 "Without an IATO, cutters were not authorized to transmit and receive

7779 classified information, significantly limiting their participation in

7780 U.S. Coast Guard tactical operations."

7781

7782 And then later they wrote, "In spite of this progress, physical

7783 connectivity was still assessed as a high risk based upon the inability

7784 to establish and maintain classified two-way data exchanges with other

7785 Coast Guard and naval vessels."

7786

7787 JACOBY: Yes, sir. It's my understanding that at the date in which

7788 COMOPTEVFOR, the Navy command, assessed the Matagorda, it did not have

7789 an ATO, therefore, could not energize their secure communications.

7790

7791 So COMOPTEVFOR noted that they could not test certain gear during that

7792 evaluation, and I believe the ATO for Matagorda came several weeks after

7793 COMOPTEVFOR had done their evaluation, sir.

7794

7795 ALTMIRE (?): And, Commander, had the Matagorda been handling classified

7796 information by this time?

7797

7798 JACOBY: No, sir.

7799

7800 ALTMIRE (?): They had not.

7801

7802 JACOBY: No, sir.

7803

7804 ALTMIRE (?): Why did the Coast Guard issue an ATO in January 2005 to the

7805 Matagorda when the Navy noted that unresolved installation discrepancies

7806 precluded SPAWAR from recommending the Coast Guard to release IATO when

7807 the system is still considered high risk at that time, March and April

7808 2005?

7809

7810 JACOBY: Sir, I believe there's two separate processes. The Navy's

7811 operational evaluation of the cutter is not linked to Mr. Porter's

7812 working with SPAWAR and determining the suitability of the TEMPEST

7813 system, sir.

7814

7815 ALTMIRE (?): OK. Last question. Thank you, Commander.

7816

7817 Did the sequence of events pose a risk of compromising national security

7818 at any time?

7819

7820 JACOBY: It has always been my belief, based on input from the C4

7821 community and the Coast Guard, that that is not the case.

7822

7823 ALTMIRE (?): Thank you, sir.

7824

7825 CUMMINGS: Tell me, again, when did the Matagorda get its ATO?

7826

7827 JACOBY: I show a final ATO granted on 19 January 2005, sir.

7828

7829 CUMMINGS: And was that before the Navy assessment?

7830

7831 JACOBY: I don't have the Navy report in front of me, sir.

7832

7833 CUMMINGS: March or April 2005. How does that affect your testimony?

7834

7835 JACOBY: I would have to check those dates, sir.

7836

7837 CUMMINGS: That's very, very important, because you just gave us some

7838 information that we want to make sure is accurate. And we can tell you

7839 that the information that we got, the Navy's examination was in March of

7840 2005.

7841

7842 JACOBY: Yes, sir. I believe what I'm reading off is something we've

7843 provided for the record. I'd be happy to provide this and the actual

7844 reports for the record, sir.

7845

7846 CUMMINGS: Very well.

7847

7848 Mr. Taylor?

7849

7850 TAYLOR: Thank you, Mr. Chairman.

7851

7852 Commander Jacoby, you were the project officer?

7853

7854 JACOBY: I was the program manager for the 123 program.

7855

7856 TAYLOR: On previous testimony, I heard the gentleman talking about

7857 electronics that were exposed to the weather, that weren't required to

7858 be waterproof, and I kept waiting for someone to say, "No, you're wrong.

7859 It was in the specs."

7860

7861 I still haven't heard anyone say that. How does something as basic as

7862 that happen? I mean, any boatsman who made third class is going to go,

7863 "The first time it rains, the first time we catch a wave, this stuff is

7864 ruined."

7865 How does something like that happen?

7866

7867 JACOBY: I agree with your assessment, sir, that that doesn't seem like
7868 something that could happen in reality. Coming on the program halfway
7869 through, I still know that the contract states environmental
7870 requirements for operation of the equipment and that a certain radio was
7871 installed on the SRP that did not meet those environmental requirements,
7872 sir.

7873

7874 TAYLOR: Were you empowered to catch mistakes like that?

7875

7876 JACOBY: It actually happened two years before I reported, sir, but yes.
7877 If I, as program manager, saw items that did not meet the contract
7878 requirements, I was empowered to work through the contracting officer
7879 and make corrections.

7880

7881 TAYLOR: So your predecessor program officer, was he a lieutenant, also,
7882 at the time? I'm taking it you were a lieutenant a couple years back.

7883

7884 JACOBY: The prior program manager, there were several. Some were GS-14s.
7885 And I'm not sure all the ranks of the previous.

7886

7887 TAYLOR: I realize that the Coast Guard throws, as all the services do, a
7888 heck of a lot of responsibility on very young officers. But it strikes
7889 me as something a program that \$90 million expenditure, eight ruined

7890 cutters -- did you at any time sense that you just weren't high enough
7891 of a pay rate to address these problems?

7892

7893 JACOBY: Sir, I think I mirror Ms. Martindale's feelings of the program
7894 early on, the staffing levels were very bleak.

7895

7896 When I reported aboard, my billet was actually to be the deputy surface
7897 program manager with an overarching view of all the cutters'
7898 construction, and shortly after arriving, I saw the 123 program with a
7899 need for some change and some guidance.

7900

7901 I took that over in addition to the deputy surface job. After some
7902 months of work on the 123, it was clear that that was a full-time
7903 job-plus.

7904

7905 So in that timeframe of 2004, people were wearing two and three hats and
7906 moving the program forward. The commandant yesterday talked about
7907 increasing manning levels and oversight.

7908

7909 And I can attest, I witnessed over my two and a half years on the
7910 program the increase of staffing levels, and after a while, the people
7911 who were wearing three hats got replacements and were working -- before
7912 I left in October of 2006, we were properly manning each billet instead

7913 of asking people to cover two and three billets, sir.

7914

7915 TAYLOR: Again, I would invite you to correct me, but that one jumps out

7916 at me as so glaring that I find it inconceivable.

7917

7918 Now, let's take it to something a little bit more complicated, the

7919 hogging (ph) and sagging (ph) calculations.

7920 JACOBY: Yes, sir.

7921

7922 TAYLOR: Is that your normal expertise within the Coast Guard? If a crew

7923 boat company or a ferry boat operator were going to lengthen their

7924 vessel, is that the sort of calculation that you would run?

7925

7926 JACOBY: I'm not a naval architect or a marine safety inspector, sir, but

7927 I am a shipboard engineer for the Coast Guard, an engineer on two, sir,

7928 78-foot ships, and even engineer supporting the patrol boats down in Key

7929 West prior to my Deepwater career.

7930

7931 I, from a common sense standpoint, I think share your concern that that

7932 doesn't pass the common sense test, but I'm not a naval architect to

7933 back that up with calculations, sir.

7934

7935 TAYLOR: Commander, let me ask you this. And I very much appreciate your

7936 frankness.

7937

7938 What's being done so it doesn't happen again? I've told you my concerns

7939 with the LCS. I've told you my concerns with the next generation of

7940 cutters.

7941

7942 Shame on me if a mistake is made once, but shame on all of us, enlisted,

7943 officer ranks, members of the Congress, members of the administration,

7944 if we let this happen again.

7945

7946 And I really, based on what I've heard tonight, don't have any

7947 confidence that we're doing this any better. And what is particularly

7948 troubling, I'll tell you, I sense this is the shipboard equivalent of

7949 sweeping it under the rug.

7950

7951 When you cut this ship up for scrap, that it's no longer there to be on

7952 "60 Minutes," or if it's sunk offshore for a fishing reef, it's no

7953 longer there to be on "60 Minutes," we've got a real problem here.

7954

7955 JACOBY: Yes, sir.

7956

7957 TAYLOR: And I would like to hear from you as an up and coming officer in

7958 the United States Coast Guard that you've got a high degree of

7959 confidence that this is being addressed rather than just let's hope
7960 nobody asks that question again.

7961

7962 JACOBY: Yes, sir. I firmly believe that the factors that led to the
7963 structural issue, as well as the C4 issues we've talked about tonight, I
7964 could see the evolution of the things that will keep those from
7965 happening again in my two and a half years in the Coast Guard.

7966

7967 One of them was the manning level that we talked about, the wearing
7968 three hats. And I think there's been comparisons between Deepwater
7969 manning and Navy shipbuilding manning, and we were trying to build ships
7970 with very few people.

7971

7972 Another major contributor is the specificity of the requirement in the
7973 contract. In all these situations, we were dealing with contract
7974 language that was signed in 2002 and left the contractor and the
7975 government in many cases unclear on the exact requirements.

7976 It was a performance-based contract, but it still could have specificity
7977 that both the government and industry could use to manage costs, manage
7978 expectations, manage requirements.

7979

7980 Additionally, the oversight and the input from regulatory agencies, the
7981 commandant and the PEO have mandated the use of regulatory agencies in

7982 further designs, and I've personally been involved in incorporating the
7983 things that brought us problems on this contract, like specific words in
7984 the contract or lack of words in the contract, into future contracts for
7985 the FRC and the OPC.

7986

7987 So I do have a sense that I've contributed by the painful lessons
7988 learned to better contracts and better oversight and better manning for
7989 the Deepwater program, sir.

7990

7991 TAYLOR: If a contract passed your desk tomorrow that called for a radio
7992 or radar, fill in the blank, (inaudible) that's going to be exposed to
7993 the weather and did not mandate that it be waterproof, and we all know
7994 the difference between weatherproof and waterproof, would you be
7995 empowered to say, "Uh-uh, we're going to fix this right now," rather
7996 than buy two or three or four of these at government expense and replace
7997 the ones that don't work?

7998

7999 JACOBY: Absolutely, sir, and I do have examples of issues that arose on
8000 the Deepwater program that the program office felt did not meet the
8001 contract requirements and were able to enforce those requirements and
8002 get design changes and even retrofits on the cutters.

8003

8004 So there are examples of successes in enforcing the contract

8005 requirements and then there's examples of the program office
8006 unsuccessfully enforcing, mostly because of the wording that was
8007 incorporated into the contract in 2002, either vague or lacking the
8008 specificity.

8009

8010 TAYLOR: Who, in your opinion, should have caught the hogging (ph) and
8011 sagging (ph) problem before it happened?

8012

8013 JACOBY: The Coast Guard's contractors with ICGS. I feel the
8014 responsibility lie with ICGS. In fact, I issued or worked with my
8015 contracting officer to issue two late and defect letters to the
8016 contractor, one days after the Matagorda buckling incident and the other
8017 several months later when the deformations appeared on other cutters.

8018

8019 TAYLOR: Thank you very much, Commander.

8020

8021 JACOBY: Yes, sir.

8022

8023 TAYLOR: Thank you, Mr. Chairman.

8024

8025 OBERSTAR: I have a follow-up for Mr. Jacoby.

8026

8027 In January of '05, Matagorda got authority to operate, meaning that they

8028 also had authority to transmit and receive classified data.

8029

8030 But at that time, according to all the testimony we've seen, they had

8031 not yet passed the instrument test -- or instrumented test, as it's

8032 called.

8033

8034 The only instrument test which allegedly was passed was in July '06, but

8035 for another ship in the same class as the Matagorda.

8036

8037 Was it legal for the Matagorda to operate under those circumstances?

8038

8039 JACOBY: I believe so and I'll tell you, from my perspective, why I

8040 believe that, sir. The two instrumented TEMPEST inspections, one on

8041 Matagorda, one on Padre, were not related. The Padre inspection was not

8042 meant to validate Matagorda's TEMPEST system.

8043

8044 The original instrumented TEMPEST inspection on Matagorda, which you

8045 referred to as failed, was, in my view as a program manager, Ron Porter

8046 assessed the vulnerabilities or issues with that.

8047

8048 Over time, the physical discrepancies were corrected or Mr. Porter

8049 waived the discrepancies that were noted. And that original TEMPEST

8050 inspection was eventually the basis for Mr. Porter approving an

8051 authority to operate, sir.

8052

8053 OBERSTAR: Well, how does that authority compare to the judgment of the

8054 Navy, which said, in a document we have, that the system is still high

8055 risk?

8056

8057 JACOBY: That is from a COMOPTEVFOR report, sir? I believe that the

8058 authority for TEMPEST certification lies with, for the Coast Guard, Mr.

8059 Ron Porter, for the Navy, SPAWAR, and not with COMOPTEVFOR, sir.

8060

8061 I can't speak to whether they would determine...

8062

8063 OBERSTAR: There's this gray area here which is now becoming somewhat

8064 clearer that there were deficiencies, and these deficiencies were

8065 granted waivers instead of being repaired, rather than being covered up.

8066

8067 JACOBY: I do not know the waiver process or the mentality that goes

8068 behind the waiver process at Mr. Ron Porter's shop.

8069

8070 OBERSTAR: Thank you. We need to proceed on to the next panel.

8071

8072 I particularly want to thank Mr. Ghosh, the naval architect, for his

8073 very candid and straightforward and helpful answers.

8074

8075 CUMMINGS: I want to thank you all very, very much for being with us. And

8076 your testimony has been extremely helpful.

8077

8078 We'll call the next panel now. Rear Admiral Gary T. Blore and Vice

8079 Admiral Paul E. Sullivan.

8080

8081 (WITNESSES SWORN)

8082

8083 CUMMINGS: Thank you. You may be seated.

8084

8085 Rear Admiral Blore?

8086 And thank you all very much. I know it's been a very, very long day.

8087 Hopefully, we will not take you into tomorrow.

8088

8089 BLORE: Thank you, sir, and the members who have stuck it out with us.

8090

8091 Good evening, Mr. Chairman and distinguished members of the committee.

8092 It's a pleasure to be here today with my colleague, Admiral Sullivan. I

8093 respectfully request my previously submitted written testimony be

8094 entered into the record.

8095

8096 CUMMINGS: Without objection, so ordered.

8097

8098 BLORE: I'd like to thank the Congress, in particular, this committee,
8099 for your oversight of the Integrated Deepwater System. We have adopted
8100 many of your committee recommendations as we reform the Deepwater
8101 acquisition process.

8102

8103 I believe the Deepwater program is our best strategy for building a 21st
8104 century Coast Guard capable of executing our missions of maritime
8105 safety, environmental protection, homeland security and homeland
8106 defense.

8107

8108 As part of our effort to strengthen the Deepwater program and with the
8109 commandant's leadership, we have met extensively with Integrated Coast
8110 Guard Systems, or ICGS, Lockheed Martin and Northrop Grumman.

8111

8112 We have had frank discussions with industry about our intentions moving
8113 forward. We have strengthened the Coast Guard's acquisition process and
8114 revamped our procedures to ensure that the contract expectations of the
8115 Coast Guard and the American taxpayer are crystal clear.

8116

8117 This hearing is focused on mistakes the Coast Guard made in our first
8118 Deepwater shipbuilding project. Not a day goes by that I am not fully
8119 committed to avoiding a recurrence of this disappointment.

8120

8121 Our Coast Guard men and women deserve better, as does the public we
8122 serve.

8123

8124 You have my assurance that I will take every step necessary to redress
8125 insufficiencies in analysis and communications that led to the premature
8126 decommissioning of the 123-foot patrol boats.

8127

8128 However, we must not fall victim to living in the past, which neither
8129 recapitalizes the Coast Guard nor serves the public interest.

8130

8131 Instead, we must apply lessons learned to ensure a successful future for
8132 the Coast Guard, our acquisitions, homeland security and the American
8133 people.

8134

8135 The Coast Guard has options in choosing from whom to acquire our assets,
8136 consistent with the Federal Acquisition Regulations.

8137

8138 With the commandant's support, I intend to use robust business case
8139 analysis, competition and best value criteria in choosing which
8140 manufacturers will execute our projects.

8141

8142 In many cases, that may continue to be Lockheed Martin and/or Northrop

8143 Grumman, and to that end, the commandant and the companies' CEOs
8144 recently signed an agreement asserting the Coast Guard would transition
8145 into becoming the systems integrator, lead management of all life-cycle
8146 logistics, expand the use of the American Bureau of Shipping, accelerate
8147 the resolution of remaining national security cutter issues, and, where
8148 practicable, work directly with the prime vendors.

8149

8150 These actions, combined with numerous other acquisitions and program
8151 management reforms, will make the Deepwater program of tomorrow
8152 fundamentally better than the Deepwater program of today.

8153

8154 This committee has been a catalyst for much of this change, but the
8155 fundamental underpinnings of this reform began the day Admiral Allen
8156 became commandant just under a year ago.

8157

8158 His first, very first new initiative as our commandant was to direct the
8159 consolidation of our acquisition organization. Shortly thereafter, he
8160 adopted the "Blueprint for Acquisition Reform," which called for a
8161 restructuring and prioritization of our agency's entire acquisition
8162 process.

8163

8164 We will stand up this new structure beginning July 13 and it will take
8165 shape fully over the next several months.

8166

8167 For the upcoming award term, which starts this June, the commandant has
8168 asked me to focus on more favorable government terms and conditions and
8169 on those priority delivery task orders occurring during the first 18 to
8170 24 months.

8171

8172 This allows the recapitalization of the Coast Guard to continue unabated
8173 while acquisition reforms are implemented, at the same time, allowing a
8174 full spectrum of options for future government purchases.

8175

8176 Today marks the start of my second year in this assignment. Critical to
8177 our acquisition is the partnership we have built with our sister
8178 service. The Navy is our third-party independent assessor of choice.
8179 They speak Coast Guard, they understand us, and have superb engineering
8180 and technical expertise to share.

8181

8182 For example, a quarter of my resident project office staff at the
8183 Pascagoula shipyard is on loan from NAVSEA on a reimbursable agreement.
8184 Our daily contact is across dozens of NAVSEA's divisions involving
8185 millions of dollars transferred from everything such as Navy-type,
8186 Navy-owned equipment to technical review.

8187

8188 And now with the elevated role of our Coast Guard technical authority,

8189 the relationship with NAVSEA is even more integrated.

8190

8191 In conclusion, a properly equipped Coast Guard is critical to our nation

8192 and reforming the Deepwater acquisition is critical to a 21st century

8193 Coast Guard.

8194

8195 I look forward to working with you to ensure we can accomplish

8196 acquisition reform without derailing recapitalization, but while

8197 focusing on the acquisition fundamentals of cost control, schedule

8198 integrity and the surpassing of performance expectations.

8199

8200 Thank you, Mr. Chairman. I would be pleased to answer your questions.

8201

8202 CUMMINGS: Thank you very much.

8203

8204 Vice Admiral Sullivan?

8205

8206 SULLIVAN: Good evening, Mr. Chairman, and thanks for having us here

8207 tonight. My name is Vice Admiral Paul Sullivan. I'm the commander of the

8208 Naval Sea Systems Command.

8209

8210 Before I had the job I have today, I was the deputy commander for ship

8211 design, integration and engineering. I've also been a program manager of

8212 two submarine acquisition programs.

8213

8214 I'm here to discuss our partnership with the Coast Guard with regard to

8215 acquisition and, also, technical authority, and I'd be happy to answer

8216 any of your questions, sir.

8217

8218 CUMMINGS: Very well. Thank you very much to both of you.

8219

8220 Rear Admiral Blore, yesterday -- first of all, I want you to know that I

8221 think everybody on our panel on both sides of the aisle have tremendous

8222 confidence in Admiral Allen. He has clearly been a man of action and he

8223 has made it clear that he is going to make some significant changes.

8224

8225 I had an opportunity to review his statement yesterday, his press

8226 statement, and I was very impressed and was glad that he was moving in

8227 the direction he's moving in.

8228

8229 That being said, you've heard the testimony today. And I think we can

8230 actually start with Ms. Martindale, when she talks about the fact that

8231 she's -- and she seems to be a very diligent and hardworking employee,

8232 contracting officer, giving it the best she's got, not enough people.

8233

8234 I mean, I don't think that she was trying to make you all look bad.

8235 She's just answering questions honestly.

8236

8237 We've heard testimony throughout about how it appears that there are
8238 problems with having the personnel to do the TEMPEST test and the
8239 resources to properly do them.

8240

8241 So while we listen and we hear, and I could go on and on, you've heard
8242 the testimony, but it's clearer to me and it's a worry that I've
8243 expressed to Mr. Oberstar on at least two occasions, if not more, that
8244 we've got to make sure that if the Coast Guard is taking on these
8245 responsibilities, that they have the personnel, the expertise and the
8246 resources to take them on.

8247

8248 I mean, that, to me, if we don't -- if that's not the case, then I think
8249 that we move from one bad situation to another bad situation.

8250 And so I'm just wondering where does that stand.

8251

8252 I'll be very frank with you. At this moment, just based upon what I've
8253 read and what I've heard, I don't know that the Coast Guard is in a
8254 position to do certification with regard to TEMPEST. I'm not sure.

8255

8256 And so -- and there are a lot of other things I'm concerned about.

8257

8258 CUMMINGS: That's not beating up on the Coast Guard because we want to be
8259 the Coast Guard's number one advocates, but we also want to make sure
8260 that the Coast Guard has what it needs.

8261

8262 And so, taking into consideration what was said by the admiral
8263 yesterday, are we prepared to take on that responsibility?

8264

8265 BLORE: Yes, Mr. Chairman. I believe we are.

8266

8267 I share your respect for Ms. Martindale, and I would like to hire her
8268 back as a contracting officer for the Deepwater program, if she would
8269 like to return and join us.

8270

8271 Since I became the program executive officer a year ago, we've brought
8272 on about 45 new staff positions. That was the first increment that the
8273 commandant and I had worked out together as we started preparing to
8274 build out our system integrator capability.

8275

8276 I would not disagree with you for a moment that we're not prepared
8277 tomorrow to take over entirely the system integrator role. The
8278 commandant has a plan to transition. We are much more capable on the
8279 logistics and the materiel side of the Coast Guard. We still need to do
8280 a lot of build-out, especially on our C4ISR side, and I will be

8281 depending on my colleague heavily and other government sources to assist
8282 the Coast Guard with that.

8283

8284 Right now, we have 22 contracting officer billets within the program. We
8285 have expanded that since Ms. Martindale left.

8286

8287 Again, for full disclosure -- and I believe NAVSEA probably shares this
8288 issue -- while I have 22 contracting officer positions, I don't always
8289 have 22 contracting officers. Hiring in the Washington, D.C., general
8290 area for what's called an 1102, general schedule person, is difficult,
8291 especially at the junior classification rates, although we work on that
8292 very hard, again with our colleagues.

8293

8294 And we will continue to use SPAWAR as a facility to run our TEMPEST
8295 testing. I think some of the confusion earlier is we've always used them
8296 for the instrumented testing. The actual certification is done by a
8297 Coast Guard official, and that's why sometimes it may have been
8298 confusing who was doing the certification. TEMPEST, for Coast Guard
8299 assets, is certified by the Coast Guard based on SPAWAR testing.

8300

8301 CUMMINGS: Let me ask you this. In the admiral's statement yesterday, he
8302 said something that, while it impressed me and it made me feel good, it
8303 also left me kind of slightly with question marks.

8304

8305 He said the Coast Guard will expand the role of the American Bureau of
8306 Shipping or other third parties, as appropriate, for Deepwater vessels
8307 to increase assurances that Deepwater assets are properly designed and
8308 constructed in accordance with established standards.

8309

8310 What does that mean, if you can tell me?

8311

8312 In other words, one of the things that we have run into here with regard
8313 to TEMPEST is what is the standard. I mean, is the standard a moving
8314 target? Is the standard something that can be waived and whatever?

8315

8316 But putting TEMPEST aside, let's just deal with the American Bureau of
8317 Shipping. I mean, in talking to all of our experts, they tell me if we
8318 adhere to their standards, we'd be in pretty good shape, very good
8319 shape, and I'm wondering does this statement mean that that is the
8320 standard that we will be using, or what does this mean?

8321

8322 BLORE: Do you mind if I just ask Admiral Sullivan to comment on
8323 TEMPEST...

8324

8325 CUMMINGS: Sure. Please. Please.

8326

8327 (CROSSTALK)

8328

8329 BLORE: ... because we try to pattern off his program?

8330

8331 CUMMINGS: No, I'm happy to, happy to. Whoever is best to explain it.

8332

8333 SULLIVAN: Yes, sir, Mr. Chairman.

8334

8335 When you're building a ship or any complex system, there obviously has

8336 to be a standard that that ship or system is built to, and either the

8337 service can maintain a set of standards that you design and construct

8338 the ship in accordance with those standards and then you certify that

8339 ship, that it has been built to the design that meets the standards, the

8340 third-party aspect can either be handled by the service or by this third

8341 party, such as American Bureau of Shipping.

8342

8343 In the case of -- we have, in the Navy, been partnering with ABS. We

8344 have had a situation where we were unable to maintain our own standards

8345 due to lack of funding. We partnered with the ABS and developed a new

8346 set of standards that are not ABS standards. They're Navy-ABS

8347 partnership standards called the Naval Vessel Rules, and we've had a lot

8348 of discussion in Mr. Taylor's committee on what that meant to the LCS

8349 program.

8350

8351 But they are the rules to which you certify the ship. Either the service
8352 can perform that certification by an examination inspection, looking at
8353 paper, signatures -- objective quality evidence, we call it -- to ensure
8354 itself that the ship has been certified to those standards, or we can
8355 actually hire the third party, which, in this case, is the American
8356 Bureau of Shipping, to we call it class the ship by examining first the
8357 design and make sure the design meets the standards and then by
8358 inspecting the ship as it's being constructed and certifying that the
8359 ship was built in accordance with the design which met the class
8360 standard.

8361

8362 CUMMINGS: So who would do, say, the third-party certification of things
8363 like -- the systems like such as electronics? Who would do that?

8364

8365 SULLIVAN: Yes, sir. And ABS does not have experience to do that. So, for
8366 naval ships, as Admiral Blore said, the Space and Naval Warfare Systems
8367 Command, otherwise known as SPAWAR, they would do that certification for
8368 the Navy.

8369

8370 CUMMINGS: Good.

8371

8372 Admiral Blore, can you guarantee that none of the problems found on the

8373 123s will be repeated on the NSCs?

8374

8375 BLORE: Mr. Chairman, I can guarantee you that when we discover them,
8376 we'll address them individually and correctly, and we'll communicate and
8377 we'll do the analysis necessary so that we knowingly walk into the
8378 future.

8379

8380 I'm not going to suggest for a moment that a platform as complex as the
8381 National Security Cutter isn't going to encounter issues. I have 20 or
8382 22 right now that I look at in my level. But we address each one. We
8383 address the risk. We address the potential consequences. We work with
8384 our colleagues primarily at (inaudible) Ships down in Pascagoula and
8385 eliminate them as discrepancies.

8386

8387 CUMMINGS: Are you anticipating, I mean, other than beyond what you just
8388 said, are you anticipating those problems similar to the 123s in any
8389 way?

8390

8391 BLORE: Absolutely not. The National Security Cutter will be the finest
8392 Coast Guard cutter we have ever had. It will be more capable. We're
8393 working through all the issues, and we're doing it before we accept
8394 delivery of the cutter.

8395

8396 CUMMINGS: Thank you. That's helpful.

8397

8398 Is that a new way of doing business?

8399

8400 BLORE: I think Congressman Taylor would say it's the only way of doing

8401 business. It's the way we should have always been doing it, to work out

8402 these things before the government accepts final delivery.

8403

8404 I'm not suggesting that in almost probably every case when you do a

8405 DD250 and accept custody there's going to be some discrepancies, but

8406 there should be no major high-risk discrepancies that you're accepting

8407 when the government takes ownership.

8408

8409 CUMMINGS: Thank you.

8410

8411 As far as low-smoke cabling, is that used in the NSC?

8412

8413 BLORE: Yes, sir.

8414

8415 CUMMINGS: Is it meeting specifications?

8416

8417 BLORE: Yes, sir, but there is similar issues to what we discussed before

8418 in that one of the tenets of the Deepwater program -- and I think it's a

8419 good tenet -- is to attempt to use commercial off- the-shelf equipment
8420 when it's appropriate.

8421

8422 So we have a lot of the little like the mouse cable to the computer, a
8423 water fountain that just does not come with low-smoke cabling. It is
8424 possible for the government to request that all to be switched out, but
8425 we don't think anybody is at any degree of risk because of a couple of
8426 feet of cable.

8427

8428 When it's longer -- for example, the main mount, the 57- millimeter,
8429 came with non-low-smoke cable -- we asked the manufacturer to switch
8430 that out before we installed it because it was a pretty long run.

8431

8432 CUMMINGS: You've heard the testimony with regard to these waivers. Do
8433 you think that the Coast Guard appropriately waived in the past, and is
8434 there any change -- do you see any changes with regard to waivers in the
8435 future?

8436

8437 One of the concerns, I mean, if we look at it, it seems to me that --
8438 and I heard the testimony of some earlier witnesses about how there were
8439 certain things that connected to telephones and things of that nature,
8440 wires -- but it seems to me we would try to be in front of all of that
8441 so that, you know, it lessens the disputes. And I'm just wondering, are

8442 there any lessons learned with regard to waivers?

8443

8444 And you know what happens. When we hear about waivers, we begin to think

8445 that, "Well, is somebody trying to get around the provisions of the

8446 contract?" And when you talk about low-smoke cabling, then it sends up,

8447 I mean, bright lights and alarms because we're concerned that your

8448 personnel might be harmed in case of an emergency.

8449

8450 So I'm just wondering are there any lessons learned with regard to these

8451 waivers?

8452

8453 BLORE: Yes, sir. I think there's a lot of lessons learned, but let me

8454 just speak to one of them because I think it's probably the singularly

8455 most significant event in the way we conduct the Deepwater program now.

8456

8457 When Deepwater was first organized, it was basically our organic

8458 organization. Everything was contained within it, we did our own

8459 logistics -- this is going back to 2002, 2003 -- and it became somewhat

8460 isolated. It originally started with only 75 government personnel.

8461

8462 We're much larger than that now. We have formally established the role

8463 of our technical authority, which is Admiral Dale Gabel, which is, in

8464 essence, a smaller version of NAVSEA that we have within the Coast

8465 Guard, and we have another admiral, Dave Glenn, who functions in the
8466 same role for C4ISR.

8467 I'm not an engineer. Even the engineers will offer different opinions
8468 occasionally, some of which you've heard today.

8469

8470 The beauty of the current system is I don't try to sort that out. I go
8471 to the chief engineer of the Coast Guard and say, "What would you like
8472 me to do?" Or I go to the chief C4ISR admiral in the Coast Guard and
8473 say, "What would you like me to do?" Because in the end it's their
8474 opinion that I'm going to value and follow.

8475

8476 So I think that's the most significant thing. If the chief engineer of
8477 the Coast Guard said that we should accept a waiver on something, I
8478 would certainly discuss it with him to make sure I understood what his
8479 rationale was, but that's why he was appointed in that position for the
8480 commandant and the same thing on the electrical side.

8481

8482 CUMMINGS: Now will you send the cutter one to the Navy? What do you call
8483 it -- COMOPTEVFOR? Is that how you pronounce it?

8484

8485 BLORE: Yes, sir. COMOPTEVFOR. It's Commander Operational Test Forces.

8486

8487 CUMMINGS: Will you do that? In other words, are you going to send them

8488 to that center for the same analysis that was performed on the 123s?

8489

8490 BLORE: Yes, sir. In fact, we've established about a huge staff of eight

8491 Coast Guard men and women that are actually assigned to COMOPTEVFOR that

8492 work with the larger staff that's there so that we can help advise the

8493 testers and evaluators with COMOPTEVFOR of what the Coast Guard unique

8494 requirements are, and the Coastees are actually assigned there full time

8495 and sit next to our Navy and Marines colleagues.

8496

8497 CUMMINGS: Now, the Defense Acquisitions University recommends that the

8498 Coast Guard should convene a summit of the Coast Guard integrated team

8499 and the Navy to examine all opinions about fatigue life on the NSCs.

8500 Will you convene that summit?

8501

8502 BLORE: Yes, sir. I actually hired Defense Acquisition University to come

8503 in and do that analysis because we wanted to get the opinion of

8504 acquisition professionals on our acquisition policy. As you know, they

8505 gave us a good number of recommendations which we're incorporating.

8506

8507 We've already had that summit. We worked with the Carderock Division of

8508 NAVSEA, and we've actually worked out a technical solution now with

8509 Northrop Grumman. It's not on contract yet. It should be on contract by

8510 the end of this month.

8511

8512 It's typically referred to in the Coast Guard as the one-break solution,
8513 but it assures the fatigue life of the National Security Cutter of
8514 30-plus years.

8515

8516 CUMMINGS: Now, what measures will now be taken to increase the role of
8517 the Navy in testing the C4ISR security and assessing the effectiveness
8518 of the ship designs and improving the management of the Deepwater
8519 contract?

8520

8521 BLORE: Well, specifically for C4ISR, Mr. Chairman, we are trying to
8522 build our own Coast Guard organic capability a little bit more. It's
8523 going to probably take us 18 months before we have our own evaluators
8524 within the Coast Guard.

8525

8526 In the meantime, we're completely dependent on NAVSEA for any of the
8527 instrumentation and testing. We certainly have some expertise in the
8528 Coast Guard, but it's certainly not our intention to go it alone for
8529 C4ISR. That will be an area in particular that will be heavily dependent
8530 on Admiral Sullivan and others.

8531

8532 CUMMINGS: The Defense Acquisitions University's report suggests that the
8533 acquisitions excellence in business competencies are not valued in the

8534 Coast Guard as much as operational excellence. Can you comment on this
8535 finding, and what will you do to cultivate acquisitions and financial
8536 management expertise among your personnel?

8537

8538 And I want to go back to something that, I think, the commander said
8539 when he talked about -- and this has come up in other hearings -- that
8540 capacity to have contracting officers, folks who have expertise in
8541 putting together these contracts.

8542

8543 Because I think Admiral Allen has admitted, along with many others, that
8544 part of the problem with this contract is that a lot of the provisions
8545 are not necessarily in our best interests, and some place us in a
8546 position where they just call out for dispute because there are some
8547 ambiguities.

8548

8549 And perhaps we could have resolved a lot of this -- and I think Ms.
8550 Martindale may have mentioned it, too -- if we had had the experienced
8551 contract folks involved in the process of creating a contract that was
8552 more balanced and certainly in the best interests of the Coast Guard and
8553 the American people.

8554

8555 BLORE: I agree with what you just stated, Mr. Chairman. We have a type
8556 of contract that probably requires the most sophisticated expertise in

8557 contracting officers as opposed to a contract that has a lot more
8558 specifications.

8559

8560 That is why we're changing the terms and conditions as we go into the
8561 next award term. And we really do believe that the contract is the key,
8562 which is why we want to work on the terms and conditions and at least
8563 enough specificity that while it's still a performance-based contract,
8564 there's enough specificity so there's no misalignment with what we
8565 expect from industry.

8566

8567 CUMMINGS: Mr. LaTourette?

8568

8569 LATOURETTE: Thank you very much, Mr. Chairman.

8570

8571 Admiral Blore, in your written testimony, you state, at no time did the
8572 123-foot patrol boats engage in mission operations without first
8573 successfully completing standardized testing. Does that mean that at no
8574 time did these vessels operate without the authority-to- operate
8575 designation?

8576 BLORE: Sir, to the best of my knowledge, they've never transmitted on a
8577 classified frequency or received on a classified frequency without the
8578 correct authority to operate.

8579

8580 These cutters have commanding officers. They know when they have an
8581 authority to operate. They will and have in the past gotten underway and
8582 not energized any of their secure gear because they didn't have the
8583 authority to operate.

8584

8585 I can also say as part of my sworn testimony that I have never been made
8586 aware of any compromise that has ever occurred off a 123- foot cutter.

8587 We are also, the Coast Guard, a member of the Intelligence Committee,
8588 and neither has my chief of intelligence of the Coast Guard ever
8589 notified me that there's been a detected compromise from a 123-foot
8590 cutter.

8591

8592 LATOURETTE: And to both admirals, the chairman talked about waivers, and
8593 we've spent a good portion of the hearing talking about TEMPEST and
8594 TEMPEST testing and waivers. Is it unusual for waivers to be granted in
8595 the TEMPEST testing program either in the Coast Guard or in the Navy?

8596

8597 SULLIVAN: It's not unheard of, but it's not common.

8598

8599 LATOURETTE: Admiral Blore?

8600

8601 BLORE: I really don't think I know the answer to your question. I'm
8602 sorry. It certainly appears to have happened in the 123. I'd be happy to

8603 submit something for the record and go through the rest of our cutters
8604 and see whether they have any waivers.

8605

8606 LATOURETTE: If you could. And as a follow-up -- and if you can't answer
8607 this today, maybe you can get back to me, too -- but, Admiral Sullivan,
8608 if you know -- can these waivers ever be granted if there's a risk that
8609 national security will be endangered?

8610

8611 SULLIVAN: I think I would rather take that for the record so I could
8612 pass it to the proper people. I'm more the ship engineering guy than the
8613 C4ISR.

8614

8615 LATOURETTE: OK.

8616

8617 And, Admiral Blore, maybe if you could get back to us on that one as
8618 well.

8619

8620 Admiral Blore, yesterday, in the commandant's statement, he made, I
8621 thought, three insightful and succinct points that led us to that point.

8622

8623 He stated that the Coast Guard relied too much on contractors to do the
8624 work of government as a result of tightening AC&I budgets, a dearth of
8625 contracting personnel in the federal government, and a loss of focus on

8626 critical government roles and responsibilities in management and
8627 oversight of the program.

8628

8629 I think the principles that he laid out clearly address the third item.

8630 But relative to the contracting officers, I think it would be my

8631 observation that contracting officers, like Ms. Martindale, don't fall

8632 from the sky, and I heard you -- one of my questions was does the

8633 service have the ability to do that today, and I think you said no, and

8634 I think you said something about 18 months. Maybe I'm mixing your

8635 answers.

8636

8637 But can you just share with us how many of these experts the Coast Guard

8638 thinks it needs to hire to adequately do the job and how the service

8639 plans to identify and hire these folks?

8640

8641 BLORE: Yes, sir. I believe currently we have sufficient contracting

8642 officer positions, the 22 that I alluded to before. I think currently,

8643 right now, we have 17 filled, so I'd like to bring that up to

8644 complement.

8645

8646 There are a couple things that the Office of Personnel Management is

8647 allowing us to do now. We can do what's called direct hires. So, if I

8648 find somebody that's fully qualified, I can basically offer him a job on

8649 the spot, if they're qualified to be a government contracting officer.

8650 So that has helped.

8651

8652 We've also had a shift in processes where we're using our contracting

8653 officers in the field more than we did originally with the Deepwater

8654 program. For example, I have a contracting officer in Elizabeth City at

8655 the Aircraft Repair and Supply Center, and I'm doing a lot of the spare

8656 parts purchases for the CASA and also through Eurocopter for the H-65

8657 helicopter through the facility at AR&SC.

8658

8659 We're starting to set up the same thing -- I have a contracting officer

8660 that's about to be warranted -- in Pascagoula so that much of the

8661 contracting work can be done on site, which I think is, frankly, the

8662 Navy model where contracting officers are typically on site where the

8663 construction is taking place.

8664

8665 LATOURETTE: And my last question, Mr. Chairman, the first panel -- and I

8666 know, Admiral Blore, you were in the room for the first panel -- and I

8667 think I've tried to boil down the essence of the allegation that was

8668 made.

8669

8670 The allegation that was made by some folks in the first panel is that

8671 Lockheed Martin underbid the 110 conversion contract without the

8672 expertise to properly complete it, then when discovering that they were
8673 over their head, made business decisions based on cost and schedule on,
8674 among other things, low-smoke cables and shielded cables for the TEMPEST
8675 system that compromised national security and endangered Coast Guard
8676 personnel.

8677

8678 Do you think that that's an accurate representation of what happened
8679 with this conversion program?

8680

8681 BLORE: I don't believe I have the necessary information to make a
8682 judgment, sir.

8683

8684 The one thing I would say -- and I think this would support what Ms.
8685 Martindale said -- is a properly run acquisition would run enough
8686 government cost estimates and other surveys, including using our
8687 government audit agency, to ensure that a contractor is not bidding a
8688 price that on its appearance could not possibly do the work that the
8689 government's asking for.

8690

8691 That's the way the government protects against what somebody earlier
8692 referred to as an aggressive bid. If it's that aggressive, then the good
8693 government cost estimate should show that it's too aggressive and the
8694 work shouldn't be awarded.

8695

8696 I don't know enough about the details to really answer the question you
8697 asked, sir.

8698

8699 LATOURETTE: OK. Just specifically on the waivers and the low- smoke
8700 cabling that Commander Jacoby talked about, are you in agreement or in a
8701 position to be in agreement with the decision he made relative to the
8702 placement of those cables on the ship?

8703

8704 BLORE: Based on everything I know, I think I would agree that the
8705 waivers were appropriate for the non-low-smoke cables that were used.
8706 One of the things that the inspector general pointed out, which is very
8707 true, is that often the waivers and deviations were being given after
8708 the fact. In other words, they were following installation. That's
8709 another bad acquisition practice. If you're going to do something like
8710 that, it ought to be done before anything is installed.

8711

8712 But I think the actual location -- and I think even the inspector
8713 general agreed with this -- that there was no risk to the Coast Guard
8714 crew for the non-low-smoke cables that were installed, but they did find
8715 fault with the process and why the deviations were given after the fact.

8716

8717 LATOURETTE: And the fact that four ships had been delivered out of spec

8718 until that waiver was requested and granted. OK.

8719

8720 Thank you very much.

8721

8722 Thank you, Mr. Chairman.

8723

8724 CUMMINGS: Are we going to reverse that? We're going to do business

8725 differently now, right? I mean, I'm just following up on what he -- what

8726 Mr. LaTourette just asked you. We're not going to be having these

8727 waivers after the stuff is already done, are we?

8728

8729 BLORE: Not unless the waiver is in the interest of the government. I

8730 mean, there's always going to be considerations made that, you know,

8731 perhaps a piece of equipment is in the interest of the government to

8732 have installed, you know, before the fact. Otherwise, we won't accept

8733 it.

8734

8735 CUMMINGS: Just before we get to Mr. Oberstar, I think one of things that

8736 we are most concerned about, I mean, when you talk about this low-smoke

8737 cable and things that would go to the very survival -- I mean, I'm

8738 talking about life and death -- of the very people that you command, I

8739 think that we have to have a certain hope, a standard where if there is

8740 any -- if we're going to err with regard to waivers, that we err on the

8741 side of life and safety, and I think that sometimes I'm just wondering.

8742

8743 I mean, I've read what has been written in the I.G. report or what has

8744 been presented to us, and I just wonder whether we have done that

8745 consistently with those waivers. I think when we're dealing with things

8746 like that, I mean, I think we're going to -- because you know what? If

8747 we are granting these waivers and then something happens and we in the

8748 Congress knew about it and did not try to address it, then I think we've

8749 become a part of the problem.

8750

8751 And so, Mr. Oberstar?

8752

8753 OBERSTAR: Well said, Mr. Chairman.

8754

8755 And, Mr. LaTourette, also appreciate your line of questioning and the

8756 issues you raised. I think they're extremely important.

8757

8758 Admiral Blore, at the outset of your testimony and Admiral Allen's

8759 remarks in the news conference yesterday, avoid recurrence, good to

8760 avoid recurrence, but let's avoid living in the past. Let's not review

8761 the past.

8762

8763 Philosopher George Santayana wrote, "Those who do not study the past are

8764 condemned to relive it."

8765

8766 Thirty years ago, the Coast Guard in 1978 completed construction of two

8767 polar icebreakers -- it was my first or second term in Congress -- Polar

8768 Sea and Polar Wind. Polar Sea went on mission to break ice in the North

8769 Pole. In February of '81, it got stuck and stayed there for two months.

8770

8771 We're about learning lessons from the past and making sure they aren't

8772 repeated in the future. And I don't want to be lectured in this

8773 committee and all our members be lectured about learning from the past.

8774

8775 Were you aware that Admiral Kramek, after he retired, went to head the

8776 ABS, American Bureau of Shipping?

8777

8778 BLORE: Yes, sir.

8779

8780 OBERSTAR: And that during his tenure -- he's now retired from there --

8781 he offered to Bollinger to do structural engineering analysis and to do

8782 it free? Are you aware of that? And was refused.

8783

8784 BLORE: I'm not aware of the details, sir. I've certainly heard that, but

8785 not from necessarily a credible source. But, certainly, I've heard the

8786 story that it was offered.

8787

8788 OBERSTAR: Well, you know, in one case, the Coast Guard said, "Gee, we
8789 don't want to take the Navy's offer of doing this design analysis
8790 because it's going to cost us \$42,000."

8791

8792 In the other hand, the shipyard gets an offer of free review and
8793 analysis and they won't take it either. There's something wrong with
8794 this.

8795

8796 Admiral Allen announced yesterday the Coast Guard's going to take the
8797 lead role as systems integrator for Deepwater. I'm not convinced you're
8798 ready to do that. Tell me how you think you're going to be able to do
8799 that in light of the testimony we've heard today.

8800

8801 BLORE: Yes, Mr. Chairman.

8802

8803 And before I answer that, let me say it was never the intent on the part
8804 of the Coast Guard -- and, certainly, I speak for the commandant -- to
8805 sound like we were lecturing anyone on learning from the past. And it is
8806 a little bit perhaps of a semantical difference. We do believe in
8807 learning from the past. We do believe in applying those lessons to the
8808 future. I think we meant it more in the context of not to fight the last
8809 war.

8810

8811 We need to learn from the past and apply it to the future acquisition
8812 because, you know, we know -- and as you know -- that we have a
8813 responsibility to recapitalize the Coast Guard so we can keep doing our
8814 missions, and that's what we meant. I'm not suggesting for a moment we
8815 shouldn't learn lessons from what occurred.

8816

8817 OBERSTAR: I appreciate that, but we want to know that the Coast Guard is
8818 learning those lessons and that they are ready to in various ways
8819 shoulder the responsibility of handling multibillion-dollar contracts
8820 that are going to carry the Coast Guard's capital equipment program into
8821 the future with a high degree of certainty that it can succeed.

8822

8823 Now I've been through this years ago with the FAA. They were unable, as
8824 it turned out -- and it was again the Navy who came in and did an
8825 assessment, Admiral Sullivan, of FAA's procurement program in the STARS
8826 acquisition and the Advanced Automation Replacement System -- and said,
8827 "They just don't have the personnel. They don't have the systems. They
8828 don't have the structure. They don't have the understanding of how to
8829 handle these multibillion-dollar contracts."

8830

8831 And it would seem to me that the Coast Guard was in the same mess. You
8832 got in way over your head, and you allowed these contractors to certify

8833 themselves.

8834

8835 And we want to know when we go forward, we want to do this Coast Guard

8836 authorization bill, do it right, put the money out there that's needed,

8837 give you the resources you need to move ahead, we want to know you're

8838 going to be able to do the job right.

8839

8840 BLORE: Yes, sir. I appreciate that, and I appreciate your support for

8841 the resources.

8842

8843 I believe we can do it right. That's why we've increased our staffing,

8844 that's why we've changed our processes on how we address things, and

8845 that's why we have a much closer working relationship with the United

8846 States Navy, because we know what we can do and we know what we can't

8847 do, and that's where we'll depend on other government agencies,

8848 primarily the Navy.

8849

8850 OBERSTAR: To whom does the Navy turn when it needs advice on hull

8851 machinery and electronics, or are you really, as everyone says, the gold

8852 standard?

8853 SULLIVAN: Sir, I don't know if we're the gold standard, but we have

8854 worked very hard to keep the expertise for hull mechanical, electrical

8855 and electronics in house because we believe that only the service can be

8856 in charge of knowing what it wants and specifying what it needs and in
8857 directing the contractors to deliver the performance that we need.

8858 That's a very precious core capability, we feel it's inherently
8859 governmental, and it takes years to grow.

8860

8861 OBERSTAR: In the upcoming authorization bill, it seems to me that this
8862 would be an appropriate time to craft, as we have done for the Corps of
8863 Engineers -- and a bill is coming up on the House floor tomorrow -- a
8864 process of independent review.

8865

8866 Admiral Blore, what do you think -- what would be the Coast Guard's
8867 reaction to, in general, an independent review authority for major
8868 contracts?

8869

8870 BLORE: Well, I think generally our reaction would be if it's the desire
8871 of the Congress, then we would execute it.

8872

8873 I don't know that we need congressional authority to do that. I think
8874 much of the independent review, such as hiring Defense Acquisition
8875 University and using third parties, we have ample authority to do
8876 ourselves.

8877

8878 OBERSTAR: There's no question you have ample authority to do it

8879 (inaudible) you haven't used today authority, and maybe what you need is
8880 direction from the Congress.

8881

8882 BLORE: Mr. Chairman, respectfully, I think that I would agree with your
8883 statement for 2002 through about 2004-1/2 (ph) or 2005. I think that the
8884 commandant has changed the way we do our processes.

8885

8886 Having said that, our number one priority, as far as any legislative
8887 language, is just that the Coast Guard be allowed the opportunity to
8888 continue our recapitalization program. Anything else that the Congress
8889 desires us to do -- and, obviously, if it's passed in the legislation we
8890 would do it -- but we would hope that we'd be allowed to continue to
8891 recapitalize the Coast Guard so we can execute our missions. And
8892 anything else, if the Congress would like to suggest it, we'd be happy
8893 to execute it.

8894

8895 OBERSTAR: We don't want to slow down at process at all. We don't want to
8896 stop it in its tracks. But the same with the Corps of Engineers who act
8897 only on direction of the Congress, and yet we've felt for some time that
8898 there was a need for independent review.

8899

8900 The Corps of Engineers came to an agreement with us on that, and we have
8901 language tomorrow that'll be on the House floor that will provide for

8902 that independent review.

8903

8904 We'll explore this further as we move into the authorization process and
8905 draw on the great resources we have in the members on this committee on
8906 both sides of the aisle.

8907

8908 Thank you, Mr. Chairman.

8909 And thank you very much, Admiral. We're about to set a record for
8910 endurance in this committee, and in another 15 minutes, we'll have done
8911 that, and I thank you for your endurance.

8912

8913 CUMMINGS: Mr. Gilchrest?

8914

8915 GILCHREST: Thank you, Mr. Chairman.

8916

8917 Admiral, how did these cutters get to Curtis Bay? These eight cutters,
8918 how did they get up there?

8919

8920 BLORE: We, I believe, towed the cutters. They may have gotten underway,
8921 because they are capable of it, to meet whatever cutter was towing them.

8922 It was our choice to tow them because we had put operational

8923 restrictions on them to keep the crew safe and not at risk, and we felt

8924 it had progressed to the point that we didn't want the cutters

8925 functioning independently.

8926

8927 GILCHREST: So I understand they're going to be scrapped?

8928

8929 BLORE: Yes sir.

8930

8931 GILCHREST: Where are they going to be scrapped?

8932

8933 BLORE: I don't think that's been determined yet, sir.

8934

8935 GILCHREST: So they're in such a condition that none of them could be

8936 salvaged or fixed?

8937

8938 BLORE: Again, I'm speaking on what I've been told because I'm not an

8939 engineer. Admiral Gabel, our chief engineer, did do a fairly exhaustive

8940 studying on the cutters. There were about six recommendations presented

8941 to the commandant.

8942

8943 I think right now there are three competing theories on what the root

8944 cause is. One's a naval architectural effect called channeling; the

8945 other is that the stern section, because of the way the lines are, was

8946 overly buoyant; and the third is that the metal itself was so fatigued,

8947 it didn't have enough structural strength from the original 110s.

8948

8949 It's Admiral Gabel's opinion that he has a very low confidence that...

8950

8951 GILCHREST: So, at any rate, it's just likely that the best thing to do,

8952 rather than go through any more expenses, is just scrap all eight?

8953

8954 BLORE: Yes, sir, because it's going to involve millions of dollars a

8955 single cutter, probably 18 to 24 months to develop, whether your

8956 solution actually works, and I think the commandant would like to focus

8957 elsewhere.

8958

8959 GILCHREST: OK. Just a couple of other questions.

8960

8961 And this would be to, I guess, Admiral Sullivan -- or Vice Admiral

8962 Sullivan.

8963

8964 Do you feel that the Coast Guard adequately addressed the concerns that

8965 apparently the Navy shared with its engineers about the hull integrity

8966 of these 123s?

8967

8968 SULLIVAN: Sir, I can tell you that what the Navy engineers said to the

8969 Coast Guard, that we were worried about the plate thickness and the

8970 section modules of the hull, and we offered to help, but beyond that,

8971 I'd be remiss to try to explain what...

8972

8973 (CROSSTALK)

8974

8975 GILCHREST: Was this consultation in the early stages of the

8976 consideration of the design of these vessels?

8977

8978 SULLIVAN: I think the consideration started with some very casual

8979 conversations in 2002, and nothing came of those, and then there were

8980 more serious conversations in 2005 when we actually produced a cost

8981 estimate for what we would do, and then that was about it.

8982

8983 GILCHREST: So, Admiral Blore, do you think that the problems that we

8984 have seen here today about adequate communication, consultation,

8985 recommendation between you and the Navy regarding this kind of issue has

8986 been adequately resolved?

8987

8988 BLORE: Yes, sir, especially as far as relationships between us and the

8989 Navy, and, in this particular case, using CCD or the Carderock Division

8990 for expert counsel.

8991

8992 GILCHREST: This ranges from whole design to logistics, the C4ISR, the

8993 whole ball of wax. This has been -- you feel that there are certain --

8994 the integration here is pretty well complete on these issues...

8995

8996 (CROSSTALK)

8997

8998 BLORE: Yes, sir. Yes, sir. And I would say really at all levels

8999 --between the CNO and the commandant, between me and my colleague, and

9000 certainly PEO ships, and the same thing on the logistics on the naval

9001 engineering side and the C4ISR side.

9002

9003 GILCHREST: Let me ask, the capabilities that the Navy has for in-house

9004 engineering, is that also in part of your conversation, that those

9005 capabilities, that in-house engineering capability, is any of that or

9006 can any of that be available to the Coast Guard?

9007

9008 SULLIVAN: Yes, sir. We stand ready to help. We are heavily loaded today.

9009 We have our own issues with cost reduction and staffing reduction at

9010 headquarters, but, compared to the capability that the Coast Guard

9011 lacks, we are robust and, subject to workload, we would definitely be

9012 ready to work.

9013

9014 GILCHREST: Is that something you would solicit, Admiral Blore, from the

9015 Navy?

9016 BLORE: Yes, sir. You're expressing it, respectfully, as if there's some

9017 hesitation on our part. There's no hesitation for us to work with the
9018 United States Navy.

9019

9020 GILCHREST: Have the Coast Guard and the Navy discussed the possibility
9021 of enhancing the commonality of the Navy and Coast Guard vessel designs
9022 and component systems?

9023

9024 BLORE: Yes, sir. I could just give you two quick examples.

9025

9026 Certainly for much of the Navy-type, Navy-owned equipment on the
9027 National Security Cutter, we're using the recommendations of the Navy.
9028 Our preference is to stay standard with them, if we can, because they
9029 bring...

9030

9031 GILCHREST: You say, "Our preference is to stay standard." Can it just be
9032 -- wouldn't it be better if it was standard and can it be made standard?

9033

9034 BLORE: Yes, sir, but, for example, they would put many more weapon
9035 systems on a patrol boat than we would. So there are some cases where we
9036 won't be standard because we just won't have as powerful a weapon's
9037 suite as they would.

9038

9039 In the case of the offshore patrol cutter, which is still a couple of

9040 years away, we're currently working with NAVSEA to actually do a study
9041 together on how the LCS, an original design offshore patrol cutter, or
9042 even our National Security Cutter might be used to kind of form the
9043 basis of a design.

9044

9045 We're very interested in seeing how the Littoral Combat Ship develops
9046 and whether it would be possible to have potentially, for example, a
9047 Coast Guard version of that. So we are very interested in being aligned
9048 and have commonality when we can.

9049

9050 SULLIVAN: Let me give a couple more examples, sir. The gun on the
9051 National Security Cutter is the same as the gun on the LCS, and that gun
9052 is also going to be used on the DDG-1000, and we're sharing all our
9053 information across the services (inaudible) make sure we're as common as
9054 we possibly can be in the installation of that gun.

9055

9056 Additionally, I mentioned Naval Vessel Rules before, where we're
9057 developing them in conjunction with ABS. The Coast Guard signed on, I
9058 guess, about two years ago, and there's a Coast Guard annex to the Naval
9059 Vessel Rules. So we are sharing all the lessons learned and all of the
9060 rule development.

9061

9062 My chief engineer, Kevin McCoy, and Admiral Gabel, his counterpart in

9063 the Coast Guard, have cosigned an agreement that they will work
9064 together, and Admiral Gabel is now attending all the meetings of the
9065 Naval Vessel Rules Committee. So there's an awful lot going on there
9066 now.

9067

9068 GILCHREST: Thank you very much, gentlemen.

9069

9070 Thank you, Mr. Chairman.

9071 CUMMINGS: Thank you very much.

9072

9073 Mr. Kagen?

9074

9075 KAGEN: Thank you, Mr. Chairman.

9076

9077 And I'll make no reference to icebreakers, because, by the time we get
9078 out of here, all the polar ice caps are going to be melted. Got to have
9079 a sense of humor.

9080

9081 Admiral Blore, I just want to get your opinion on record here about Mr.

9082 Ronald Porter. Is Ron Porter a CTTA?

9083

9084 BLORE: Again, as was mentioned before, I have not -- I don't think I've
9085 actually met him or asked to see his credentials. I would go to the

9086 assistant commandant for command, control and information to get
9087 certification on TEMPEST, and I believe they used Mr. Porter.
9088
9089 KAGEN: OK. Then I'll ask you a hypothetical question. Assuming that he
9090 is not a CTTA, then would it be true that those ships that have been
9091 firing up their communications equipment have been doing so in violation
9092 of our rules and laws?
9093
9094 BLORE: I would assume you need to have the proper certification and
9095 authority to grant the authority to operate. Yes, sir.
9096
9097 KAGEN: OK.
9098
9099 Thank you, gentlemen, for your service to the country.
9100
9101 And I yield back my time.
9102
9103 CUMMINGS: Thank you very much.
9104
9105 I want to thank you all for your testimony.
9106
9107 I want to thank the members of Congress for sticking around this long. I
9108 know you have 50 million things to do.

9109

9110 And this does conclude our hearing.

9111

9112 But please understand that Mr. Oberstar and many of us have expressed
9113 our concerns with regard to where the Coast Guard is going, and we want
9114 to make it very, very clear -- and I said it from the very beginning
9115 when I was appointed the subcommittee chairman -- that I am going to be
9116 a number one fan of the Coast Guard, but in being a number one fan, that
9117 also means that we want the Coast Guard to be the very, very, very best
9118 that it can be so that it can do all the things that it's mandated to do
9119 and do it effectively and efficiently.

9120

9121 And so this has in no way been an effort to try to make anybody look
9122 bad. We just need to look to see what has happened in the past, as Mr.
9123 Oberstar said, so that we can chart a most effective and efficient
9124 course for the future.

9125

9126 And I think this hearing has gone a long way towards doing that. We
9127 certainly will look very carefully at what has transpired here and act
9128 accordingly there. I'm sure that there will be some follow-up questions.

9129

9130 And we thank you all very much.

9131

9132 And this hearing is adjourned.

9133

9134 END .ETX